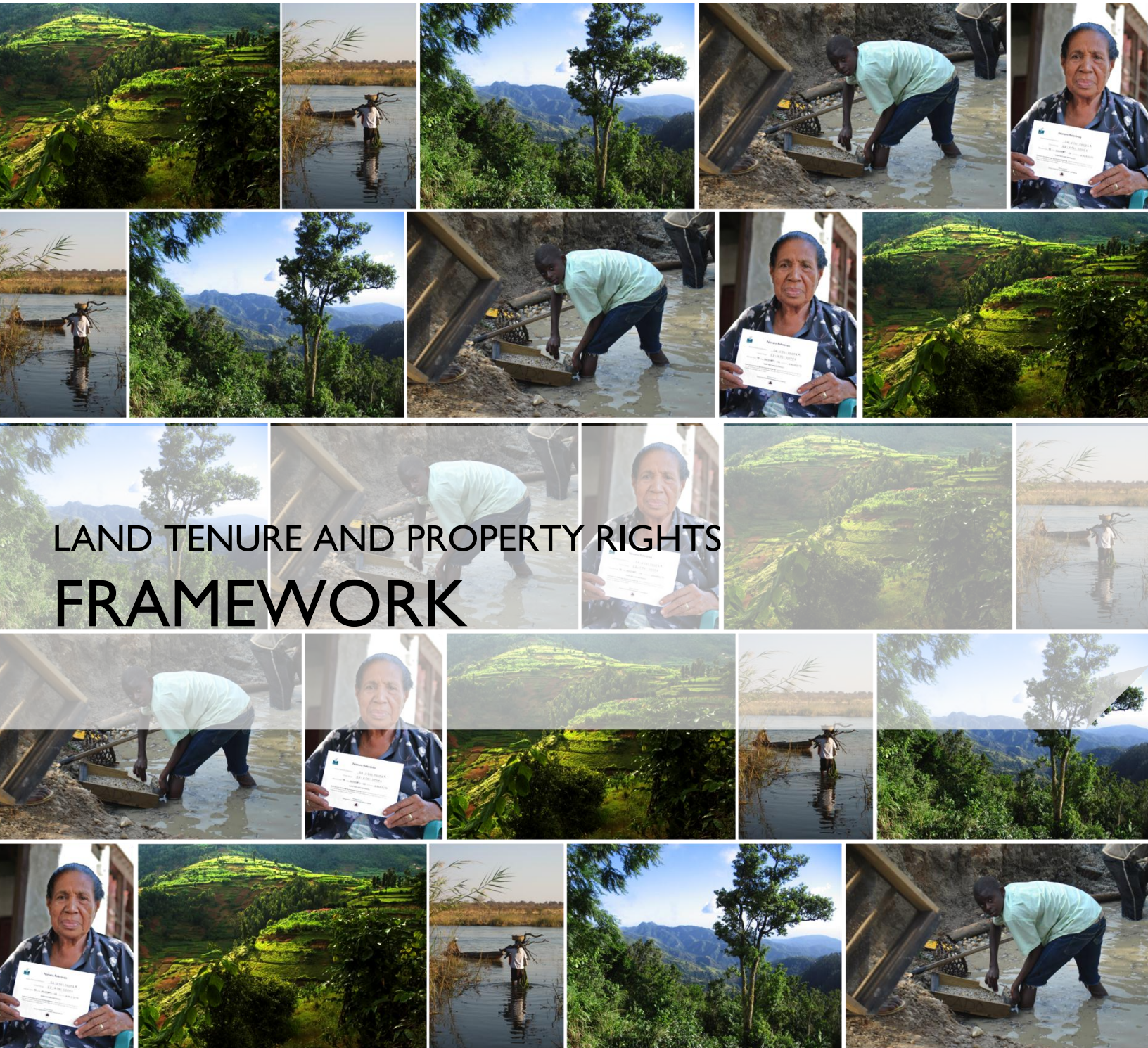




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**SEPTEMBER 2013**



This tool was prepared by Tetra Tech on behalf of USAID, under the Property Rights and Resource Governance Program under the Prosperity, Livelihoods and Critical Ecosystems (PLACE) Indefinite Quantity Contract (IQC) Contract No. EPP-I-00-06-00008-00, Task Order 002.

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LAND TENURE AND PROPERTY RIGHTS  
**FRAMEWORK**

SEPTEMBER 2013

**DISCLAIMER**

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# ACRONYMS AND ABBREVIATIONS

AusAID	Australian Agency for International Development
BASIS	Broadening Access and Strengthening Input Systems
DFID	UK Department for International Development
ENR	Environment and Natural Resources
FAO	United Nations Food and Agriculture Organization
GLUT	Gaining with Land Use Transactions
GTZ	German Technical Cooperation Agency (now GIZ)
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
IDP	Internally Displaced Person
IIED	International Institute for Environment and Development
IQC	Indefinite Quantity Contract
KM	Knowledge Management
LAG	Land Administration Guidelines
LTC	University of Wisconsin Land Tenure Center
LTD	Land Tenure and Property Rights Division
LTPR	Land Tenure and Property Rights
OECD	Organization for Economic Cooperation and Development
PLACE	Prosperity, Livelihoods, and Conserving Ecosystems
PRRGP	Property Rights and Resource Governance Program
RAISE	Rural and Agricultural Incomes with a Sustainable Environment
SAIP	Situation Assessment and Intervention Planning Tool
TO	Task Order
UNECE	United Nations Economic Commission for Europe
USAID	United States Agency for International Development
USG	United States Government





# 1.0 PREFACE

Resource tenure and property rights challenges are present in almost every country where the United States Agency for International Development (USAID) works. In many countries, tenure and property rights problems are so grave that they create political instability, violence, population displacement, famine, and environmental destruction, which significantly undermine or prevent successful implementation of many USAID programs. Over the last decade, the demand to address property rights issues has increased from both USAID field missions and host country governments. The increase in demand is due, in part, to a growing awareness among development practitioners of the role played by property rights (and natural resource access and use) in economic growth, governance, and conflict and resource management.

USAID and its partners have learned a great deal over the last three decades about the relationship between property rights and economic growth, productivity, and to a lesser extent, natural resource management and conflict. There are several important lessons learned from the last decade of research and policy work on property rights with a particular emphasis on land and resource tenure.

1. **Land tenure and property rights (LTPR) systems are fundamental to a wide variety of development outcomes.** Secure land tenure improves food security, economic growth, and natural resource management and reduces the impacts of conflict and climate change. Securing the rights of women, youth and vulnerable populations and broadening their access to resources complements and deepens the impact of interventions aimed at improving these outcomes. This is the case for people across the economic spectrum from smallholder farmers to urban manufacturers. An effective land governance and property rights system is fundamental to the broad process of economic and political development.
2. **Weak land governance systems limit economic growth; threaten good natural resource management; often promote conflict; and pose special problems for vulnerable groups, including minorities, indigenous people, the poor, and women.** Recognition of customary rights to land resources and the devolution of management authority improves land and resource governance and is crucial to sustainable natural resource management. Although many countries have effective and secure land governance and property rights systems, in numerous places, systems and rights are weak. The results of these weaknesses include conflict over land and resources, corruption associated with poorly functioning land governance systems, resource degradation, and limited economic growth.
3. **In development programming, property rights are most frequently dealt with in the context of land tenure reform, but they are increasingly being addressed through more integrated projects.** Programming decisions made in a variety of sectors that consider land tenure can have profound impacts on land use and natural resource management, agricultural systems, and infrastructure development.
4. **Too often, LTPR reforms are measured in terms of outputs rather than impacts** (e.g., measuring the number of land titles that have been issued as opposed to focusing on market performance and investment increases, reduced conflict, or improved use of sustainable management practices). This focus

on outputs prevents USAID from fully understanding the efficacy and potential cross-sectoral benefits of its property rights reforms and programs. A greater emphasis on impact evaluation is needed.

5. **The ultimate objective is to secure property rights that will promote economic growth, food security, natural resource management, and stability.** Security of tenure can be achieved through a variety of approaches and should result in greater confidence that property rights will not be indiscriminately taken or unjustifiably restricted. Securing land and resource rights can be achieved through a variety of legal, administrative, and judicial means. It may require legal reform in one context and dispute resolution in another. USAID promotes the implementation of “secure enough” tenure rights and does not consider land titling or land formalization as the ultimate objective.

Issues and constraints regarding property rights vary from region to region, and they will continue to evolve over time. The most volatile of USAID-presence countries—and those that are often in the greatest need of property rights reform—are fragile states. Since property rights are so closely linked to development agendas across the globe, there is a need to understand how these rights shift as economies move through the stages of economic growth and democratization (and, in some cases, from war to peace) and how these shifts require different property rights interventions.

In light of these common concerns and issues, a whole-of-government approach to addressing land tenure and property rights has been developed through USAID and the Millennium Challenge Corporation (MCC). USAID’s LTPR Division (LTD) coordinates issues of LTPR programming with other USAID bureaus, US government (USG) entities, and multilateral organizations. USAID currently works in close to 30 countries around the world to promote land governance systems (both formal and informal) that enable broad-based economic growth, human rights protection, and effective natural resource management. Because weak land governance systems compound vulnerability, our efforts are particularly beneficial for vulnerable groups. These efforts are investing over \$800 million to strengthen the land tenure and resource rights of men, women, and children in the developing world.

Under the Lessons Learned: Property Rights and Natural Resource Management task order (TO), USAID developed the first generation of the LTPR Framework and LTPR tools in 2005 now serving as USAID’s foundational approach to programming property rights and natural resources governance. Subsequently, under the Property Rights and Resource Governance Program (PRRGP), certain tools were eliminated (Country Rankings and Sequencing Assessments), more useful tools were put into practice (Issues Briefs and the LTPR Portal), and others have been revised and refined (the Country Profiles and the Situational Assessment Tool). The programming tools aim to nurture a continuous learning cycle whereby the lessons of

#### **BOX A. ILLUSTRATIVE USAID LAND TENURE PROJECTS**

- Afghanistan Land Titling and Economic Restructuring
- Biodiversity Conservation of Public Lands in the Brazilian Amazon
- Egypt Financial Services Project
- Ethiopia Land Administration Program
- Ghana Commercial Agriculture
- Indonesia Marine and Climate Support
- Liberia Property Rights and Artisanal Diamond Development
- Property Rights and Resource Governance (Global)
- Rwanda Land Project
- Tajikistan Land Reform
- Timor Leste Strengthening Property Rights
- Ukraine Land Titling Initiative
- Uganda Supporting Access to Justice, Fostering Peace and Equity

See *USAID Land Tenure and Property Rights Portal* (<http://www.usaidlandtenure.net>)

past LTPR programs will regularly inform new programming. Together, the existing suite of tools, presented in this volume, provides USG practitioners with instruments to support identification, assessment, knowledge sharing, programming, and monitoring and evaluation of LTPR issues.

The purpose of the current volume is to present the overarching framework that governs USAID’s work on LTPR. The LTPR Framework incorporates the following:

- Section 1 introduces several important lessons learned from the last decade of research and policy work on property rights with a particular emphasis on land and resource tenure.
- Section 2 introduces components of the LTPR Framework, defines terminology and subject matter concepts, and explains the relevance of LTPR to USAID objectives.
- Section 3 explains the relationship between LTPR and 10 thematic topics (e.g., democratic land governance, natural resource management, and biodiversity) and provides broad options for interventions to secure resource rights.
- Section 4 provides a detailed explanation of the core LTPR tool—the LTPR Constraint and Analysis Matrix (LTPR Matrix).
- Section 5 introduces instruments that, in addition to the LTPR matrix, comprise the LTPR assessment methodology: the LTPR Country Profiles, the Situation Assessment and Intervention Planning Tool, and the Impact Evaluation Tool.
- Section 6 discusses the importance of sequencing in implementing LTPR interventions.
- Sections 7 and 8 describe USAID’s LTPR training and knowledge management activities, respectively.
- Annex A defines categories of LTPR constraints and interventions that comprise the Matrix.
- Annex B contains Matrix Overlay Summary Tables from the Overlays for Land Tenure and Property Rights; Freshwater Lakes, Rivers, and Groundwater; Minerals; Trees and Forests; and Women, Land, and Resources.<sup>1</sup>
- Annex C provides a glossary of common land and land tenure terms.

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<sup>1</sup> These summary tables are extracted from the following documents applying the base matrix elaborated on in section 4.0 to the five thematic areas of focus:

USAID. 2013. Land Tenure and Property Rights Matrix - Land Tenure and Property Rights Overlay.

USAID. 2013. Land Tenure and Property Rights Matrix - Freshwater Lakes, Rivers, and Groundwater Overlay.

USAID. 2013. Land Tenure and Property Rights Matrix - Minerals Overlay.

USAID. 2013. Land Tenure and Property Rights Matrix - Trees and Forests Overlay.

USAID. 2013. Land Tenure and Property Rights Matrix - Women, Land, and Resources Overlay.



# 2.0 A FRAMEWORK FOR LAND TENURE AND PROPERTY RIGHTS

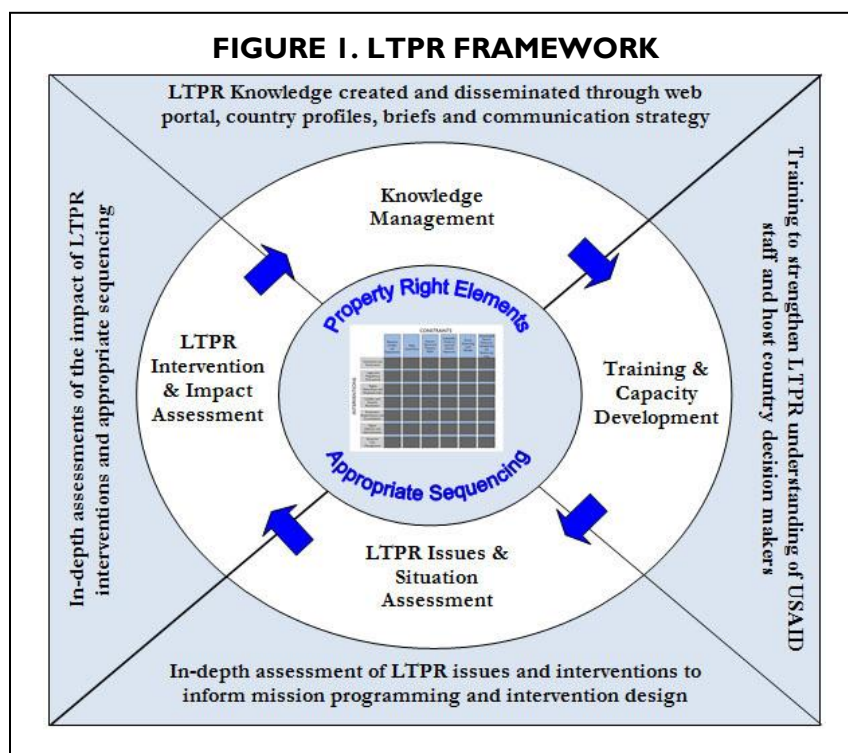
## 2.1 LTPR FRAMEWORK AND TOOLS

USAID has developed a suite of tools and methodologies designed to enhance the understanding and programming of LTPR challenges and activities to advance USG Development Objectives in a number of areas, including food security, global climate change, conflict mitigation and women’s economic empowerment. This body of work has been highly experimental, consultative, and developmental and has grown commensurate with growth of US investments in this sector.<sup>2</sup>

This work includes four components as summarized below, and are meant to be mutually reinforcing as illustrated in Figure 1: LTPR Framework.

1. **The LTPR Framework** serves as the overarching conceptual methodology tying together overarching themes, definitions, tools, assessments, designs, and training programs that USAID uses to improve LTPR programming and capacity building. The Framework also includes:

**LTPR Matrixes—A Methodology for determining USAID-recommended interventions for different asset and social classes (e.g., men and women); and a methodology for identifying constraints and opportunities.**



<sup>2</sup> This body of work updates tools that were originally produced under the *Lessons Learned: Property Rights and Natural Resource Management* contract

**LTPR Intervention Sequencing** of land tenure and land reforms tailored to each country, region, or project context that leads to stronger and more efficient property rights systems. Beyond identifying interventions to address LTPR constraints, sequencing in addition requires assessment of appropriate scale, timing, and ordering.

The **LTPR Glossary** is a guide to key LTPR terms and concepts, gathered from frequently cited international references.

2. **LTPR Assessment Tools—A Methodology for Assessing LTPR Constraints and Interventions—** includes two tools to guide USAID mission programming:

*LTPR Situation Assessment and Intervention Planning (SAIP) Tool*, which is a diagnostic and programming tool to help USAID missions understand and assess LTPR issues and determine how these contribute to or impede realization of Development Objectives; and

*LTPR Impact Evaluation Tool*, which provides a methodology for designing evaluations to determine the outcomes and impacts of land and natural resource tenure and property rights programming, whether as a project's main focus or a component of a broader set of goals.

In addition to these Framework and assessments tools, USAID has developed:

3. **LTPR training materials**, which include short courses and other trainings to transfer knowledge and best practices about land tenure and property rights and strengthen LTPR knowledge, capacity, and understanding of USG program staff and implementing partners. Curriculum may be found on the LTPR web portal at [www.USAIIDlandtenure.net](http://www.USAIIDlandtenure.net); and,
4. **LTPR Knowledge Management**, which consists of USAID Program Briefs on land tenure projects, LTPR Country Profiles, Issues Briefs, films, and LTPR research. This can be found at the *USAID Land Tenure and Property Rights Portal* ([www.usaidlandtenure.net](http://www.usaidlandtenure.net)), which serve as the foundation for LTPR knowledge management within the Agency.

The **intended audiences** for all of these tools are USAID missions, USAID Washington Bureau staff, and other USG personnel who seek to understand how property rights issues may be affecting program outcomes, how to design interventions that can help address those issues, and how to evaluate the impacts of those programs to inform new program development. The tools may likewise prove useful to a range of development practitioners outside the USAID sphere who encounter property rights challenges in their work and seek to understand and address them more effectively.

## 2.2 LAND TENURE AND PROPERTY RIGHTS

Land is arguably one of the most important assets for people throughout the world. This is particularly true for the rural and urban poor, where land may form the most significant part of their asset base. Land is also the foundation for a wide range of cultural and social identities: it is a cornerstone of economic activity and regularly serves as the basis for institutional development, it is the underpinning for markets (e.g., credit, real estate, labor, rental contracts, agriculture production), and it is almost impossible to divorce from natural resource management.

*Land tenure* refers to the relationship (whether defined under formal *de jure* law or under customary law) that individuals and groups hold with respect to land and related resources. Land tenure rules define the ways in

which property rights to land are allocated, transferred, used, or managed in a particular society. For our purposes, *land* is used here to include most fixed natural resources associated with land (e.g., trees, minerals, pasture, water); in essence, all land-based resources. Land tenure relationships are often defined through statutory or customary law. They may be well defined in these systems, or they may be ambiguous and open to misinterpretation and exploitation. Land (and natural resources) tenure is central to sustainable natural resource management. Land tenure may also have both spatial and temporal dimensions and can be differentially impacted by gender, ethnicity, class, and political affiliation.

*Property rights* refer to a bundle of rights to use, control, and transfer assets, including land. When we speak about property rights in the context of land, we are largely referring to property rights associated with the “immoveable” property on land. Property rights are social conventions that reflect agreement among people about how these assets are held, used, and exchanged. These include the rights to occupy, enjoy, and use; to restrict others from entry or use; to dispose, buy, or inherit; to develop or improve; to cultivate; to sublet; to realize financial benefits; and to access services in association with land. Property rights can also include ideas and designs (copyrights, patents, and intellectual materials), as well as rights over “moveable property,” for example, cars, cows, mobile homes, and wildlife. Property rights are the foundation for economic growth.

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

Whether legally defined by a statutory structure or conferred by customary practice, *land and natural resource tenure* is the relationship between individuals and/or groups and land and related natural resources. *Tenure institutions* define how property rights to land and natural resources are allocated, used, and managed within society. *Tenure systems* define who can hold and use resources, for what length of time, and under what conditions.

*Security of tenure* is the perception by people that rights to land will be recognized by others and protected in the event of specific challenges. It is manifest by a full set of use and transfer rights of sufficient duration to recoup labor and capital invested, the ability to enforce those rights against the claims of others, and the assurance that the benefits derived from those rights and related investments will be attained. The provision of security of tenure and property rights has become a major vehicle for economic growth, social development, poverty alleviation, and natural resource management. Security of tenure can be provided from a variety of sources: it may stem from a community and the user groups that form within it (e.g., water users, pastoralists, farmer groups); or it can stem from administrative user groups (e.g., districts organized around key assets) or from government and legal institutions within government. Therefore, we should not think of tenure as strictly formal or informal but acknowledge it as a broader range of systems.

Tenure security has become an essential part of a large programmatic push aimed at investment in land, agricultural production, sustainable natural resource management, and the move toward market economies. Increasingly, efforts are focused on multiplying the effects of secure tenure and property rights from various sources. For several decades, efforts to provide secure tenure and property rights have specifically focused on land law, land titling and registration, land administration, and the redistribution or restitution of land. More recently, these interventions have examined ways to multiply the sources of secure land tenure and property rights to contribute to both economic growth and sustainable natural resource management.



Land policy is the tool employed by governments and supported by donors to outline a set of goals and measures aimed at meeting objectives related to land tenure, land use, land management, property rights, and land administration structures. Land policy has very clear and direct links to agricultural policy and production and to natural resource policy and sustainable natural resource management. There are many international examples of situations where poorly executed land policy has led to natural resource degradation. More recently, development practitioners and conservationists have begun to examine the combined impacts of land, agriculture, and natural resource management policy (governing e.g. forests, water, minerals, pasture, etc.) on biodiversity conservation (especially outside of protected areas) and in buffer zones and conservation landscapes or large ecosystems.

Different land tenure systems have their advantages and disadvantages:

- *Customary systems* facilitate social cohesion, but they may not be able to withstand increasing pressure on land and resources both from within the community and from the outside.
- *Individual land ownership* may put land to the most economically efficient use, but it often excludes the poor and limits state land management options.
- *Public land ownership* may withhold land for conservation purposes or public land management and facilitate equal access to prime locations, but it may lead to bureaucratic inactivity and corruption.

## 2.3 RELEVANCE OF LTPR TO USAID BUREAU AND MISSION PROGRAMMING

More recently, efforts to manage and mitigate conflict are pushing the LTPR community to understand lessons learned. These lessons are helping to shape a new land policy consensus that rests on five principles.

1. **Land tenure and property rights (LTPR) systems are fundamental to a wide variety of development outcomes.** Secure land tenure improves food security, economic growth, and natural resource management and reduces the impacts of conflict and climate change. Securing the rights of women, youth and vulnerable populations and broadening their access to resources complements and deepens the impact of interventions aimed at improving these outcomes. This is the case for people across the economic spectrum from smallholder farmers to urban manufacturers. An effective land governance and property rights system is fundamental to the broad process of economic and political development.
2. **Weak land governance systems limit economic growth; threaten good natural resource management; often promote conflict; and pose special problems for vulnerable groups, including minorities, indigenous people, the poor, and women.** Recognition of customary rights to land resources and the devolution of management authority improves land and resource governance and is crucial to sustainable natural resource management. Although many countries have effective and secure land governance and property rights systems, in numerous places, systems and rights are weak. The results of these weaknesses include conflict over land and resources, corruption associated with poorly functioning land governance systems, resource degradation, and limited economic growth.
3. **In development programming, property rights are most frequently dealt with in the context of land tenure reform, but they are increasingly being addressed through more integrated projects.**

Programming decisions made in a variety of sectors that consider land tenure can have profound impacts on land use and natural resource management, agricultural systems, and infrastructure development.

4. **Too often, LTPR reforms are measured in terms of outputs rather than impacts** (e.g., measuring the number of land titles that have been issued as opposed to focusing on market performance and investment increases, reduced conflict, or improved use of sustainable management practices). This focus on outputs prevents USAID from fully understanding the efficacy and potential cross-sectoral benefits of its property rights reforms and programs. A greater emphasis on impact evaluation is needed.
5. **The ultimate objective is to secure property rights that will promote economic growth, food security, natural resource management, and stability.** Security of tenure can be achieved through a variety of approaches and should result in greater confidence that property rights will not be indiscriminately taken or unjustifiably restricted. Securing land and resource rights can be achieved through a variety of legal, administrative, and judicial means. It may require legal reform in one context and dispute resolution in another. USAID promotes the implementation of “secure enough” tenure rights and does not consider land titling or land formalization as the ultimate objective.

USAID recognizes the ongoing need to understand 1) how land tenure shifts as societies move through various stages of democratization and economic growth, and in some cases, from war to peace; and 2) how these shifts require different LTPR regimes that will lead to further economic growth, sustainable natural resource management, good governance, and political stability. To provide security, land tenure and property rights must be of sufficient number and duration to provide incentives for investment, have some way of assuring the holder that rights will be recognized and enforced at low costs, and be accompanied by mechanisms that allow for adjustment or variation in a changing environment.

There is a growing body of evidence in countries where USAID and others have provided support that demonstrates a relationship between strong property rights and measurable successes in economic investment and growth, transition to democratic government, and improved use of natural resources. Property rights and institutions that are inconsistent with economic, political, and environmental realities can undermine growth, erode sustainable resource management, and promote violent conflict. Conversely, property rights systems that are viewed as legitimate, transparent, and negotiable lead to increased investment, political stability, and sustainable resource use. Land tenure interventions must be carefully sequenced to facilitate stronger and more efficient property rights systems. Policy and program interventions that are introduced out of sequence can lead to under-investment and resource degradation, or, worse, violent conflict among property owners or users.

The growing awareness of the importance of tenure and property rights in economic and social development is creating the need for analytical tools that enable USAID to identify, evaluate, and monitor the issues and use this analysis to design appropriate interventions.

This LTPR Framework provides USAID with a conceptual structure and related tools to strengthen the incorporation of LTPR themes within Agency programming. Key concepts and terminology are consistent with internal USAID policies, initiatives and strategies, including Feed the Future, Global Climate Change and Development, and USAID Forward. The goal of USAID’s LTD is to increase the security of tenure and property rights in land through effective policy and program interventions. The concepts, tools, and methodologies mentioned here are not static. As the LTPR Framework and associated tools are living documents, they will require frequent use, redevelopment, and modification that take into account national experience and global land tenure change.

The analysis and policy recommendations embedded within this LTPR Framework are consistent with the rights-based focus of the Food and Agriculture Organization (FAO) of the United Nations' *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security*.<sup>[1]</sup> The Guidelines promote responsible governance of tenure of land, fisheries, and forests, with respect to all forms of tenure: public, private, communal, indigenous, customary, and informal. The Guidelines serve as a reference and set out principles and internationally accepted standards for the responsible governance of tenure. They provide a framework that states can use when developing their own strategies, policies, legislation, programs, and activities. They allow governments, civil society, the private sector, and citizens to judge whether their proposed actions and the actions of others constitute acceptable practices. The United States government supports the voluntary guidelines, which can be used by development practitioners to incorporate tenure and property rights considerations into program design and implementation.

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[1] For a more complete explanation, refer to the FAO site describing the context and content of the guidelines at: <http://www.fao.org/nr/tenure/voluntary-guidelines/en/>

# 3.0 OVERARCHING THEMES FOR LAND TENURE AND PROPERTY RIGHTS

USAID’s land tenure and property rights program is based upon lessons garnered from decades of USAID implementation experience, international agreements like the FAO’s *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (Voluntary Guidelines)<sup>3</sup>, best practices summarized by the World Bank’s Land Governance Assessment Framework,<sup>4</sup> and academic resources to both interpret the complexity of land tenure issues and derive policy and programmatic responses. From these varied perspectives, USAID has developed the analytical framework described below to shape its understanding of global realities around LTPR but also to provide guidelines to the constantly changing complexities of this challenging field.

Effective land tenure systems and secure property rights play a central role in supporting balanced and sustainable economic growth, encouraging investment for improved agricultural productivity, limiting conflict and instability, accelerating women’s economic empowerment, enhancing democratic governance and human rights, and improving natural resources management and biodiversity conservation, including through effective climate change adaptation strategies. Weak property rights and land governance systems exacerbate a variety of problems, threaten US national security interests, and lie at the heart of concerns related to large-scale land acquisitions, often referred to as “land grabbing.”

## 3.1 UNDERSTANDING THE EVOLUTION OF LAND TENURE AND PROPERTY RIGHTS

Land tenure and property rights exist in a historical and development continuum; they most often build on customary rights and evolve into formal systems when developed within the context of a nation-state. If development programming is to address LTPR issues, problems, and constraints effectively, then at the most fundamental level, we need to understand the origins and evolution of property rights.

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<sup>3</sup> Food and Agriculture Organization of the United Nations. 2012. *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. Committee on World Food Security. Available at <http://www.fao.org/docrep/meeting/025/md708e.pdf>

<sup>4</sup> World Bank, Land Governance Framework. Available at <http://web.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/EXTPROGRAMS/EXTARDR/EXTLGA/0,,contentMDK:22793966~menuPK:9163253~pagePK:64168427~piPK:64168435~theSitePK:7630425,00.html>

Many of today's LTPR research and field assessments focus imperfectly on the economic and/or environmental impacts of land tenure reforms and/or changes to property rights systems. Any singular emphasis belies the political, social, and cultural origins of property rights and the importance of these rights to cultural and social identities. In addition, much of the emphasis has ignored the role that the colonial legacy has played in the establishment of formal property rights in many countries. Often these systems were perversely constructed to be highly discriminatory in favor of controlling powers and the elite. The systems introduced by colonial governments were often maintained by force, and they undermined equity and the effectiveness of existing property rights systems, including customary, indigenous, and religious systems.

Because societies have different attitudes and beliefs over the ownership and management of property, land, and natural resources, property rights systems vary. However, rights to property are always defined by legal provisions or by rules under customary, indigenous, or religious law. These rule systems sometimes work in parallel and sometimes in contradiction.

Problems related to conflict over land and resource use, natural resource degradation, insecure livelihoods, and poverty are all the result of weak property rights institutions and/or the unequal distribution of property rights within society. Past failures to develop and acknowledge land and natural resource property rights have resulted in conflict and inequity in land and natural resources access, use, and security of tenure.

The poorest of the poor are frequently those that lack access to secure land tenure and property rights. Securing land held by the poor is an important strategy to help them move out of poverty. Equitable land distribution and strong property rights can also spur economic development. Our understanding of the history of property rights suggests that countries with more egalitarian distribution of land, markets that allow transactions, and governance that creates equal opportunities to make economic choices have historically tended to achieve higher levels of economic growth.

## **3.2 RESOURCE TENURE IN KEY US GOVERNMENT STRATEGIC OBJECTIVES**

### **3.2.1 PROPERTY RIGHTS, FOOD SECURITY, AND REDUCING HUNGER**

Food security exists when all people, at all times, have physical and economic access to sufficient, safe, and nutritious food that meets their dietary needs and food preferences for an active and healthy life. The term “food security” is used to describe food availability, access, and use at many levels, including the global, national, local, household, and intra household levels. According to *The State of Food Insecurity in the World 2012*, almost 870 million people were chronically undernourished.<sup>5</sup> The distribution of malnutrition is highly uneven—close to 98 percent of the undernourished reside in developing countries—and food crises are often initiated or magnified by humans, who can limit the availability of food directly through conflicts, or indirectly through actions that exacerbate the effect of otherwise minor natural hazards.<sup>6</sup>

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<sup>5</sup> Food and Agriculture Organization. 2012. “The State of Food Insecurity in the World 2012.” <http://www.fao.org/docrep/016/i2845e/i2845e00.pdf>

<sup>6</sup> For a full discussion of the links between property rights, food security, and hunger, see: USAID. 2013. “Land Tenure and Food Security: Emerging Implications for USG Policies and Programming. Issue Brief # 3. <http://www.usaidlandtenure.net/issue-briefs/land-tenure-and-food-security>

Since food insecurity is largely caused by poverty, improving access to food requires increasing the income of the poor. Not surprisingly, given that most of the very poor rely on agriculture and related activities, studies have shown that the income of the very poor respond more to growth in the agricultural sector than to growth in any other sector.<sup>7</sup> This implies that agricultural growth will reduce hunger and malnutrition more effectively if it involves smallholders. A food security strategy must therefore create an enabling environment that levels the playing field for smallholders, and provides them with the tools, skills, and incentives to participate and be competitive by: (i) investing in rural infrastructure such as roads, information systems, storage facilities, and physical markets to reduce transaction costs and allow them to reach markets; (ii) ensuring land tenure and property rights to provide incentives to invest and make long-term decisions; and (iii) providing the education and skills needed to successfully participate in markets.<sup>8</sup>

Strategies to increase tenure security must recognize women's vital role in food production and address gender-based constraints along the value chain,<sup>9</sup> including improving their access to resources such as land, credit, and productivity-enhancing inputs and services. Women are directly involved in food production; research has long shown that women can equal men in productivity as long as they have equal access to agricultural inputs, training, and extension services. Reducing the gender gap in access to productive resources increases household production and aggregate agricultural output.<sup>10</sup> Furthermore, improvements in household food security depend not only on the level of income of the household but also on who earned that income. Data from Africa, Asia, and Latin America show that women are more likely than men to spend their income on food for their families. Compared to men's income, women's income has been found to have a greater effect on household calorie consumption, on the share of the family budget allocated to staples, on food expenditures, on children's weight for height, and on preschoolers' weight for age.<sup>11</sup>

The USG's Feed the Future initiative is developing a comprehensive and coordinated approach among public and private sector actors to address the root causes of hunger. Effective land governance systems that provide improved access and secure rights to land resources are a necessary condition for achieving food security and better nutrition. Strengthening and clarifying land tenure security provides important protection for smallholders from the threat of dispossession. It may also help strengthen social networks that smallholders rely on to build human and other capital. This stability creates positive incentives that enable more efficient and effective investment in land, including through the application of increased labor, capital, and improved practices in food production and nutrition. Such security is important for larger-scale investors (both domestic and foreign) and is essential for smallholder farmers who most need improved access to technology, capital, and other productivity-enhancing support.

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<sup>7</sup> Egan Ligon and Elisabeth Sadoulet. 2011. "Estimating the effects of aggregate agricultural growth on the distribution of expenditures. Background paper for the World Development Report 2008." Washington, DC: World Bank; L. Christiaensen, L. Demery, and J. Kuhl. 2012. "The (evolving) role of agriculture in poverty reduction: An empirical perspective." *Journal of Development Economics* 96(2): 239-254.

<sup>8</sup> IFAD, WFP, and FAO. 2012. "The state of food insecurity in the world. Economic growth is necessary but not sufficient to accelerate reduction of hunger and malnutrition." Rome, Italy: FAO.

<sup>9</sup> USAID. 2012. "USAID policy on gender equality and female empowerment." Washington, DC: USAID.

<sup>10</sup> Agnes Quisumbing. 1996. "Male-female differences in agricultural productivity: Methodological issues and empirical evidence." *World Development* 24(10): 1579-1595; Keera Allendorf, 2006. "Do women's land rights promote empowerment and child health in Nepal?" *World Development* 35(11): 1975-1988; Diana Fletschner, 2008. "Women's access to credit: Does it matter for household efficiency?" *American Journal of Agricultural Economics* 90(3), 669-683.

<sup>11</sup> Agnes Quisumbing, Lynn Brown, Hilary Sims Feldstein, Lawrence Haddad, and Christine Peña. 1995. "Women: The key to food security." Washington, DC: IFPRI.

The international community is increasingly recognizing the economic, political, social, and moral imperative of securing land and resource rights. To strengthen the enabling environment requires multi-stakeholder partnerships that work at all levels, from local to global, and involves all sectors—governments, the private sector, and civil society. The Committee on World Food Security (CFS) and the Food and Agriculture Organization of the United Nations Food and Agriculture Organization (FAO) sought international consensus for the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forest in the National Context of Food Security (Voluntary Guidelines).<sup>12</sup> As summarized here, these guidelines can be used by states, courts, government agencies, communities, individuals, civil society, investors, tenure professionals, and academics as a reference when designing or assessing strategies, laws, policies, or programs to secure tenure in the face of global food insecurity.

### **3.2.2 PROPERTY RIGHTS, ECONOMIC GROWTH, INVESTMENT, AND LAND MARKETS**

A cornerstone principle of economic development that has emerged over the last 30 years is the role that secure property rights plays in economic growth. Societies tend to clarify and formalize property rights when growing population densities increase the demand for land, leading to rising land values. This transition can also be stimulated by the adoption of modern technology and growth spurred by trade. Clear, secure, and negotiable rights to land and resources are an essential foundation for trade and a key component of a growth-friendly enabling environment. When a land governance system effectively protects these rights, individuals, groups, and legal entities make a variety of forward-looking investments in capital and other inputs because they are more confident that they will capture any future returns from their efforts. Research has found that an improved property rights environment leads firms to allocate their resources more effectively, which in turn leads to more robust growth.<sup>13</sup> On the other hand, when firms, families, and communities fear their property will be expropriated or lost, or when transaction costs associated with protecting property rights become prohibitively high, fewer formal transactions take place and fewer investments are made. Informal markets thrive and property values tend to be lower than they otherwise would be in these situations.

As noted in a World Bank Policy Brief: “land markets that allow access to land—and to buildings—through secure property rights, at transparent prices, and with efficient permitting processes and land tax systems are essential to a good business environment.”<sup>14</sup> Although it is often a difficult process to create accessible and effective land markets in areas where they do not exist (as may be the case in informal urban settlements or in rural areas), the rationale for such an effort is clear: by improving land governance systems and offering more efficient and transparent services of registration, land use planning, administration, adjudication, and mediation, then tenure security increases, ambiguity decreases, and violent conflict may be avoided. Rights holders may be better able to access banking and other financial services, and municipalities may be better able to collect tax revenues, which can facilitate the delivery of services to communities. For the vast majority

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<sup>12</sup> FAO and Committee on World Food Security. 2012. “Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.” <http://www.fao.org/docrep/meeting/025/md708e.pdf>

<sup>13</sup> Claessens, Stijn and Laeven, Luc. 2003. “What Drives Bank Competition: Some International Evidence,” *Policy Research Working Paper*, No. 3113, World Bank. Available at [http://www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/2003/09/16/000094946\\_03082804014223/Rendered/PDF/multi0page.pdf](http://www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/2003/09/16/000094946_03082804014223/Rendered/PDF/multi0page.pdf)

<sup>14</sup> Muir, Russell and Shen, Xiaofang. October 2005. “Land Markets,” *Public Policy for the Private Sector*, Note No. 300, World Bank, available at: [http://rru.worldbank.org/documents/publicpolicyjournal/300muir\\_shen.pdf](http://rru.worldbank.org/documents/publicpolicyjournal/300muir_shen.pdf).



of residents and investors (domestic and foreign), these are highly desirable benefits that lead to more efficient uses of land and other resources. Credible commitments by governments and customary authorities to protect land tenure and property rights go a long way toward improving the climate for doing business and, in turn, promote more expansive entrepreneurship, trade, and export opportunities.

Secure property rights have a direct correlation with increased incentives for individuals and households to invest labor and other resources in land. If property rights are insecure (that is, not well defined or easily enforced), individuals and families will be obliged to spend time and resources defending their land. They will be reluctant to invest time, money, or materials into something over which they have no security. However, if people perceive their property rights to be secure, they will use land and real estate to enter formal markets. Without secure land tenure, the growth of the financial sector remains constrained, because and, as a result, the costs of borrowing are often higher than in areas where secure and transparent property rights facilitate more efficient land transactions.

Ineffective land market development and high transaction costs can also impede access to land by many groups and individuals, most particularly the poor; and can undermine opportunities for market-based transactions. While the poor may gain access to micro-credit even without land, the absence of a land market deters small and medium enterprise development. These issues regularly frustrate the formation and growth of the private sector.

Secure land tenure and property rights can also lead to poverty *prevention*. Specifically, if land and property rights are insecure, they may not be recognized by the state in the context of infrastructure development, protected area establishment, or concessions to the extractive industries. In such cases, communities or individuals lacking secure land tenure and property rights may not be adequately compensated when dispossessed of their rights. Displaced individuals and communities that are unable to defend their rights may fall (further) into poverty.

As the world becomes increasingly urbanized and industrialized, issues of land tenure and property rights in the context of investments in transportation and utility infrastructure and residential and commercial building construction become increasingly important drivers of economic growth. Unfortunately, millions of urban dwellers in developing countries live without adequate security of tenure or property rights. Reports from the United Nations expect this group to reach 1.5 billion by 2020. This increase in population leads to expansion of municipalities and public takings for urban infrastructure and settlement, increasing demand for secure property rights to encourage investment; eminent domain law to enable payment of fair and adequate compensation along with legal recourse in the case of public takings, and public investment in regulated spatial planning (see Voluntary Guidelines, 2012). However, such investments also require caution, particularly in cases where individual or community holders of rural land are not recognized as rightful holders of property by state or local government (hence are at risk of displacement), or governments lack public resources via taxation to pay for compensation.

Rising consumer incomes along with accelerating economic growth and prosperity also increases demand for rural land for roads, pipelines, bridges, and electrical transmission infrastructure among other public investments. The World Bank and Millennium Challenge Corporation provide guidelines to protect rightful land and property holders in the case of involuntary resettlement (see Involuntary Resettlement Sourcebook,

Planning and Implementation in Development projects)<sup>15</sup> as do the Voluntary Guidelines (Part 4).<sup>16</sup> For both urban and rural infrastructure, a range of policy instruments become important including regulations governing the operation of land and real estate markets, titling and registration, valuation, taxation, zoning, spatial planning and trans boundary resource management (whether between urban and rural, or between international, state and local governments).

Expansion of informal settlements is also becoming an important issue, particularly in contexts where the property rights regime is weak and discourages public and private investment, burgeoning populations (particularly of the poor) overwhelm public infrastructure and delivery of public services, and weak city and municipal tax base curtails public spending. It also occurs in conflict settings when residents flee to cities for security and once there claim the property settled to be theirs. In an effort to address land and property rights security, governments and international funding agencies have adopted land use planning along with titling and registration to help regularize and plan urban settlements, provide security of tenure to increase investment in housing stock, and enable municipal taxation systems to increase public coffers for undertaking infrastructure and public service delivery. There are nonetheless risks that need to be accounted for in policy and program design; e.g. speculation and profit taking as informal settlements are upgraded, eviction of tenants due to higher rents, and expansion or new unauthorized settlements in hope of being awarded titles and the benefits of informal settlement upgrading.

### **3.2.3 PROPERTY RIGHTS AND DEMOCRATIC LAND GOVERNANCE**

Control over land resources provides those who control land and other natural resources with social status and with political and economic power. When the power to control land and other valuable natural resources is concentrated, the power to control those who use land and resources increases. Governments have used their power to control land resources to resettle less powerful or marginalized groups forcibly. Governments have also imposed policies to keep potentially restive rural populations in the countryside rather than in urban areas, which has contributed to high levels of rural poverty. An underlying cause of the “resource curse” is the poor and often opaque governance of valuable resources, such as oil and other minerals. More recently, some governments have been implicated in corrupt, non-participatory deals to transfer control of large tracts of land to agricultural investors in ways that harm local communities by violating their rights to use and control land and other resources.

The control of land resources has long been a traditional source of political and economic power. The more tightly land is controlled by government or elites, the less people are empowered to invest and make autonomous decisions. In many instances, an individual’s sense of identity is inextricably linked to the rights held through the historical occupation, stewardship, and/or ownership of land. There is a natural correlation between the ability of individuals and/or groups to enjoy secure property rights to land and natural resources and their feeling empowered to steward these resources.

When land and resource rights are decentralized in a meaningful way, individuals, groups, and legal entities have greater decision-making control over these assets, which implies greater empowerment and autonomy. This empowerment may act as a check to balance power held by centralized authorities. Thus, decentralizing

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<sup>15</sup> World Bank. 2004. “Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects.” Washington DC: The World Bank.

<sup>16</sup> FAO and Committee on World Food Security. 2012. “Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.” Article 23.3. <http://www.fao.org/docrep/meeting/025/md708e.pdf>

rights to land and other resources can help to create effective barriers to some abuses associated with concentrated power.

Throughout history, almost all governments have possessed the authority to supersede private and customary rights through expropriation, which is also called compulsory acquisition. Governance systems can be challenged (sometimes violently) when land or natural resources are compulsorily acquired through a process that is unclear or unregulated, or for purposes that do not directly result in public benefits. The absence of transparent procedures, the abuse of due process, or the failure to provide fair compensation can seriously undermine the security of individual property rights for all landholders – including the intended recipient of the expropriated land. This is perhaps nowhere more evident than in rapidly evolving urban and peri-urban areas, particularly in those areas inhabited by the poor.

### **3.2.4 PROPERTY RIGHTS, CONFLICT, AND INSTABILITY**

Competition over land and the resources found on land drives much conflict around the world.<sup>1718</sup> Whether the contest is over access to and control of increasingly scarce fertile land—which is driving the problem of “land grabbing,” or over control of mineral-rich areas or valuable water sources—people in many parts of the world resort to violence to control and use land because existing land governance systems are incapable of managing these disputes. Historical inequities in landholding within a community, region, or country sometimes contribute to land-related violence. In many places, rapidly rising demand for land for biofuel and/or food production is compounding historical tensions. At the same time, the rapid expansion of urban populations onto peri-urban and rural lands is further increasing competition for scarce land and resources. Conflict over land is more likely to escalate and become violent when land tenure and resource rights are weak, insecure, and non-negotiable and when the existing land governance systems are ineffective, corrupt, or otherwise dysfunctional. Typically, the poor and other vulnerable groups, notably women, suffer disproportionately from such competition and the ensuing conflict. These problems contribute to the incidence of violence in many countries and to instability and insecurity, some of which may threaten US national security interests.

The eruption of violent conflict, whether episodic or prolonged, usually causes significant changes to land tenure and its administration. In times of conflict, people may be removed indiscriminately or forcibly from their land, often without fair compensation or due process, or they may abandon their land because of fear or violence. Upon their return, sometimes after months or years of displacement, former owners often find others occupying their property and utilizing their land. The process of displacement and return due to violence (or the threat of violence) can be cyclical and often results in multiple claims to the same parcel of land. Competing claims can then spawn conflict due to the weak, biased, or nonexistent enforcement of property rights regimes, whether customary or statutory. Displaced and marginalized populations, especially in a post-crisis context, are then forced to compete among themselves or with newly settled groups for access

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<sup>17</sup> For example, see discussions of conflict related to land tenure insecurity: Muzondo, Barry, DeWar and Whittal. 2004. “Land Conflicts in Informal Settlements: Wallacedene in Cape Town, South Africa.” Available at [http://fig.net/pub/athens/papers/ts21/TS21\\_1\\_Muzondo\\_et\\_al.pdf](http://fig.net/pub/athens/papers/ts21/TS21_1_Muzondo_et_al.pdf).

<sup>18</sup> For a discussion of the connection between insecure land rights and violent conflict please see (among others): Lund, Odgaard, and Sjaastad. 2006. “Land Rights and Land Conflicts in Africa: A Review of Issues and Experiences,” Danish Institute for International Studies. Available at <http://www.diiis.dk/graphics/Events/2006/Lund%20Odgaard%20and%20Sjaastad.pdf>; Moore. 2010. “Africa’s Continental Divide.” Available at <http://www.csmonitor.com/World/Africa/2010/0130/Africa-s-continental-divide-land-disputes>; OECD. 2007. “Land, Agricultural Change and Conflict in West Africa.” Available at <http://www.oecd.org/dataoecd/44/53/39459067.pdf>; and Anseeuw and Alden (eds.) 2010. *The Struggle over Land in Africa: Conflicts, Politics & Change*. Available at <http://www.hsrcpress.ac.za/product.php?productid=2275>.

to productive assets for survival. In a post-conflict context, this sort of competition can lead to new outbreaks of violence and/or environmental destruction, exacerbating and spreading the initial crisis.

Precisely because land-related issues cause conflict, it is critical that these concerns be recognized as a central element in peacebuilding and economic reconstruction in post-conflict situations. Efforts to protect land records, mediate land disputes between and among displaced persons and settlers, and rebuild the capacity of land governance systems can help reduce tension, stabilize a locale, and set the stage for productive investments and growth. These, in turn, can help break the conflict trap and promote US national security interests.

### **3.2.5 PROPERTY RIGHTS AND THE CHALLENGE OF GLOBAL CLIMATE CHANGE**

The Second Working Group of the Intergovernmental Panel on Climate Change<sup>19</sup> and other scientific bodies present increasingly strong evidence that climate change profoundly shapes ecological, social, and economic interactions. As the specter of global climate change unfolds, existing struggles will deepen over use, control, and management of land and other natural resources. In largely unpredictable ways, climate change will provoke adjustments in the value of land and other natural resources; simultaneously, climate change will intensify adaptive responses like human migration and displacement. These forces will invariably destabilize governance and property rights regimes, spur the evolution of both statutory and customary tenure arrangements, and open the door for powerful actors to expand their claims on land and other natural resources. Similarly, climate mitigation initiatives, such as carbon sequestration policies and programs, may profoundly alter institutions of resource governance. In some cases, promising mitigation programs like reduced emissions from deforestation and forest degradation in developing countries (REDD) may lead to the expropriation of land and other natural resources from poor and vulnerable peoples. Contentious struggles for access and control of resources may turn violent unless stakeholders from the local to the international scale engage in open and transparent processes to negotiate new rules of access to land and other natural resources.<sup>20</sup>

Climate change impacts, such as rising sea levels, melting mountain glaciers, and severe drought, are expected to lead to migration on an unprecedented scale. The number of people affected by drought, water shortages, flooding, and other climate induced perturbations is estimated at between 25 million and one billion.<sup>21</sup> Seeking land to settle elsewhere, migrant populations will place pressures on receiving communities. Customary and statutory systems will be affected by these migrations in yet unknown ways. Certainly, tenure and property rights institutions will be tested to equitably allocate rights to resources while resolving conflicts. The poor, women, the disabled, the young, indigenous peoples, and other traditionally marginalized groups may suffer disproportionately because policy and programmatic responses to climate change may unavoidably exacerbate their tenure insecurity.

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<sup>19</sup> Intergovernmental Panel on Climate Change (IPCC). 2007. "Summary for Policymakers." Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change. <http://www.ipcc-nggip.iges.or.jp/public/2006gl/vol4.html>

<sup>20</sup> For a full discussion of the links between climate change and tenure, refer to: USAID, 2013. "Climate Change, Property Rights, and Resource Governance: Emerging Implications for USG Policies and Programming." Issue Brief # 2. <http://www.usaidlandtenure.net/issues/global-climate-change>

<sup>21</sup> International Organization on Migration. 2009. "Migration, Climate Change and the Environment: A Complex Nexus." IOM Policy Brief.

The success of efforts to mitigate climate change through the creation of new, but yet largely unrealized carbon markets, will depend upon the nature of tenure and property rights regimes. Struggles will likely emerge over the benefit streams generated by carbon markets, and indeed other payment schemes like REDD. National governments and recipients of carbon payments will seek to modify tenure regimes associated with carbon payments to suit their own interests. Clarification and formalization of tenure and property rights will become a central feature of carbon schemes. The infusion of large sums of capital into mitigation initiatives to reduce carbon emissions may overwhelm stakeholder capacity to develop governance and property rights systems to efficiently and equitably allocate the benefits of carbon financing between national and local level beneficiaries.

While statutory and customary tenure institutions will be the place where the struggle over access and use to natural resources occurs, these same institutions may also play a significant role in forestalling such conflicts. Customary tenure institutions, such as the traditional authorities who have long established the rules and practices for the acquisition, use, and transfer of land and other natural resources, may indeed possess considerable capacity to devise new tenure norms in the age of climate change. The central policy challenge for many countries is thus to maintain flexibility in existing customary and statutory tenure systems, but also, on a case-by-case basis, foster rapid adjustment of property rights regimes to new environmental and social conditions. This entails clarifying not only existing tenure of multiple users of the land, but it also entails helping stakeholders negotiate new rules of resource access and use in the face of climate-induced perturbations.

As climatic changes alter the availability of arable and habitable lands, and forests gain importance due to their capacity to sequester carbon, current customary and statutory tenure regimes will be challenged to adapt appropriately to new realities without further legitimizing or accentuating the marginal status of vulnerable populations. To adjust to new climate regimes, nations and communities alike will create new laws, rules, and regulations to govern resource uses and ownership. Extensive public participation will be required for these changes to occur in a transparent and equitable manner and for the resulting institutions to be effective and perceived as legitimate. Already, the Voluntary Guidelines explicitly recommend that “States should facilitate the participation, consistent with the principles of consultation and participation...of all individuals, communities or peoples ...who hold legitimate tenure rights, in the negotiations and implementation of mitigation and adaptation programs.”<sup>22</sup> Climate change will challenge institutions responsible for the governance of natural resources, at all levels, to establish inclusive processes to negotiate claims, regulate disputes, and establish new tenure arrangements in a manner respectful of the rights of women, indigenous people, and marginalized people.

### **3.2.6 PROPERTY RIGHTS, NATURAL RESOURCES MANAGEMENT AND BIODIVERSITY**

Insecure land tenure and resource rights are key drivers of biodiversity loss and unsustainable natural resource management. Where these rights are poorly defined and/or enforced, natural resources and ecosystems can be quickly degraded because incentives for protection or sustainable use are weak or absent. This insecurity can lead to overgrazing of pastureland, wildlife poaching, deforestation, ineffective watershed management, and poorly planned extractive industry investments in biodiverse areas, among other negative outcomes. The

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<sup>22</sup> FAO and Committee on World Food Security. 2012. “Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.” Article 23.3. <http://www.fao.org/docrep/meeting/025/md708e.pdf>

degradation and misuse of resources limit prospects for long-term economic growth and the diversified livelihood options that arise from more effective natural resource management, particularly in tourism, fisheries, and forestry.

In contrast, secure tenure, complemented by good conservation and resource management policies, can lead to better management of natural ecosystems, such as forests, wetlands, and near shore coral reefs.

Recognizing and securing rights to land and natural resources fosters stewardship. When individuals, communities and other groups, and legal entities have secure rights to land and resources, their incentives can shift toward longer-term management. Secure land and resource rights provide people with incentives to conserve resources, because they are better able to capture future investment returns. Stronger land and resource rights combined with more sustainable economic incentives can help conserve biodiversity and natural resources and improve livelihoods and local governance. Particular attention is needed to ensure that women's land and resource rights are recognized and protected, as they play major roles in food security, conservation, natural resource management, conflict mitigation, and household livelihoods; yet their rights to these resources are often limited.

Four major issues characterize present day experience with property rights and natural resource management:

1. **Recognition of indigenous and other community-based rights.** This is, in essence, the acknowledgement and adoption of common property rights within land and natural resource administration and statutory law.
2. **Devolution of authority and management control over land resources to communities.** These shifts in authority and institutions are embracing combinations of private (individual and/or corporate) property and private management along with community management of land and “common pool” resources (e.g., pasture, forests, wild fisheries, wildlife, conservation areas). These systems of management are typically first based on customary law, augmented by the recognition of local governance structures, and finally realized in contemporary policy and legislation.
3. **Biology/ecology of the resource itself and the level at which it must be or can be managed.** Customary land use restrictions are often derived from generations of generally sustainable human resource exploitation. Today, in the face of human population growth, rapidly disappearing cultural traditions, and increasing demand for finite resources, the selective use of traditional natural resource management techniques must be combined with more scientific tools (e.g., land use planning, climate modeling) to understand how property rights can best serve resource management objectives.
4. **Role of market forces in determining the economic benefits that can be derived from sustainable management of natural resources.** There is a growing body of evidence to suggest that community-managed land resources can enhance economic benefits for communities, as well as the state—through the creation of revenue, taxes, and jobs. This trend contrasts with the older practice of licensing resource rights to an elite few who often employed destructive and short-term investment approaches. (Interestingly, investments in land and sustainable natural resource management on the part of communities tend to be higher than that of their government counterparts.)

### **3.2.7 PROPERTY RIGHTS AND ENHANCING WOMEN'S ECONOMIC EMPOWERMENT**

Throughout the world, women are often the primary users of land and laborers on land, but their rights to land and resources are rarely formally recognized. In fact, women only legally own a tiny fraction of the world's land and property. This legal disparity contributes directly to widespread human rights violations and limits economic growth and human development. When women have more secure rights to land and resources through inheritance, joint or individual title, or recognition and enforcement of their customary rights, they are better able to rent land and earn rental income, access credit, and pursue off-farm entrepreneurial opportunities. Importantly, women who have higher tenure security may be more productive than women who face tenure insecurity. Increased productivity often leads to higher household incomes. With increased income, women may develop stronger household-level decision-making authority. For women, greater voice in financial decision-making often means they are empowered to use any additional income they generate to invest in their children's health and education.

Studies have found that women who have secure tenure rights in urban India have higher self-esteem, are better able to participate in local committees and governance structures, and are able to invest in their homes and their children.<sup>23</sup> Research finds that as the economic position of women improves, their ability to make decisions related to the household (children's education and medical care), agriculture production, and social and political aspects of society increases. Secure rights to land and resources are especially critical for women who become vulnerable as they age, become widows, or as a result of sickness and divorce. Thus, women who have secure land and property rights are less likely to become economically vulnerable. Research also shows that women with secure property rights are more autonomous and empowered in life decisions and less likely to be infected with sexually transmitted diseases like HIV/AIDS.

In addition to the direct economic benefits of landownership, property rights may empower women within the community and society at large. There is a positive relationship between the amount of assets (including land) that a woman possesses at the time of marriage and the shares of household expenditures devoted to food, education, health care, and children's clothing. Greater household equity and strong property rights are reflected in more positive household investments.

There are many barriers that prevent women from translating formal land rights into economic benefits. Social norms often restrict women's participation in decision-making and engagement in certain economic activities. LTPR interventions must reach beyond household-level rights to better understand how land and property rights are allocated to individuals within the household. LTPR programs must seek to understand gender roles in a society, issues of wealth distribution within the family, and gender norms related to ownership of land and property.

### **3.2.8 PROPERTY RIGHTS, GLOBAL HEALTH, POVERTY, AND INFECTIOUS DISEASES**

In many developing countries, women are not only the primary food producers, but they are also the primary caretakers of the ill. When women or other members of the household become sick, women's ability to

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<sup>23</sup> Giovarelli, Renee and Wamalwa, Beatrice. 2013. "Land Tenure, Property Rights and Gender," Property Rights and Resource Governance Briefing Paper #7, USAID. Available at <http://usaidlandtenure.net/usaidltpproducts/issue-briefs/challenges-and-approaches-for-strengthening-women2019s-land-tenure-and-property-rights/view>.



engage in agriculture and other productive activities is reduced, and family food security is often compromised. The link between insecure resource tenure and the inability to cope with the effects of illness leads to a vicious cycle of decreased agricultural production, food insecurity, and new infections as women attempt to feed themselves and their families. Similar interactions between resource tenure and the incidence of gender-based violence often mean that women tolerate abusive situations as a desperate measure to maintain their limited access to resources—a dangerous dynamic that often increases women’s risk of infection from sexually transmitted diseases like HIV/AIDS.

HIV/AIDS affects women and girls across all regions. In sub-Saharan Africa, women represent 58 percent of people living with HIV/AIDS and bear the greatest burden of care of infected people.<sup>24</sup> Women’s unequal access to education and employment and their vulnerability to violence compound their greater physiological susceptibility to HIV/AIDS. Because of social and economic power imbalances between men and women and women’s low status within the household and community, many women and girls have little capacity to negotiate sex, insist on condom use, or otherwise take steps to protect themselves from HIV.

Insecure land tenure and property rights for women can contribute to the spread of HIV/AIDS and to a weakened ability to cope with the consequences of AIDS. Land is a critical asset for the rural poor, and in most countries, men hold the rights to and control over land. As a result, women are often economically dependent on men, do not have secure fallback positions, and have very little bargaining power. Women who are asset-deprived with low, unstable incomes or who lack control over their earnings and access to their means of production are also not in a strong position to bargain for safe sex. Men are typically the household decision makers for land assets and can leverage this power to women’s disadvantage.

Although the absence or weakness of women’s rights to land raises women’s vulnerability to sexually transmitted diseases, the situation is especially dire for widows. Dispossession of widows from family land is exacerbated by the stigma associated with diseases like HIV/AIDS. Even if women do not lose land or other household assets as a consequence of HIV/AIDS, discrimination and lack of land assets can constrain access to the inputs necessary to make land more productive. Women are regularly discriminated against when trying to access to credit, extension, information, networks, and local organizational support.

When land and resource tenure and property rights are addressed, they are often approached in terms of household, not individual, rights to land. For many years, the assumption was that if a household had rights to land, then all members of that household would benefit equally. In fact, women often have fewer rights to land than men within a household, and their limited rights are regularly subordinate to those of men. Depending on the norms governing household decision making, women may not fully participate in the economic and social benefits of household landownership if they do not share formal property rights with respect to land and natural resources. Only legally and socially recognized property rights (including ownership) can assure women access to control over land-based earnings.

### **3.2.9 PROPERTY RIGHTS, INDIGENOUS PEOPLES, AND MINORITIES**

Indigenous peoples are gaining attention in development programming, and more particularly, in law. Several reasons may explain this trend: their cultures are disappearing fast; conflict over land resources characterize

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<sup>24</sup> UNAIDS. 2012. Global report: UNAIDS report on the global AIDS epidemic 2012. Available at [http://www.unaids.org/en/media/unaids/contentassets/documents/epidemiology/2012/gr2012/20121120\\_UNAIDS\\_Global\\_Report\\_2012\\_wi th\\_annexes\\_en.pdf](http://www.unaids.org/en/media/unaids/contentassets/documents/epidemiology/2012/gr2012/20121120_UNAIDS_Global_Report_2012_wi th_annexes_en.pdf)

the relation of indigenous groups to outsiders; they are “custodians” with loosely understood property rights over some of the world’s largest and richest biochemical reserves; and they are often the relatively benign inhabitants of some of the world’s most spectacular, remnant ecosystems.

Under any one of these circumstances, property rights are central to the plight of the indigenous communities and other minorities within a country. Indigenous rights to land resources, typically under collective or communal ownership, are embedded in the rights of indigenous peoples to self-determination. International legal frameworks as well as donor policies call for actions to examine indigenous and minority property rights as part of development programming, particularly regarding land. Many of these policies have been constructed in the face of competing pressures on indigenous land resources from government and private development interests.

National economic growth and development efforts often ignore indigenous understandings of land and development in favor of short-term economic goals that usually involve intensive resource extraction. Indigenous peoples commonly prioritize self-sufficiency and food security over production for the market, and they are guided by the social values of stewardship, equity, and reciprocity. Ironically, there are considerable examples of donors supporting small-scale projects that promote indigenous peoples’ rights on the one hand, while supporting broad national land reforms that result in the dispossession of indigenous peoples on the other.

In the face of displacement and the lack of recognition of customary land and property rights of these groups, one of the most significant advances in recent years has been the use of new technologies to map indigenous land use systems and land claims. There has been general acceptance that participatory mapping is a powerful tool that can assist indigenous communities to secure land rights; develop communal management systems embedded in customary law and traditional ecological knowledge; and deal with government, planners, and investors on a more equal basis. In addition, communal land tenure systems are gaining favor as a means to secure environmental services and values. While communal land tenure has historically been perceived as an obstacle to development, new experiences challenge these conclusions. A number of international donor agencies have adopted programs to promote indigenous land rights, turning communal land tenure and indigenous land rights into a contemporary issue. These programs focus on the legalization of customary property rights to land resources and the decentralization of authority, management, and government services.

Indigenous people and minorities, however, are not synonymous. There is sufficient recent evidence from all regions of the globe that nation states have always struggled with issues related to the property rights of minorities. In fact, most conflicts that arise over land and property rights can be directly attributed to the struggles inherent in dominant minority or majority populations over less dominant populations. These struggles are often historical and complex, but they inevitably revolve around property rights defining resource access and use. Long-standing conflicts involving minorities can only be resolved when property rights are secured equally within the law and enforced equally by government authorities without discrimination.

### **3.2.10 PROPERTY RIGHTS AND POST-DISASTER RESPONSE AND RECOVERY**

Land tenure and property rights challenges are often associated with political violence and instability. Wars and other violent conflicts contribute to forced migration and the creation of large numbers of internally displaced persons (IDPs) with little access to land and other natural resources in receiving areas. Landless

IDPs are also frequently created following natural disasters. One of the more dramatic and powerful natural disasters in history, the 2004 Indian Ocean tsunami, brought issues of property rights and land to the fore. How do hundreds of thousands of survivors of a natural disaster reestablish rights to land and property in the absence of any formal system? Similar struggles over access to and control of land have occurred in post-earthquake Haiti. In the face of huge needs in a post-disaster response, proving ownership, determining individual vs. household land rights, resolving land related conflict, reclaiming lost assets, restoring access to land and resources, and redistributing assets become major issues.

The majority of the world's poor live in areas that are the most susceptible to disasters. These same people are also often resident in areas with no formal land tenure, registry, or cadaster. Governments are faced with the challenge of developing and enforcing property rights when the costs of establishment and enforcement far outweigh the immediate advantages. Too often poor areas do not form part of a state land titling and registration system. Decisions made during post-disaster responses either can set the tempo for secure land tenure and associated property rights and investment, or they can sow the seeds of conflict and insecurity and deter investment, thus perpetuating cycles of poverty in disaster-prone areas. Yet, these same disasters that affect huge areas can also open the door for mapping and land use planning that would not otherwise be cost-effective and feasible.

### **3.3 SECURING RESOURCE RIGHTS AND IMPROVING RESOURCE GOVERNANCE**

USAID addresses a variety of tenure and property rights challenges in USAID presence countries. The spectrum of interventions supported by the division is grouped around the following thematic areas.

#### **3.3.1 SECURING RESOURCE RIGHTS**

Secure property rights to land and resources are critical to economic growth, sound resource management – including effective climate change mitigation, gender equality, conflict mitigation, and good governance. Security of tenure can be achieved through a variety of approaches and should result in greater confidence that the property will not be indiscriminately taken or be subject to onerous restrictions (i.e., limitations on types of crops planted) that would undermine investment or sustainable resource use. Security of tenure also involves greater decision-making power among both women and men over assets, including the power to transfer, lease, mortgage, bequeath, or use the property for a sufficient duration to allow and encourage investment, manage resources sustainably, and maximize the productive potential from the resource. Securing land and resource rights can be achieved through a variety of legal, administrative, and judicial means. It may require legal reform in one context and dispute resolution in another; however, USAID does not consider land titling or land formalization as the ultimate objective. The ultimate objective is to secure property rights to promote gender equality, economic growth, food security, sustainable natural resource management, and stability.

#### **3.3.2 POLICY AND LAW**

Land and natural resource policy and law are a country's guiding framework for how such assets are to be used, granted, and managed. Unfortunately, the statutory policies and legal frameworks governing land and other natural resources in developing countries are often outdated, conflicting, numerous, and not reflective of realities on the ground. Therefore, they often do not protect the property rights of large segments of the population, most notably women. The result is that many aspects of the law are only partially implemented,

implemented inappropriately, or ignored altogether. This allows individuals or groups with the most influence or money to shape the law to fit their needs or completely ignore them, often displacing people and communities. In some cases, land policies and laws may be well crafted, but legal awareness, application, and enforcement are weak. The gap between sound law and application of law is often problematic and results in confusion over property rights and rules of access, which sets the foundation for resource grabbing and land disputes. Many of these disputes end up with the authorities to be addressed through some judicial or non-judicial process (in many countries land disputes make up the majority of court cases, impeding courts' ability to address other types of civil and criminal cases). Many land-related disputes remain unresolved, and in some cases, they erupt into violence.

### **3.3.3 INSTITUTION BUILDING AND INFORMATION DISSEMINATION**

Land administration and resource management institutions are the key entities responsible for applying the rules and regulations governing rights, access, and use of land and other land-based resources. They are also responsible for the granting and recording of rights and making that information available to the public. Despite this critical administrative function, land institutions in developing countries tend to be highly centralized, under-resourced, and ineffective in serving the majority of the public. They are also predominantly staffed by men, who may not be sensitive to the cultural and social impediments that prevent women from accessing such services. Services may only be available during certain hours or through interaction with male staff, which may act as a deterrent to women in more conservative societies. Additionally, accessing such services often takes significant time and financial resources due to burdensome procedures, low levels of skilled personnel, and unrealistic fee structures. In many countries, formal land administration systems do not function (sometimes despite heavy donor investment), do not represent reality on the ground, or quickly become outdated when changes take place in access and rights. Frequently, beneficiaries of land administration systems (including land titling and registration) find the systems too burdensome, costly, or dangerous (because it makes them targets of the state) to access. For this reason, USAID focuses on rational use of land administration (including titling and registration) systems.

Because of the many challenges, customary or informal systems of land resource governance and administration continue to predominate in many countries across the globe. Although effective in meeting the immediate resource administration needs of large segments of rural populations, customary land governance institutions also have their limitations. These shortcomings include lack of recognition by the state, inequitable access to resources by women and other disadvantaged groups, lack of capacity to deal with outside entities or investors, and poor recordkeeping and information dissemination. The challenges posed by the existence of dual formal and informal land governance and administration institutions present a host of problems for the state, private investors, and anyone who seeks to secure their rights to land or obtain information on the availability of such assets. The lack of clear and easily accessible information regarding the rights and boundaries of land discourages good governance, investment, and sound resource use and instead fosters corruption and misallocation of resources. As noted above, USAID seeks to employ best practice in land administration systems and does not support an automatic default to (formal) land titling and registrations systems for communities or countries where these systems are not appropriate or might harm a large proportion of the population. USAID does support dynamic administration mechanisms and approaches that allow legal recognition and recording of equitable customary and statutory rights, systems that permit upgradable rights from leases or community ownership to full or individual ownership, and from customary or informal to statutory rights.

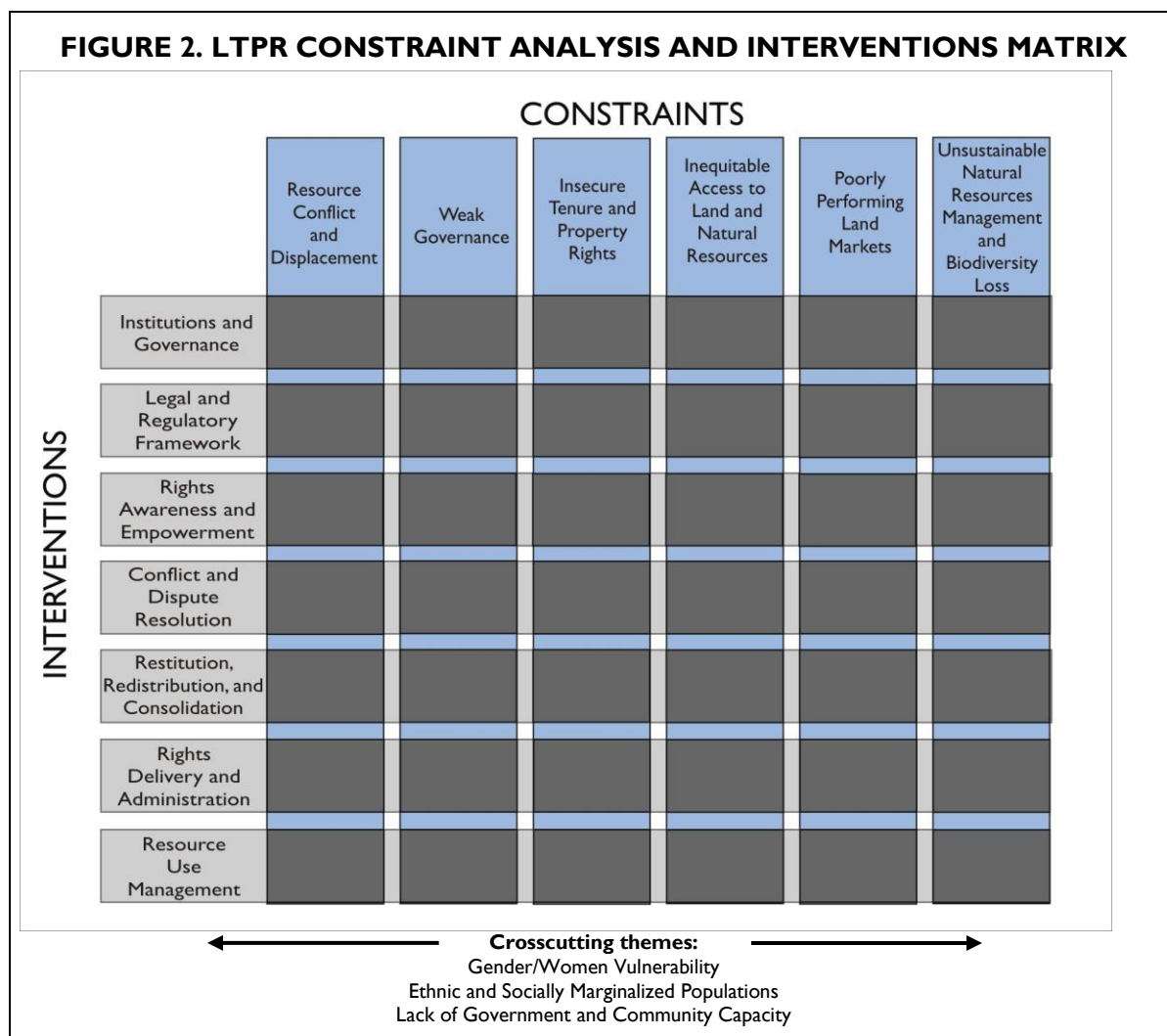
### **3.3.4 PARTICIPATORY LAND AND RESOURCE PLANNING**

The availability of productive land and natural resources is changing in every region in which USAID works. This can be largely attributed to population growth, unsustainable land use, expanding economic activity, increasing demand for raw materials, and the devastating effects of climate change (i.e., desertification, rising sea levels). Increasing demand for productive land and resources is already placing great strain on formal and informal resource governance institutions, as evidenced by the increasing number of natural resource-related conflicts between user groups. In the Sahel region, conflicts between sedentary farmers and pastoralists are on the rise due to the pastoralists' lengthier seasonal migrations southward in search of water and greener pastures in areas settled by farmers.

Additionally, conflicts between indigenous forest communities, state officials, and private investors (e.g., mining, oil, forestry) are becoming more common as economic activities expand into large tracts of forested areas traditionally controlled and occupied by indigenous peoples. Uncontrolled land use and development in urban settings has also been identified as a leading factor resulting in the large number of deaths and destruction that occurred during the earthquake in Haiti. As rural populations migrate to the cities in search of jobs and access to greater social services, clarity regarding access to land for housing and investment is critical.

International frameworks like the Voluntary Guidelines as well as national constitutions and policy statements play a key role in spelling out how land governance institutions anticipate responding to factors like climate change induced migration, rapid urban expansion, or forest concessions. These normative statements articulate the principles and processes by which the state, civil society, and the private sector are expected to resolve tenure and property rights issues. Tenure and property rights policies are intimately linked to land use planning. The absence of proper planning to determine current and future land use often results in confusion and the emergence of unplanned squatter settlements in peri-urban areas, where land rights are less clear and enforceable. Participatory land use planning can be useful in bringing together various state and non-state actors to identify land rights, discuss current and future land uses, and agree among stakeholders on how plans can be acted upon. Without open dialog and the inclusion of involved stakeholders, the absence of strong land use planning institutions linked to firm policy prescriptions may inhibit economic investment and sustainable resource use.

# 4.0 LTPR MATRIX: A TOOL FOR VISUALIZING THE LTPR UNIVERSE



## 4.1 LTPR MATRIX

As early as 2004, USAID felt the need for a conceptual framework that would simply and eloquently help USAID and contractors identify and assess LTPR issues (constraints) and “toolboxes” of interventions to address those constraints. Land tenure and property rights is concerned with questions of access to land and

natural resources, the distribution of rights to those resources within society, the security of tenure held by various individuals and groups over these resources, and the sustainability of their use.

The current generation base LTPR Matrix described in this section is aimed at addressing these questions and is the conceptual backbone of all interventions that follow. The Matrix illustrates a fairly complex but finite set of LTPR themes, constraints, and interventions. It is not meant to be read sequentially from left to right, nor from top to bottom; rather, it provides a menu of constraints and interventions to be considered within the realm of LTPR programming. The base Matrix consists of six categories of LTPR issues and potential constraints, three crosscutting constraints, and seven categories of policy and program interventions explained in Sections 4.3 and 4.4 (and fully elaborated in Annex A).

The Base Matrix in Figure 2 serves as the template for regularizing and developing empirical overlays for five natural and human resource domains in Figure 3:

- Land Tenure and Property Rights;
- Freshwater Lakes, Rivers, and Groundwater;
- Minerals;
- Trees and Forests; and
- Women, Land, and Resources.

Each of these overlays is a standalone Matrix. Other domains are possible: pastures, wildlife, fisheries, and coastal areas. The overlay approach allows expandability by adding additional overlays in the future (e.g., coastal areas) as demand warrants.

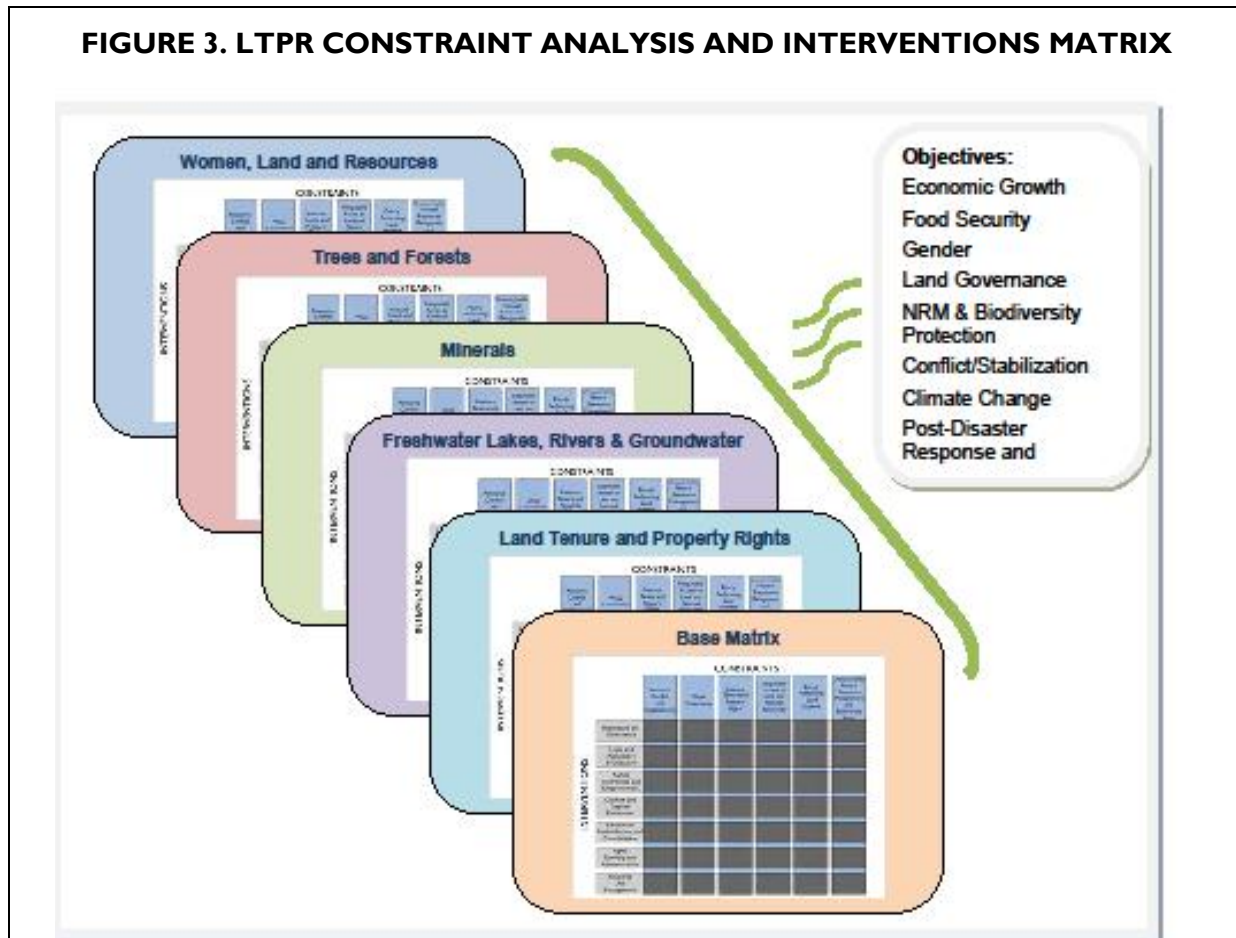
## **4.2 MATRIX OVERLAYS**

The Land Tenure and Property Rights Base Matrix illustrates salient issues and key interventions, and links these to information sources for easy reference. Annex C of the Matrix provides summary tables on issues and interventions extracted from the overlay which serve as useful tools for training exercises or as “quick sheets” when undertaking assessments. Overlays and quick sheets for resource domains can be found in the following documents all developed under the USAID Property Rights and Resource Governance Task Order:

- Overlay 1: Land Tenure and Property Rights Matrix;
- Overlay 2: Freshwater Lakes, Rivers, and Groundwater Matrix;
- Overlay 3: Minerals Matrix;
- Overlay 4: Trees and Forests Matrix ; and
- Overlay 5: Women, Land, and Resources Matrix



**FIGURE 3. LTPR CONSTRAINT ANALYSIS AND INTERVENTIONS MATRIX**



Each overlay is organized into chapters centered around constraint categories which:

- Provide an overview of issues and sub-issues related to respective constraints;
- Describe various policy and program interventions USAID recommends bundled according to intervention categories;
- Explain how the Food and Agriculture Organization of the United Nations (FAO)'s *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* addresses the constraint (where applicable); and
- Include a list of related reading for each topic.

USAID programmatic recommendations are guided by the following principles:

- Land tenure and property rights systems that recognize, record, and administer a multiplicity of statutory and customary land tenure and property rights, whether held by individuals, groups or legal entities;
- Land tenure and property rights systems that protect the rights of women and other marginalized groups in society;
- Fully participatory processes to define, delimit, record, and administer land tenure and property rights and obligations;
- Market-mediated approaches to provide access to land;
- Land governance systems that are reasonably accessible, in terms of location and cost, to all members of society;

- Land governance systems that allow and support the creations of transparent and effective land markets, including land sales, leases, and the use of easements and other mechanisms; and
- The equitable application of laws, regulations, and administrative practices for all market participants.

Importantly, the US government does not support the following: Expropriations and forcible evictions/relocations (or the use of compulsory purchase/resumption) that violate rights to due process and do not award prompt, adequate and effective compensation or that take private property for private purpose.”

Whether for trainings, assessments, or project designs, there is a programmatic need to order the “universe” of possible LTPR issues and interventions. The LTPR Matrix and overlays address this need. The process of using the Matrix and overlays to examine LTPR issues and constraints generally comprises the following steps:

1. Use the Matrix and overlays to clarify or identify key issues; for example, land conflict created by disagreements over tribal/clan boundaries.
2. Identify categories of policy and programmatic interventions suited to addressing the constraints under the appropriate toolbox of interventions.
3. Within the toolbox of interventions, identify specific USAID-recommended policy and programmatic interventions (i.e., the tools). For example, within the toolbox entitled Legal and Regulatory Framework, one might consider granting legal recognition of customary institutions in land law or policy to address land conflict created by clan disagreements. Within the toolbox of Rights Delivery and Administration, one might recommend community land demarcation as an appropriate intervention to connect rights in law to specific boundaries of community land.
4. Each of the five overlays can be used individually or in combination, as in a landscape, watershed, or ecosystem assessment.

The specific interventions mentioned in the Matrix and overlays, while illustrative, nonetheless serve to accelerate or expand thinking when needing to conduct “how to” courses and transfer knowledge in training programs, help to target or focus questions or lines of enquiry when conducting LTPR assessments, or recommend appropriate intervention strategies whether by way of making recommendations or formulating project designs. The Matrix is thus the conceptual framework for ordering and clarifying thinking on LTPR constraints and interventions, and the causal linkages between them.

### 4.3 CATEGORIES OF LTPR CONSTRAINTS

LTPR constraints in developing or transitional countries usually fall within one or more of the following six categories of the Matrix (see Annex A for more complete descriptions). Table 1 illustrates key issues experienced, broken down by categories of LTPR constraints.

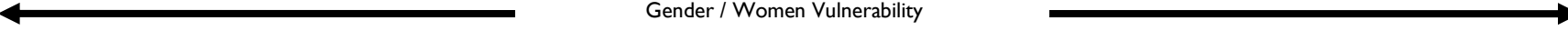
1. **Resource Conflict and Displacement (Column 1).** Conflict over access and use of land and natural resources often resulting in landlessness, squatting, or population displacement due to macro causes of genocide and war, social and ethnic conflict, climate change, and resource scarcity.
2. **Weak Governance (Column 2).** Deficiencies in capacity to manage and/or disparities in power, influence, and wealth that lead to mismanagement, lack of accountability, and inability of individuals, communities, legal entities, and groups to act upon and defend their rights in land, resources, and property.

3. **Insecure Tenure and Property Rights (Column 3).** The consequence of inadequate rights awareness or the perception of having too few rights, inadequate duration of rights, or inability to protect rights from encroachment by others due to problems of open access, weak governance, rights inequality, weak statutory or customary tenure, and expropriation without fair compensation.
4. **Inequitable Access to Land and Natural Resources (Column 4).** Disparities in access and control over resources between classes and genders that are often affiliated with poverty and social strife and result in problems of landlessness, uneconomical and fragmented holdings, squatting, informal settlements, and weak and unsustainable livelihoods.
5. **Poorly Performing Land Markets (Column 5).** Absent/weak sales, rentals, sharecropping, and exchanges that restrict the transfer of resources between willing sellers, buyers, lessors, and renters, thereby constraining economic growth, or that fail to serve the poor and disadvantaged due to imperfect information, lack of capital, unequal bargaining power, or risk of distress sales.
6. **Unsustainable Natural Resource Management and Biodiversity Loss (Column 6).** Overharvesting or degradation of land, water, forests, pasture, and wildlife resulting in unsustainable use and biodiversity loss, or in the context of minerals, environmental degradation, and practices that abuse or usurp the rights of communities or resource users due to weak property rights and governance systems.

#### **4.4 LTPR INTERVENTIONS**

The LTPR Matrix is constructed to illustrate a number of interventions directly pertinent to LTPR categories of constraints. Intervention packages are eventually more nuanced and complex than illustrated in the Matrix, and they require sufficient knowledge and understanding of the scope, depth, and importance of land issues in the country concerned.

**TABLE I. LAND TENURE AND PROPERTY RIGHTS OVERLAY: CONSTRAINTS, AND COMMON SUB-ISSUES**

Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing Land Markets	Unsustainable Natural Resource Management and Biodiversity Loss
<ul style="list-style-type: none"> <li>▪ Conflict arising from land and resource inequality</li> <li>▪ Tenure insecurity derived from competing or overlapping claims</li> <li>▪ Population displacement and institutional regress resulting from external shocks</li> <li>▪ Conflict among nomadic pastoralists and between pastoralists and sedentary farmers</li> <li>▪ Land and resource grabbing by investors, elites, and nation states</li> </ul>	<ul style="list-style-type: none"> <li>▪ Lack of transparency, participation, and accountability</li> <li>▪ Inequitable treatment of women under customary or indigenous tenures</li> <li>▪ Weak capacity and authority</li> <li>▪ Plurality of statutory and customary/informal tenure systems</li> </ul>	<ul style="list-style-type: none"> <li>▪ Land disputes, overlapping claims, and land-related conflict</li> <li>▪ Inadequate security for fixed-place land investment</li> <li>▪ Lack of infrastructure development and informal settlements upgrading</li> <li>▪ Insecure tenure for women and vulnerable groups</li> <li>▪ Weak or poorly functioning land administration systems</li> <li>▪ Lack of government legitimacy</li> <li>▪ Land grabbing</li> </ul>	<ul style="list-style-type: none"> <li>▪ Landlessness and land scarcity</li> <li>▪ Fragmented or small land holdings</li> <li>▪ Inequity created by state concessions or land allocations</li> <li>▪ Gender inequality within customary or indigenous systems</li> <li>▪ Displacement and natural disasters</li> <li>▪ Informal urban settlements</li> <li>▪ Large-scale land acquisition</li> </ul>	<ul style="list-style-type: none"> <li>▪ Low incidence of land leasing and sharecropping contracts</li> <li>▪ Lack of a mortgage market</li> <li>▪ Inaccurate or unavailable market information</li> <li>▪ Exclusivity and displacement</li> <li>▪ Tenure insecurity and growth of unplanned development</li> </ul>	<ul style="list-style-type: none"> <li>▪ Insecure, poorly defined, or inadequate land rights</li> <li>▪ Destruction of traditional stewardship institutions</li> <li>▪ Lack of transparency and accountability</li> <li>▪ Unregulated externalities</li> <li>▪ Environmental shocks and inability of tenure institutions to cope</li> <li>▪ Difficult tradeoffs between promoting conservation and providing for community needs</li> </ul>
<p><b>Crosscutting Constraints</b></p> <p>Gender / Women Vulnerability</p> <p>Ethnic and Socially Marginalized Populations</p> <p>Lack of Government and Community Capacity</p> 					

**TABLE 2. LAND TENURE AND PROPERTY RIGHTS OVERLAY: INTERSECTION OF LAND TENURE CONSTRAINTS AND INTERVENTIONS**

LAND TENURE AND PROPERTY RIGHTS THEMES AND CONSTRAINT CATEGORIES							
	Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing Land Markets	Unsustainable Natural resource management and Biodiversity Loss	
LAND TENURE AND PROPERTY RIGHTS INTERVENTIONS	<b>Institutions and Governance</b>	Create political will Strengthen civil society Establish reconciliation commissions Establish/strengthen local or special purpose courts Comply with international treaties/standards	Strengthen civil society Support administrative devolution Facilitate decentralization and local governance Comply with international protocols and voluntary guidelines Promote elections of local leaders	Strengthen civil society advocacy Facilitate devolution to local authorities and communities Establish fair and impartial judiciary Support access to justice Streamline overlapping institutional responsibilities	Strengthen constitutional and statutory rights Support devolution of authority Empower local governance Promote fair and impartial judiciary Reduce or eliminate overlapping jurisdictions	Decentralize land market regulation Support local land governance bodies Monitor and prosecute corruption	Streamline jurisdictional responsibilities Decentralize NRM to local governments & communities Strengthen civil society capacity Support interagency coordination Strengthen transnational NRM Encourage corporate social responsibility
	<b>Legal and Regulatory Framework</b>	Strengthen awareness of customary law and rights of displaced peoples Clarify rights to enable legal recourse Remove scale bias in land law and policy Promote voluntary transactions	Harmonize land tenure with national policy Support advocacy to improve governance Formalize customary institutions Strengthen credibility of government and local authority	Support land tenure reform and improve enforcement Harmonize statutory and customary tenure systems Strengthen capacity and regulation Provide for participatory community demarcations and registrations Strengthen security of leasing contracts	Strengthen rights regulation and enforcement Augment privatization of public lands Comply with international protocols and voluntary guidelines Strengthen the judiciary Enable community group registration/title	Revise legal framework and capacity for transactions Strengthen women's transfer rights Facilitate land use/rental contracts Enable community land grants/concessions	Enact protected areas legislation Reform forest and pasture law Encourage sustainable agriculture Strengthen indigenous/customary rights Enforce environmental protections
	<b>Rights Awareness and Empowerment</b>	Increase awareness of rights, benefits, and recourse Improve advocacy and negotiation Build conflict awareness Support social networking	Strengthen the judiciary Improve participatory governance Publicize procedures Promote transparency and rights awareness Strengthen governance through stakeholder forums Promote community dialogue	Strengthen civil society advocacy Raise awareness through community outreach Support empowerment programs	Educate people on land policy options Strengthen accountability of community leaders Strengthen civil society advocacy	Raise awareness of land market risks/opportunities Lower the costs of market information dissemination Provide skills and literacy training	Promote environmental awareness Promote local biodiversity awareness Strengthen civil society monitoring and advocacy

<b>Conflict and Dispute Resolution</b>	Promote access to justice Synchronize formal/informal dispute resolution Validate/expand alternative dispute resolution Sponsor dispute resolution forums Provide restitution and compensation Strengthen judicial capacity	Strengthen the judiciary Broaden access to legal assistance Decentralize or localize dispute resolution Support civil society monitoring	Facilitate dispute resolution forums Strengthen advocacy for women and vulnerable groups Remove impediments to accessing justice Support conflict mapping and monitoring Mitigate disputes via boundary demarcation/adjudication	Promote participatory dispute forums Strengthen dispute resolution and legal aid Engage civil society in early warning	Mediate conflict Regularize/formalize land takings Strengthen access to justice Support early dispute detection Provide legal aid to women & vulnerable groups	Improve dispute resolution Create systems for just compensation Provide legal aid to vulnerable groups Monitor environmental impacts
	Conduct evictions with social safeguards Comply with international resettlement standards Resettle displaced populations Support participatory relocation plans Formalize secondary/tertiary rights Facilitate single purpose committees Remove impediments constraining resettlement	Use open and participatory processes Strengthen rights to communal lands Promote group ownership models Formalize rights	Develop restitution and compensation regulations Provide compensation for involuntary takings Use participatory processes Establish land and property valuation standards	Institutionalize eviction processes Support state land redistribution Settle displaced populations Provide compensation for involuntary takings Establish land banks	Establish land banks Support asset pooling and leasing Strengthen leasing contracts	Broaden access to assets and livelihoods Conduct ecosystem assessments Support stakeholder engagement and consultation Purchase of protected areas for conservation
	Secure records Reconstruct property records Invest in land information systems Build capacity for land surveying/demarcation Formalize rights	Institute downward accountability Formalize rights to enable good governance Make records transparent and accountable Streamline administration Build trust in government institutions	Formalize and document individual rights Formalize group/customary rights Improve land administration processes Establish land cadaster Support land/geographic information systems	Build capacity for land surveying and demarcation Make records accessible Institute downward accountability Formalize land holdings Remove administrative bias	Build capacity of real estate professionals Facilitate land market development Determine appropriate valuation/fees Value community resources Strengthen information systems	Strengthen common property rights Support community concessions Implement cadastral survey of protected areas Enforce environmental regulations Recognize secondary/tertiary rights
<b>Resource Use Management</b>	Support participatory land use planning Support assessments and strategic planning Develop early warning systems	Practice participatory land use planning Strengthen common property management Monitor tenure impacts Pilot equity sharing/group ownership models Support social assessments and monitoring	Undertake participatory land use planning Pilot equity sharing/group ownership models Improve environmental monitoring Increase use of spatial technology	Document settlement patterns Pilot equity sharing/group ownership models Provide incentives for conservation Promote equity sharing models	Develop/exercise zoning Levy a land tax to increase land use intensity Support participatory land use planning Pilot equity sharing/group ownership models Develop protected areas/easements Support public-private partnerships	Conduct national planning Establish buffer zones Introduce conservation easements Zone environmentally sensitive areas Leverage co-management Integrate land and water use planning


  
**Crosscutting Constraints**  
**Gender / Women Vulnerability**  
**Ethnic and Socially Marginalized Populations**  
**Lack of Government and Community Capacity**

The following rows comprise interventions in the Matrix (see Annex A for expanded definitions): Table 2 illustrates interventions broken down by intervention categories targeted to address LTPR constraints.

1. **Institutions and Governance (Row 1).** Institutional arrangements that improve the governance of property rights from central to local levels by establishing rule of law, devolving authority, decentralizing decision making, ensuring impartiality of the judiciary, providing for citizen participation, and ensuring accountable and democratic governance.
2. **Legal and Regulatory Framework (Row 2).** Interventions that provide individuals, groups, communities, or legal entities with important legal rights of ownership, usufruct, exclusion, and transferability, and typically focus on legal and regulatory reforms that increase clarity of rights, strengthen rights of ownership, and provide for legal recourse and due process.
3. **Rights Awareness and Empowerment (Row 3).** Interventions aimed at raising citizen awareness and understanding of property rights, as well as the procedures and facilities available to claim, defend and enforce those rights. Illustrative interventions include mass media, human capacity training, communication strategies, and informational meetings targeting beneficiaries.
4. **Conflict and Dispute Resolution (Row 4).** Formal and informal conflict mediation and dispute resolution strategies and mechanisms aimed at mediating conflict, resolving disputes, dispelling or averting violence, providing effective legal recourse and enabling compensation in the event of resettlement and public takings.
5. **Restitution, Redistribution, and Consolidation (Row 5).** Land reform and resettlement to redress land concentration, privatize ownership, reconstitute rights, resettle displaced populations, or consolidate small, fragmented units into larger ones with the aim of redressing historical injustices and achieving a more fair, equitable, and productive land and agrarian structure.
6. **Rights Delivery and Administration (Row 6).** Effective and low-cost land administration interventions connecting rights to land, resources and property in law with the exercise of those rights in practice and focusing on improving the effectiveness and reach of government in support of rights registration, land demarcation, surveying, mapping, and cadastral development.
7. **Resource Use Management (Row 7).** Strengthened property rights and governance to improve land and natural resource management, conservation and biodiversity protection, or land use planning for municipal/urban development; includes such interventions as participatory decision making, zoning, trusts, conservancies, protected areas, and co-management models.

## 4.5 CROSSCUTTING THEMES

The three crosscutting constraints in the matrix are as follows (see Annex A for fuller definitions):

1. **Gender/Women Vulnerability.** This constraint category addresses the question of LTPR constraints above for women and addresses discrimination in property rights, land access, land markets, and ability to sustain natural resource management by women and men.
2. **Ethnic and Socially Marginalized Populations.** This constraint addresses questions of LTPR limitations faced by marginalized and disenfranchised populations including, among others, HIV/AIDS-affected households, pastoralist societies, indigenous populations, and post-conflict and



climatically vulnerable populations discriminated against or left behind by political and economic change or needing LTPR support or protection in the face of political, economic, and/or climatic shocks.

3. **Lack of Government and Community Capacity.** This constraints category relates to the identification and development of human capital in service of land property rights reforms.

## 4.6 USING THE MATRIX

Whether for trainings, assessments, or project designs, there is a programmatic need to order the “universe” of possible LTPR issues and interventions: the LTPR Matrix *raison d’être*. This ordering inevitably raises two key questions:

- What LTPR issues constrain USAID objectives, and how do we categorize these for programming purposes?
- How do we organize the universe of possible LTPR interventions and target these in addressing or resolving constraints?

As noted in sub-section 4.4, columns of the Matrix allow for clustering issues or constraints that, for example, impede economic growth, foment conflict, or result in unsustainable natural resource management. Rows allow for clustering interventions that help address or remediate identified constraints.

Using the Matrix to examine LTPR issues and constraints generally comprises the following steps:

1. Use the Matrix to clarify or identify key issues; for example, land conflict created by disagreements over tribal/clan boundaries.
2. Identify categories of policy and programmatic interventions suited to addressing the constraints identified in step 1 above, i.e., the appropriate toolbox of interventions.
3. Within the toolbox of interventions, identify specific policy and programmatic interventions (i.e., the tools). For example, within the toolbox entitled “Legal and Regulatory Framework”, one might consider granting legal recognition of customary institutions in land law or policy to address land conflict created by clan disagreements. In addition, within the toolbox of “Rights Delivery and Administration”, one might recommend community land demarcation as an appropriate intervention to connect rights in law to specific boundaries of community land.

In any specific context, the institutions involved in administering LTPR and the tools at their disposal will be highly nuanced and reflect unique character and sophistication consistent with the country’s development. The specific interventions mentioned in the cells of Table 2, while necessarily illustrative, nonetheless serve to accelerate or expand thinking when needing to conduct “how-to” courses and transfer knowledge in training programs, help to target or focus questions or lines of enquiry when conducting LTPR assessments, or recommend appropriate intervention strategies whether by way of making recommendations or formulating project designs.

The Matrix is thus the conceptual framework for ordering and clarifying thinking on LTPR constraints and interventions and the causal linkages between them. Unlike the 2007 Matrix, which focused only on LTPR, the development of Matrix Overlays in 2009 further expands this conceptualization to new resource domains, in particular, minerals; trees and forests; and freshwater lakes, rivers, and groundwater (see Annex B for their empirical development).



# 5.0 METHODOLOGY FOR ASSESSING LTPR CONSTRAINTS AND INTERVENTIONS

The LTPR assessment methodology is a set of instruments, which, when used regularly, should enhance the ability of USAID to analyze land constraints, design appropriate interventions, and determine the impact LTPR activities have on development programming in a given country or project context. The methodology is intended to support USAID to achieve two important objectives:

**Provide USAID with an assessment of the LTPR situation in each country,** the results of which could be used to (1) design policy and future LTPR project and program interventions, and/or (2) provide USAID with assurance that the property rights system is functioning adequately or that problems are being addressed by the government and other donors. Since LTPR are often the basis for either sustained transformational development or a source of conflict and instability, these assessments are critical to identifying some of the key issues supporting transformational states or the root causes of conflict to be mitigated before they worsen.

**Evaluate the impacts of specific USAID-funded LTPR reform efforts.** When conducting pilot projects or testing new hypotheses, USAID's Evaluation Policy requires the implementation of impact evaluations to quantitatively assess the attribution of higher-level impacts to specific interventions. While it is difficult to relate lower-level project interventions to loftier macro environmental, economic, social, and political outcomes within a short period of time, LTPR evaluation tools can facilitate the examination of short- and long-term impacts that arise from project interventions and use this exercise to inform critical thinking to add value to the direction that LTPR reforms are taking. Assessment tools should be targeted to enable expert opinion to extrapolate medium- to long-term impacts based on the best judgments and rigor invoked by these tools.

The assessment tools are intended to generate information quickly, provide a consistent method for analyzing the LTPR situation, and facilitate rigorous impact evaluation around LTPR programming. The tools may be used by land tenure experts but are designed so that professionals from other fields can contribute to situation assessment, project design, and evaluation around LTPR issues. The four basic tools supporting the assessment methodology are 1) LTPR country profiles; 2) LTPR Matrix (elaborated in Section 4); 3) Situation Assessment and Intervention Planning (SAIP) Tool, and 4) Impact Evaluation Tool.

Interrelationships between these tools are illustrated in Figure 4. Along with other known information about a country situation, the LTPR country profiles and the LTPR Matrix should help the user to identify LTPR constraints and problems within a country and flag those that are most severe and in need of investigation. Both tools touch upon intervention options to address those constraints.

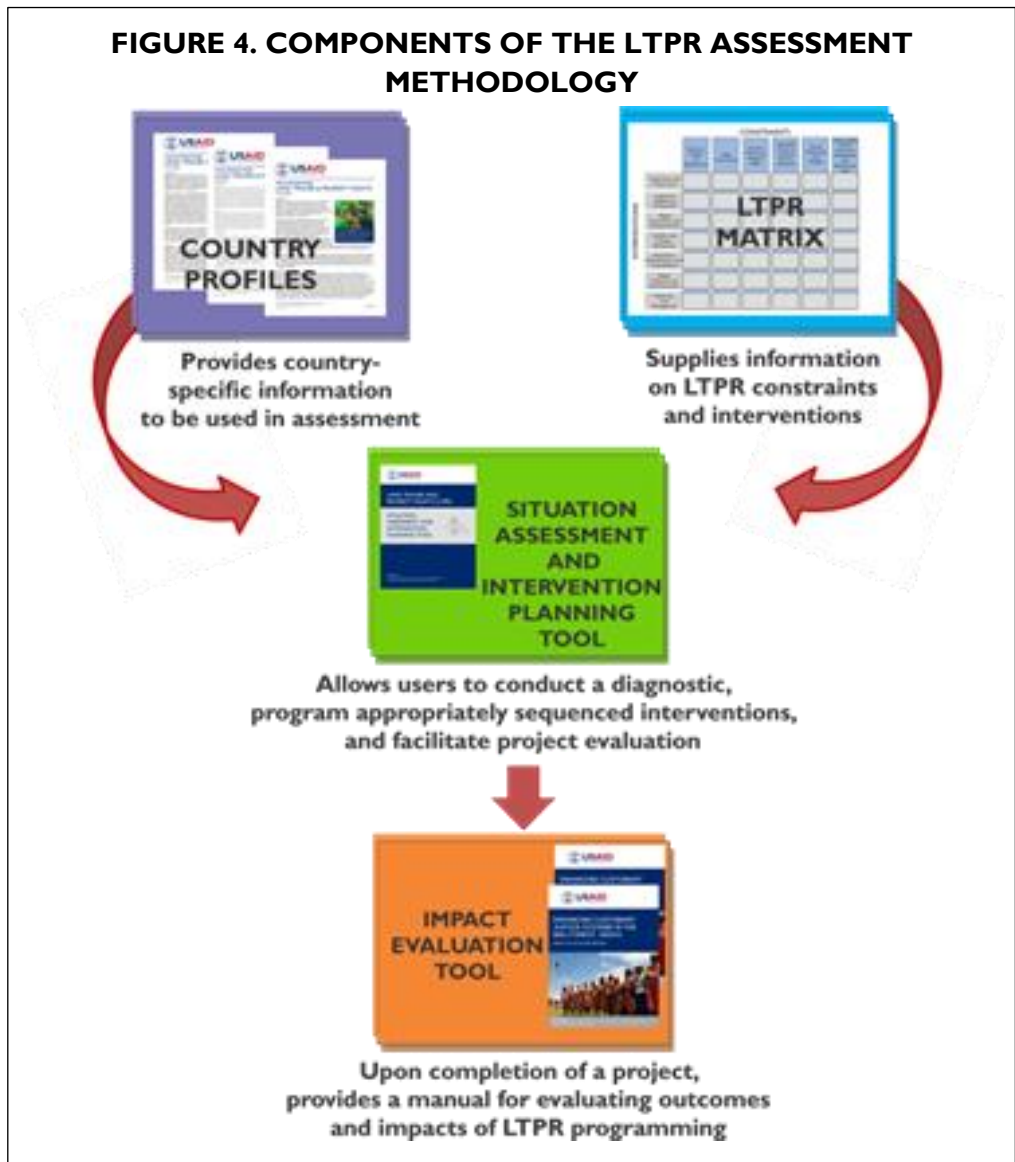
The SAIP is a diagnostic and planning tool that can be used to understand and assess LTPR issues and determine how they contribute to or impede realization of

strategic objectives. The Impact Evaluation Tool was developed to assess the impact of LTPR interventions just prior to completion of the project – when they have had sufficient time to achieve their expected impacts and when there is time to incorporate findings into future programming.

This cycle of LTPR issues identification, design, programming, impact evaluation, and redesign is repeated as long as LTPR remain severely constrained and in need of attention. A description of each of the four assessment tools follows. All of these tools are housed on the LTPR Portal.

## 5.1 LAND TENURE AND PROPERTY RIGHTS MATRIX

The LTPR Matrix is an illustration of a complex but finite set of LTPR themes, constraints, and interventions. This Matrix condenses the range of tenure challenges to a manageable theoretical construct and offers illustrative programmatic interventions. Due to its importance as a conceptual framework, the LTPR Matrix is explained in detail in Section 4.



## 5.2 COUNTRY PROFILES

LTPR profiles have been developed for over 60 USAID presence countries. The profiles consist of a prescribed set of property rights topics drawn from the LTPR Matrix, which are then fed by a rigorous literature review of publicly available documentation. These profiles provide important information on fundamental country-specific resources including land, freshwater, trees and forests, and minerals. For each of those resources, the profiles incorporate a discussion of resource quantity, quality, and use; tenure types; legal framework; government administration and institutions; and other information. More than a dozen different land tenure indicators—as scored by organizations such as the MCC, the World Bank and the International Fund for Agricultural Development—are summarized for each country. Profiles also contain links to relevant scholarly articles and recent news on tenure issues, allowing for rapid review of citations on each country.

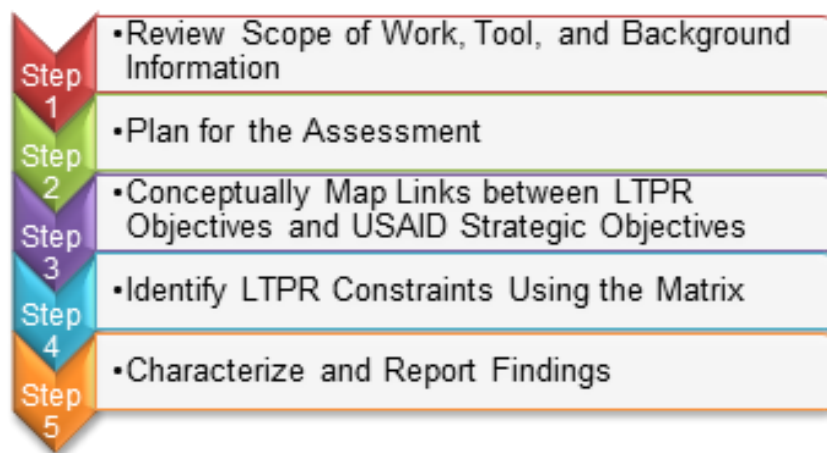
## 5.3 SITUATION ASSESSMENT AND INTERVENTION PLANNING TOOL

The SAIP is a diagnostic and programming tool. USAID missions can use the SAIP to understand and assess LTPR issues in their respective countries or project contexts and determine how these issues contribute to or impede realization of strategic objectives. The tool guides LTPR professionals and USAID missions in identifying appropriate interventions to improve LTPR situations and in prioritizing and ordering interventions to enhance their effectiveness. It also facilitates development of a system to monitor and evaluate the performance of interventions.

The SAIP can be used when a USAID mission suspects the presence of LTPR concerns in a country and wants information upon which to base programmatic decisions, or when USAID wishes to examine the current LTPR situation in a country in light of previous interventions. Under both circumstances, the LTPR SAIP Tool can:

1. Guide understanding of LTPR challenges and how they impact USG strategic objectives (**Situation Assessment**);
2. Guide USAID in choosing appropriate LTPR interventions and in determining the scale, timing, duration, and ordering of those interventions (**Intervention Planning**); and
3. Facilitate creation of a system to track the realization of programmatic goals and USAID strategic objectives (**Monitoring and Evaluation**).

**FIGURE 5. SITUATION ASSESSMENT STEPS DETAILED IN SAIP TOOL**



When USAID decides to evaluate LTPR challenges and constraints, the **Situation Assessment** provides a preliminary characterization of the LTPR landscape to facilitate project design and plan programmatic interventions that address critical LTPR issues as they relate to, for example, economic growth, good governance, and poverty reduction. The LTPR Matrix serves as the primary lens for characterizing current LTPR constraints. The Situation Assessment employs the constraints categories as its major themes of investigation, and, in doing so, ensures a more thorough and standardized approach to characterizing the LTPR landscape. Employing this method may therefore result in a different or more complex picture than earlier conceptions of the problem. Conducting the Situation Assessment should reveal a broader and deeper understanding of the realities on the ground and avoid the dangers created by preconceptions and predilections.

The tool aims to standardize assessment, programming, and evaluation processes so that results and recommendations are analyzed and presented in a framework that is comparable for all settings. The SAIP provides for specific and uniform (but scalable) investigative paths to be followed to ensure that no LTPR themes are omitted. The tool is intended to be used by both USAID missions and LTPR professionals and follows the five implementation steps identified in Figure 5.

## **5.4 IMPACT EVALUATION TOOL**

USAID is placing increasing emphasis on programming that strengthens land and natural resource tenure and property rights as part of supporting larger economic development objectives. USAID projects designed to increase land tenure security, address weakness in the land law and regulatory environment, or promote biodiversity through strengthening community rights to natural resources are among those that reflect this renewed emphasis. The LTPR Impact Evaluation Tool is designed to evaluate the outcomes and impacts of land and natural resource tenure and property rights programming, whether this is a project's main focus or a component of a broader set of goals. The LTPR Impact Evaluation Tool targets USAID missions as well as LTPR and Impact Evaluation professionals hired to carry out an assessment. It can easily be adapted for use by other USG agencies, or even other donors, engaged in programming of LTPR interventions.

The tool aims to:

1. Measure a project/intervention effectiveness, relevance, and efficiency;
2. Enhance the Agency's learning from LTPR project interventions and outcomes to refine design and introduce improvements into future programs;
3. Permit missions to share and learn from the experiences of other country missions; and
4. Bolster the Agency's effectiveness in meeting both project and broader institutional goals.

Although the tool is designed to be used with the assistance of outside consultants, it encourages the involvement of USAID, including mission staff not involved in the project intervention, in the actual implementation of the tool to enrich the learning potential. Adopting a common methodology shared by all USAID missions can help ensure that important aspects in the evaluation of LTPR interventions are not overlooked, and a shared approach facilitates cross-comparison of impact findings.

# 6.0 LTPR INTERVENTIONS AND SEQUENCING

Based on research and experience, LTPR practitioners believe there is a sequence of land reforms that can be tailored to each country and extended regionally and could lead to stronger and more efficient property rights systems. The fact remains, however, that much of the literature on sequencing remains largely academic and has not yet come into the realm of “best practices” or “best ordering” of LTPR reforms.

## 6.1 SEQUENCING = CONTENT, SCALE, TIMING, AND ORDERING

Addressing LTPR constraints requires the selection, design, and implementation of interventions from within the finite universe of LTPR interventions. LTPR interventions selected for implementation will have certain content (e.g., legal aid, titling, dispute resolution) and will be done to a certain scale, at a certain time, and in a certain order relative to our understanding of LTPR themes and constraints. Thoughtful sequencing of LTPR interventions means that appropriate content, scale, timing, and order will better achieve desired objectives. Conversely, inappropriate content, scale, timing, or order of LTPR interventions can yield poor results, no outcome, wasted resources, or at worst, negative and unintended consequences.

## 6.2 WHEN TO CONSIDER SEQUENCING

The sequencing of LTPR interventions should be considered before interventions are actually selected or implemented. The concept of sequencing LTPR interventions should inform LTPR assessment and design fieldwork, as well as the selection of basic approaches to LTPR reform, implementation, and monitoring. In most instances, however, sequencing has not often been an early part of the donor LTPR intervention selection process, and some LTPR reform programs have been designed and implemented without express attention to sequencing. In fact, the evaluation of sequencing is frequently done after implementation of interventions, as sponsors try to gauge the impacts of interventions or to determine why benefits did not accrue at the expected levels.

## 6.3 WELL-FORMED OBJECTIVES WILL DRIVE SEQUENCING

At its most basic, sequencing will be dictated by specifically defined objectives: alleviation of poverty, gender equality, equitable asset distribution, economic growth, violent conflict avoidance, or post-conflict reconstruction. Each will have differing sequencing patterns that might be considered optimum. In addition, almost any set of LTPR interventions in a development program would have multiple objectives, and any combination and prioritization of these objectives would suggest differing sequencing patterns.

For example, based on a set of interventions using land titling, a titling and registration program particularly targeted at increasing women’s access and rights to land and then more broadly targeted at economic

development might aggressively prioritize the issuance of *joint* titles. Alternatively, if the priority target is to alleviate poverty, a titling and registration program might first be intentionally *targeted toward geographic areas or regions* where the poor are concentrated. A titling and registration project focused on growing a land market might *target areas containing land that is most likely to be transferred*. In each instance, the intervention is largely the same, but the nature and sequencing of the interventions are driven by well-appointed objectives, inference-appropriate problem definition, and an ability to clearly articulate assumptions.

Similarly, LTPR interventions that hope to head off violent conflict might be sequenced much differently than interventions aimed primarily at spurring economic growth. LTPR interventions that target conflict might be aimed at certain ethnic groups or might attempt to shift the allocation of land resources aggressively from one segment of the population to another. A post-conflict situation usually calls for special sequencing patterns. Dispute resolution (accommodating returnees who find their land occupied) and distribution of land from state reserves (accommodating a demographics change) might be called for as first activities under these circumstances.

## **6.4 SUSTAINING RESULTS AND SEQUENCING OF LTPR INTERVENTIONS**

Experience has also shown that, to sustain the impacts of LTPR interventions, complementary supporting measures may be needed during and long after the primary objectives of earlier interventions have been achieved. The duration of many land reforms should be regarded in terms of decades, rather than years, as it is clear that sequencing must be about duration (and the overlap of many durations) of reforms.

The World Bank describes pre-conditions that relate to or are needed to yield the potential benefits of, or avoid harms created by, titling and registration programs in any country. Some of these pre-conditions are listed below:

- Because some traditional land tenure systems that are not based upon titles do not actually create tenure insecurity, scrutiny of perceptions of insecurity is recommended.
- If titling includes plot individualization (and it usually does), the likelihood of harming common property regimes should be addressed.
- Titles must be accompanied by workable dispute resolution and enforcement.
- The link between increased security and increased investment must be validated or created.
- Credit increases will require ancillary measures in support of borrowing and lending.
- Additional supplies of farm household labor might be needed to realize investment increases.
- The potential for increased land market activity should be facilitated by addressing related considerations and constraints.
- Environmental benefits (seen by some to accompany titling) may not necessarily follow, as investment and higher productivity might be accompanied by negative environmental impacts.

Before titling can give landholders formal rights and security, tenure laws must be appropriate, unambiguous, enforceable, available, and allow equitable and easy first-time registration. The title must be registered in an official registry; the registry must be efficient, correct, and secure; and titling itself must be affordable and accessible. Other considerations include demand for title by landholders; presence of credit mechanisms and capital; efficacy and possibility of investments; and the potential for income increase, land valuation capacities, reasonable transaction costs, preventions of rent seeking, availability of information, adequate

institutional capacities, suitable public perceptions, up to date registration systems, needed fee and revenue streams, and inclusion of the poor.

Similarly, the complementary measures often implemented to accompany broader LTPR programs also need to be sustained. For example, legal literacy campaigns aimed at informing the public about new land rights and obligations are frequently undertaken just after the passage of new laws or regulations. Many citizens are reached by these campaigns; however, citizens need information provided by legal literacy interventions most when they are going to exercise a right, fulfill a legal obligation, or respond to a deadline set by statutory law. Many countries have instituted land reforms aimed at the formalization of land rights based on occupation with date-certain timeframes or forfeiture. Many of these efforts have been run with one-, two-, or three-year windows. While an initial legal education campaign is useful, an ongoing effort must be sustained to reach and prompt action on the part of the full population of land occupiers.

## 6.5 SEQUENCING TOOLS AND MAXIMS

Despite the notion of ideal or optimum sequencing, there is no single sequencing formula or scheme that can be used to order the implementation of LTPR interventions. Existing and evolving policy, social, legal, economic, and political conditions are unique to every country, and this exceptionality makes sequencing models non-fungible, and in some cases, only applicable to a single situation.

The LTPR Framework does not yet include a sequencing tool to guide the analysis. Nevertheless, application of sound sequencing principles and better sequencing are possible. To demonstrate how sequencing efforts might affect the LTPR intervention categories, some maxims are set out in Table 6.1. The list of relative sequencing considerations is not exhaustive but serves to give some idea of the issues related to sequencing.

**TABLE 6.1. LTPR INTERVENTIONS AND RELATED SEQUENCING CONSIDERATIONS**

<b>Institutions and Governance</b>	<ul style="list-style-type: none"> <li>• Policy and legal frameworks must set the stage for good governance.</li> <li>• Institutional and human capacity must be increased before progressive government performance can be expected.</li> <li>• Civil society must provide ongoing public scrutiny and input.</li> <li>• Good governance must precede LTPR regime changes.</li> </ul>
<b>Legal and Regulatory Framework</b>	<ul style="list-style-type: none"> <li>• Political will for progressive change must exist.</li> <li>• There must be means to communicate and enforce legislation.</li> <li>• Framework must match capacity realities.</li> <li>• Legal services capacity must be created over time.</li> </ul>
<b>Rights Awareness and Empowerment</b>	<ul style="list-style-type: none"> <li>• Legal frameworks must clearly state rights, and the rights defined must be robust and meaningful if raising awareness of rights is to be worthwhile.</li> <li>• Empowerment is required if women and other vulnerable groups are to act upon their rights in law and fully understand them.</li> <li>• Increasing rights awareness of women and other vulnerable groups requires recognition of unique constraints and actions to target interventions accordingly.</li> </ul>
<b>Conflict and Dispute Resolution</b>	<ul style="list-style-type: none"> <li>• Sufficient security is needed to allow implementation of basic LTPR efforts.</li> <li>• Means of enforcing decisions and adjudications must be provided.</li> <li>• Citizens must view resolution mechanisms as being legitimate.</li> <li>• There must be means of accommodating the “losers” of the dispute or conflict.</li> </ul>

<b>Restitution, Redistribution, and Consolidation</b>	<ul style="list-style-type: none"> <li>• Redistributive reforms when authorized or approved by US government policy must ensure that men and women equally benefit thus requiring appropriate gender procedures and regulations prior to intervention.</li> <li>• Such reforms should be contingent on provision of support services prior to movement of beneficiaries onto the land and supported by budgets to ensure sustainable land use management.</li> <li>• States should implement redistributive reforms only through transparent, participatory and accountable procedures requiring that governance mechanisms be in place and agreed to prior to intervention.</li> </ul>
<b>Rights Delivery and Administration</b>	<ul style="list-style-type: none"> <li>• Levels of technology must match actual need and availability of resources.</li> <li>• Institutional and regulatory structures need to be in place or must be developed in parallel.</li> <li>• Long-term commitment is needed to protect initial investments.</li> </ul>
<b>Resource Use Management</b>	<ul style="list-style-type: none"> <li>• Land use planning should reflect actual needs and not unduly restrict transactions.</li> <li>• Institutional and regulatory structures need to be in place or must be developed in parallel.</li> <li>• Accurate characterizations of resource needs and use are a necessity.</li> </ul>



# 7.0 LTPR TRAINING

USAID offers training courses on LTPR topics for Washington, DC-based USAID and USG staff, field missions, and host country governments. These trainings respond to demands from USAID missions and units to expand their capacity in LTPR research, policy, and implementation to address property rights as they relate to USAID strategic objectives. Training in LTPR supports the Agency's strategic objectives in trade-led economic growth, agriculture and rural economic reforms, poverty reduction, land transactions and markets, natural resource management, global climate change, and conflict mitigation. Some missions and operating units are interested in addressing property rights issues broadly, while others remain more focused on regional themes and trends in LTPR related to conflict or agrarian reform and economic growth. The training programs offered by USAID meet the growing demand to assemble lessons learned from implementing a growing portfolio of LTPR project experiences.

The LTPR Framework and associated tools feed into the training and outreach programs to advance knowledge of LTPR and to promote the understanding of the role that LTPR play in development programming.

## 7.1 LTPR TRAINING AUDIENCES, METHODS, AND MATERIALS

USAID utilizes training programs as a means of transferring knowledge and best practices about LTPR to both USG personnel and partner country decision makers. Trainings are based in Washington, DC or are regional or country-specific and often offered in conjunction with other USAID short courses. Four separate LTPR-focused training courses have been offered to date:

- **Three-day courses on Property Rights and Resource Governance Issues and Best Practices for USG officials.** These courses are generally held in Washington, DC and provide USG foreign assistance practitioners training to strengthen their knowledge and skills in addressing LTPR challenges in their portfolios.
- **Five or six-day overseas regional courses on Best Practices for Land Tenure and Natural Resource Governance.** Participants at these courses include representatives of USAID and MCC, as well as officials from national and local governments. These courses aim to strengthen participant knowledge and skills in addressing LTPR challenges in their region.

### BOX B. COUNTRY CASE STUDIES

As a practical teaching tool, training courses have utilized country case studies for nations currently facing significant LTPR-related challenges, including Afghanistan, Colombia, Haiti, Kenya, Liberia, Tajikistan, and Timor Leste. Small group working sessions allow participants to conduct a practical exercise using the analytical tools and intervention options disseminated by expert trainers. Based on presentations and briefing materials, participants are asked to determine LTPR constraints and to use LTPR tools to analyze country situations related to topics such as gender and vulnerable population or conflict. Participants then identify interventions to address these real-world issues. At the end of the course, each country working group presents the constraints identified in their countries, potential interventions for resolving those constraints, and a roadmap of specific steps they would take as the USAID mission to address LTPR issues in that country.

- **Three-day “Treasure, Turf and Turmoil: The Dirty Dynamics of Land and Natural Resource Conflict” course.** This course is held in conjunction with the Conflict Management and Mitigation office and focuses on the nexus of land, conflict, and natural resources management.
- **Tailored short courses on demand for USAID missions interested in developing new programmatic orientations in LTPR.** These courses range in duration from several hours to two days.

All LTPR courses incorporate interactive adult learning methodologies (see text boxes on previous and current pages). Varying by course, a combination of presentations, videos, expert panels, discussions, case studies, field trips, and simulations are used.

Regional courses have incorporated an educational simulation on land markets, as well as an exercise where participants work in country groups to develop country-specific LTPR action plans. Courses are led by specialized subject matter experts.

Washington and regional LTPR training courses are structured by module. Examples of units offered in past courses include:

- Introduction to land tenure and property rights concepts;
- Land policy and land administration: a tool for managing property rights;
- Land and natural resource conflict;
- Competing priorities for land: food security, climate change, and commercial pressures;
- Gender and vulnerable populations: strengthening access to land and resources; and
- Natural resource management: how tenure security can promote conservation and the sustainable use of natural resources.

LTPR course training materials are derived from the LTPR Framework, Issue Briefs, Country Profiles, case studies, and lessons learned from implementation of projects in the field. Most course material draws heavily on the experience of projects in each of the USAID presence countries and regions and ties into the efforts of other donors and host country governments. Course material is made available electronically to participants and to the public at large. Participants evaluate each course prior to receipt of a certificate of course completion offered by USAID.

### **BOX C. THE GAINING WITH LAND USE TRANSACTIONS (GLUT) TRAINING SIMULATION**

The GLUT Training reinforces understanding of classroom instruction and principles via role play and simulation of real life urban real estate markets. It provides trainees with an interactive and hands on learning experience that increases understanding of how urban real estate markets work, how common policy interventions influence and distort real estate transactions, and how wealth and market strategies affect negotiation and winners and losers.

Regional course participants engage in an educational simulation (designed by the Lincoln Land Institute) over three afternoons, which illustrates the way urban and peri-urban land markets operate. Players are organized into teams representing commercial land users, social classes (rich, middle, and poor), speculators that own undeveloped land, government that collects taxes and invests in specific public land uses, and nongovernmental organizations. Each team has a specific set of goals to meet and scores points accordingly. Rules governing play are designed to resemble land markets operating in many developing countries with strong asymmetric information, weak taxation, outdated zoning regulations, informal settlements, and a general weakness on the part of the government to provide urban services. The GLUT is highly rated by participants in the LTPR courses.

# 8.0 LTPR KNOWLEDGE MANAGEMENT

Knowledge is information put to productive use by people. Knowledge management involves the creation, capture, organization, and sharing of knowledge for a specific purpose. USAID's knowledge management connects people to the processes and technology that will help them work effectively with partners to accomplish USAID's mission. The KM principles of knowledge capture, sharing, and application help the Agency to adapt to rapidly changing events by incorporating lessons learned and past experiences into decision-making and program planning decisions. USAID's LTD Strategic Communication Plan complements the USAID Knowledge Management Framework and is designed to optimize access to information by a wide range of users.

Over the years, USAID has developed a significant body of written documentation on tenure and resource governance. This includes methodologies, tools, assessments, issue briefs, and country profiles, that are all integrated into a web-based portal open for public use. These tools have been and will continue to be critical in communicating LTPR issues, strategies, and success stories both within USAID and to external audiences.

The LTD's Land Tenure Strategic Communications Plan is intended to ensure accurate articulation of the view that security of property rights is a fundamental precondition to long-term economic growth and development. Improved LTPR systems in developing countries further both US domestic and foreign policy goals. The communication plan addresses key audiences like USAID/Washington and field mission staff, Congress, other USG agencies, multilateral and bilateral development agencies, civil society organizations, the private sector, academia, and the general public.

The LTPR Portal ([www.usaidlandtenure.net](http://www.usaidlandtenure.net)) is one platform for communicating the core messages and information of the LTD. The portal presents information on:

- **Projects.** Descriptions of present and past LTPR projects provide succinct overviews of the goals and objectives of each field project, as well as issues papers related to each project.
- **Issue Briefs.** A suite of Issues Briefs summarizes information and perspectives on salient issues of the moment. These summaries touch on such topics as land tenure and food security, women's land rights, climate change, REDD+, indigenous land rights, pastoralism, and artisanal mining and tenure.
- **Country Profiles.** Country Profiles are presented for more than 60 USAID presence countries. The profiles consist of a prescribed set of property rights topics, which are then fed by a rigorous literature review of publicly available documentation. These profiles provide information on country-specific land tenure issues, including tenure types, legal framework, and land administration and institutions. A Google Scholar function embedded within this section allows for rapid review of new citations and news on tenure issues in each country.

- **Tools.** The suite of LTPR tools developed by the division, which include, but are not limited to, the LTPR Matrix, SAIP Tool, and Impact Evaluation Tool.
- **Commentary.** The LTD encourages exchanges of information and discussion on relevant and priority issues through the “Commentary” section located on the home page and linked to from every country profile, issue and project page.
- **Training.** Add a description of training materials available.
- **Video.** A repository of videos produced by the Agency, including a 25-minute “Women’s Land Rights: a Ripple Effect,” training modules on key LTPR themes, and a suite a short films on conflict minerals.

# ANNEX A: CATEGORIES OF LTPR CONSTRAINTS AND INTERVENTIONS COMPRISING THE MATRIX

## AI. CATEGORIES OF LTPR CONSTRAINTS

### I. RESOURCE CONFLICT AND DISPLACEMENT (COLUMN I)

**CONFLICT OVER ACCESS AND USE OF LAND AND NATURAL RESOURCES OFTEN RESULTING IN LANDLESSNESS, SQUATTING OR POPULATION DISPLACEMENT DUE TO MACRO CAUSES OF GENOCIDE AND WAR, SOCIAL AND ETHNIC CONFLICT, CLIMATE CHANGE, AND RESOURCE SCARCITY.**

This category is contextualized and often driven by political instability and lack of governance in conflict situations, post-conflict situations, and where conflicts arise between social and ethnic groups over land and resources. Conflict may be large-scale, catastrophic, and far-reaching, as witnessed by the genocide of Rwanda and eastern Democratic Republic of the Congo; or more small-scale and insidious, as seen globally in clan and ethnic disputes over land, land boundaries, and land access. Climate change is also displacing populations, depriving them of resource access and livelihoods because of drought, floods, and other natural disasters, and creating conflict, as populations seek to migrate elsewhere, often claiming resources held by others. Interventions may be contextualized by larger conflict, but the focus of this constraint is conflict stemming from or impacting on land and natural resources.

Conflict situations often involve considerable population movement, such as refugees divested of land and property and internally displaced persons (IDPs) settling on land already occupied. Post-conflict concerns often involve the return of refugees and IDPs, reintegrating soldiers into society, resettlement, and reversing or preventing severe land degradation. Returnees want to reclaim land and property or receive compensation or alternative assets and/or livelihoods. The need to quickly promote peace and restore livelihoods calls for legal and conflict mediation mechanisms that resolve disputes, fairly restore rights, where necessary provide compensation, and create or restore rule of law. In all conflict or post-conflict situations, tenure and property rights are dominated by demands for security, peace, protection, restoration of property and livelihoods, and public demand for reestablishment of rule of law and commitment to reform—all pre-conditions for development.

## **2. WEAK GOVERNANCE (COLUMN 2)**

### **DEFICIENCIES IN CAPACITY TO MANAGE AND/OR DISPARITIES IN POWER, INFLUENCE, AND WEALTH THAT LEAD TO MISMANAGEMENT, LACK OF ACCOUNTABILITY, AND INABILITY OF INDIVIDUALS, COMMUNITIES, LEGAL ENTITIES AND GROUPS TO ACT UPON AND DEFEND THEIR RIGHTS IN LAND, RESOURCES AND PROPERTY.**

Institutions define the rules and ways that society organizes itself for production, marketing, governance, conservation, and resource management. Property rights are central to institutions in defining and clarifying ownership rights to land, resources, natural and physical capital, and the rules affecting their governance. Institutions that are weak or nonexistent, whether informal or formal, create chaos, capital flight, negative incentives, and overexploitation of resource. Governance defines how people relate to rights and resources in terms of power, organization, and management. Economic growth, investment, sustainable resource use, conservation, and political stability are constrained by unclear or poorly defined property rights, corrupt or weak governance systems, or systems that favor wealthy groups at the expense of the poor.

The control of land resources has been a traditional source of political and economic power. The more tightly land is controlled by the government or elites, the less people are empowered to invest and make decisions. There is a natural correlation between individuals, communities, or groups feeling secure in their property rights and feeling empowered to be a steward of these resources. In many instances, an individual's sense of identity is inextricably linked to the rights held through the historical occupation, stewardship, and/or ownership of land.

Throughout history, almost all governments have possessed the authority to supersede private and customary rights through expropriation. Governance systems can be challenged (sometimes violently) when the acquisition of land and land resources is not for the public benefit, is unclear, or is unregulated. The absence of clear procedure, abuse of due process, lack of transparency, rampant corruption, or failure to provide fair compensation can seriously undermine the security of individual property rights. Issues and interventions related to procedure, due process, and legal recourse as they relate to legal reform and constraints should be covered under the “Insecure Tenure and Property Rights” category. This category focuses on governance and the constraints of corruption, lack of transparency, unchecked power, and mismanagement, as well as their upstream cause—centralized, unaccountable, and closed decision making. Local governance models, efforts to decentralize government, and local development activities are predicated on the sense of empowerment derived from and fortified by democratic reform, participation, and greater local accountability.

## **3. INSECURE TENURE AND PROPERTY RIGHTS (COLUMN 3)**

### **THE CONSEQUENCE OF INADEQUATE RIGHTS AWARENESS OR THE PERCEPTION OF HAVING TOO FEW RIGHTS, INADEQUATE DURATION OF RIGHTS, OR INABILITY TO PROTECT RIGHTS FROM ENCROACHMENT BY OTHERS DUE TO PROBLEMS OF OPEN ACCESS, WEAK GOVERNANCE, RIGHTS INEQUALITY, WEAK STATUTORY AND CUSTOMARY TENURES, AND EXPROPRIATION WITHOUT FAIR COMPENSATION.**

Tenure security is the perception of having secure rights to land and property on a continual basis, free from unreasonable interference from outsiders, as well as the ability to reap the benefits of labor and capital invested, either in use or when leased or rented to another. It has breadth, duration, and assurance dimensions. Breadth refers to the number of rights or key rights held including rights of use, ownership, transfer, and exclusion. Duration requires that the time horizon be sufficiently long to recoup income from investments; tenure insecurity is generally less an issue for investments in short-term inputs that are repaid at the end of a season than for long-term capital improvements requiring significant land or capital investment

or investment in trees and forests. Assurance implies that rights are held with reasonable certainty, subjectively if not statutorily in law.

Tenure insecurity in practice stems from having too few rights, inadequate duration of rights, lack of assurance in exercising rights, or high costs of enforcement. However, the problem is not always weak property rights in law, but also inadequate awareness of rights due to poor communications, remote populations, different language groups, or lack of education. Inequality is often a major dimension of this category whereby the well-to-do with wealth or power are able to improve information and secure access to legal structures and recompense, while poor and vulnerable groups, in particular women, do not or cannot. There are also many instances in the world where land tenure and property rights are secure, but farm size or resources (including trees, pasture, water, mineral, buildings, and other immovable property) are too small, fragmented, or poor in quality to earn a decent livelihood. Thus, tenure security is closely intertwined with land access in tackling issues of poverty, marginalized farming, or low productivity agriculture.

Rights to the resource may be obtained through customary tenure systems related to family or group membership that subject physical and natural property to multiple claims stemming from the different ways in which it is used by different groups and individuals at different levels of time, intensity, duration, and use (e.g., when crop farming in the rainy season is replaced with transhumant grazing during the dry season). Because these rules of access, allocation, and management of land are part of the social structure and value system of each group, there may exist a number of customary tenure systems in a given country.

These systems may also include common property or common pool resource arrangements. *Common property* refers to the distribution of property rights over resources in which a number of owners are co-equal in their right to use the resource. This does not mean that the co-owners are necessarily equal in respect to their ability to use the resource, nor does it suggest that the quantities of the resource each uses over a period of time are equal. Common property systems can also be dealt with through legally sanctioned processes, such as allocation, purchase, lease, and concession. While improved common property management is sometimes preferable to individualized ownership, particularly in situations where the land, property, or resource asset is not easily divisible, such systems can suffer from inability to easily convert an individual holding into other forms of wealth, sell assets to outsiders, or provide incentives for an individual member wanting to invest savings or private capital in the venture, and are vulnerable to political control and manipulation by powerful interests. The reality of multiple resources on a given piece of land and seasonal resource use further complicates the analysis of tenure security. Insecurity of land and property rights often stems from poorly defined, poorly enforced, manipulated, or conflicted claims at the interface between state lands, customary land, and individual title or ownership.

#### **4. INEQUITABLE ACCESS TO LAND AND NATURAL RESOURCES (COLUMN 4)**

**DISPARITIES IN ACCESS AND CONTROL OVER RESOURCES BETWEEN CLASSES AND GENDER THAT ARE OFTEN AFFILIATED WITH POVERTY AND SOCIAL STRIFE AND RESULT IN PROBLEMS OF LANDLESSNESS, UNECONOMICAL AND FRAGMENTED HOLDINGS, SQUATTING, INFORMAL SETTLEMENTS, AND WEAK AND UNSUSTAINABLE LIVELIHOODS.**

Access relates to how a person or group enters and utilizes a physically defined area of land and the resources on it. Access and use rights may be distributed fairly and equally in society, or unequally, resulting in concentrated ownership and landlessness. The vast majority of the world's poor either insecure resource rights and/or have secure rights, but the quantity and quality of physical and natural resources held is too limited to provide secure livelihoods or income. This distinction between a **rights-based** approach under

“Insecure Land Tenure and Property Rights” and a **resource-based** approach associated with this theme is crucial. Typically, the LTPR interventions unique to each category do not proceed in tandem.

Natural resources access by the poor is essential for sustainable poverty reduction. The livelihoods of rural people without sufficient access to natural resources are vulnerable because of difficulty in obtaining food, accumulating assets, and recuperating from natural or market shocks. High levels of landlessness or insufficient land access may lead to violent conflicts, particularly when the situation is coupled with skewed land distribution or lack of alternative employment opportunities not directly dependent on land and/or natural resources, all critical constraints afflicting the world’s poor.

This category of constraints, thus, includes concerns of landlessness, inequitable distribution of resources, and access to insufficient land and related natural resources for sustainable livelihoods. People become landless or without resources as a result of population growth and dwindling resources, natural disasters, shifting land uses (e.g., transhumance vs. sedentary agriculture), involuntary movements due to encroachment by more powerful groups, and economic speculation (e.g., in urban, peri-urban, and coastal tourism areas). Inequitable distribution also results from large geo-political and historical forces (colonialism, socialism, and nationalization) that have motivated farm restructuring in Eastern Europe and the former Soviet Union and redistributive land reform in Asia, Latin America, and southern Africa. It includes cumbersome, time-consuming, and expensive procedures to gain access to land and resources or mechanisms for securing secure rights (e.g. land registration/titling, mineral licenses, community forestry agreements).

## **5. POORLY PERFORMING LAND MARKETS (COLUMN 5)**

### **ABSENT/WEAK SALES, RENTALS, SHARECROPPING, AND EXCHANGES THAT RESTRICT THE TRANSFER OF RESOURCES BETWEEN WILLING SELLERS, BUYERS, LESSORS, AND RENTERS, THEREBY CONSTRAINING ECONOMIC GROWTH, OR THAT FAIL TO SERVE THE POOR AND DISADVANTAGED DUE TO IMPERFECT INFORMATION, LACK OF CAPITAL, UNEQUAL BARGAINING POWER, OR RISK OF DISTRESSED SALES.**

The land market is where buyers and sellers, lessors and lessees, landlords and renters/sharecroppers, and owners and contract laborers meet to enter into an agreement over a resource transaction. For land, transactions include purchases and sales, mortgage lending, land exchanges, land contracts, temporary transfers and leases, short- and long-term informal borrowing, and resource pooling. Any negotiated price is expected to reflect both the conditions of market supply and demand, and the bargaining strength of the actors involved. Each transaction involves unique dimensions of time, property rights, negotiability, enforceability, and documentation. Economically efficient markets result from 1) transparent transactions; 2) accurate market information, including price and ownership; 3) ease of access by buyers and sellers; and 4) a legal framework that ensures tenure security. However, efficient markets for the poor of the world often reside in the ideal, not in reality. For the poor, smallholders, women and other vulnerable groups, markets may be segmented and benefit the well-to-do, and not them, due to information imperfections, discrimination, weak human capital, inability to pay, or weak power in negotiating transactions or contracts. This affects not only land transactions but also inheritance and other intergenerational transfer mechanisms. However, there are many instances where land markets provide men and women, youth, and other vulnerable groups access to land and resources. The critical question is the workability of the land market for whom and at what costs and benefits.

Tenure insecurity acts to drive up the transaction costs associated with negotiating and enforcing contracts, thus, lowering the price that buyers and renters are willing to pay and increasing the price that sellers and lessors are willing to accept. Tenure insecurity tends to increase the threshold price demanded by sellers, with



the result of a decline in transactions or quantities of resources traded or marketed. Efficient land, real estate, and natural resources markets are central to economic growth. Yet, unfettered markets can also lead to unintended consequences for the poor: distressed sales in Africa, concessions resulting in displacement on customary lands, uneven access and market exclusion in Latin America, or markets that fail to serve the poor, resulting in inequitable access. Rising commodity prices and globalization in the past decade have given rise to another issue—land grabbing by companies in pursuit of land and resources, in particular for biofuels in Africa currently. It is this two-edged sword comprised of dimensions of efficiency and unintended consequences that complicates the analysis of land market structure and behavior and begs the question of how to create or enable markets that better serve or protect the interests of the poor.

## **6. UNSUSTAINABLE NATURAL RESOURCES MANAGEMENT AND BIODIVERSITY LOSS (COLUMN 6)**

### **OVERHARVESTING OR DEGRADATION OF LAND, WATER, FORESTS, PASTURE, AND WILDLIFE RESULTING IN UNSUSTAINABLE USE AND BIODIVERSITY LOSS, OR, IN THE CONTEXT OF MINERALS, ENVIRONMENTAL DEGRADATION AND PRACTICES THAT ABUSE OR USURP THE RIGHTS OF COMMUNITIES/MINERS DUE TO WEAK PROPERTY RIGHTS AND GOVERNANCE SYSTEMS.**

This category refers to resource degradation resulting from inequitable and unregulated access; poorly defined, insecure, or inadequate property rights; and the absence of policy and rules that govern land use as they relate to problems of land use conflict, lost economic benefits, biodiversity loss, and environmental degradation. It includes blatant disregard of landowners and land users for sustainable natural resource management and biodiversity in the face of exploitive enterprises and “get rich quick” mentalities. Too often, poorly defined, unrecognized, or absent LTPR results in deforestation; land degradation; and unsustainable use of land, water, forests, pasture, and other natural resources. Since unsustainable land and natural resource use often has its origins in insecure tenure and property rights and inequitable resource distribution, the vicious cycle of unsustainable natural resource use and biodiversity loss can lead to landlessness and conflict. Minerals are non-renewable resources, so unsustainable use takes on a different meaning that captures the social and environmental externalities from mineral exploration, production, processing, and transportation.

In the face of “mega” city developments, increasing rural-urban migration, and peri-urban sprawl, access to land and natural resources (including surface water and groundwater), loss of open spaces (public areas), and land degradation are becoming more significant. The ways in which secure tenure and property rights contribute to management of land and common pool resources in the face of population growth and poverty are also becoming more important. In addition, because of the growing importance of transboundary water resources to regional development and economic growth, the role of tenure and property rights with respect to conflict, equity, and resource management must be examined.

Natural resource management and biodiversity conservation programming worldwide has tended to ignore the role that LTPR plays in sustainability. Instead, conservation and development practitioners have concentrated on landscapes and land use classifications, planning and management systems, and inventories and assessments. More recently, the portfolio of interventions has been enlarged to include a focus on community natural resource governance systems and economic development. Community natural resource governance programming has begun to touch on customary, and in some cases, statutory land and property rights systems, but too many projects fail to examine the role of property rights in their programming.

## **7. GENDER/ WOMEN VULNERABILITY (CROSSCUTTING)**

**THIS CONSTRAINT CATEGORY FURTHER NUANCES OTHER CONSTRAINT COLUMNS IN THE MATRIX BY ASKING WHO FACES LTPR CONSTRAINTS AND ADDRESSES DISCRIMINATION IN PROPERTY RIGHTS, LAND ACCESS, LAND MARKETS, AND ABILITY TO SUSTAIN NATURAL RESOURCE MANAGEMENT BY WOMEN AND MEN.**

Most institutional arrangements for LTPR involve gender and social inequities. Indeed gender is an important determinant of how rights, responsibilities, and resources are allocated within households, communities, or institutions. Men's and women's interests may not be opposed, and often the gendered roles involve a great deal of complementarity of interests, roles, and resource uses. Yet, gender-blind conceptual and analytical approaches typically overlook these differences and complementarities and often exclude important segments of society from the benefits of development programs. Women, in particular, tend to be disproportionately affected by gender-blind or even gender-neutral approaches for a number of reasons.

In many countries, statutory laws fail to provide for land and property rights for women independent of male kin. When such legislation exists, mechanisms to enforce these rights are often absent. Cultural norms and social practices, as well as socioeconomic factors, are among the main obstacles women face in this regard. These barriers include customary laws related to inheritance, marriage, and divorce and institutions of land and resource management. This implies that women's access to shelter, food, and economic activities is often dependent upon their male relations. Where women are the de facto household head as a result of male migration, abandonment, divorce, or death, independent property rights can mean the difference between extreme poverty and the ability to form a viable and self-reliant household. Women with strong property rights are less likely to become economically vulnerable in the event of the loss of or divorce from a spouse.

Research shows that attention to gender differences in land and property rights programming can improve the outcomes of policies and programs in terms of equity, efficiency, sustainability, and the empowerment of resource users. A gendered analysis, therefore, recognizes that the particular needs (and interplay) of both women and men are fully considered. These include variations in the division of labor, access to and control of land and resources, roles and responsibilities related to land use, and authority to make decisions.

## **8. ETHNIC AND SOCIALLY MARGINALIZED POPULATIONS (CROSSCUTTING)**

**THE CONSTRAINT CATEGORIES TO THE LEFT IN THE MATRIX ARE FURTHER NUANCED IN THIS CONSTRAINTS COLUMN BY ADDRESSING LTPR CONSTRAINTS SPECIFIC TO MARGINALIZED AND DISENFRANCHISED POPULATIONS, INCLUDING PASTORALIST SOCIETIES, INDIGENOUS POPULATIONS, AND POST-CONFLICT AND CLIMATICALLY VULNERABLE POPULATIONS, THOSE WHO ARE DISCRIMINATED AGAINST OR LEFT BEHIND BY POLITICAL AND ECONOMIC CHANGE, OR WHO REQUIRE LTPR SUPPORT OR PROTECTION IN THE FACE OF POLITICAL, ECONOMIC AND CLIMATIC SHOCKS.**

Public policy and development programs addressing LTPR issues often share the objectives of improving the livelihoods of the poor and reducing their vulnerability to economic shocks. Such programs focus on securing rights and broadening access to land and related natural and mineral resources and improving systems of resource governance. However, the land and property rights of specific target populations may actually be made *more* vulnerable if they are not properly identified and incorporated into policymaking and program design and implementation.

Women, for the purposes of this conceptual framework, are not always a vulnerable group. While they are disadvantaged in many contexts by discrimination and lack of opportunity, there are also many instances where this is not true, and women are now being mainstreamed into project design. Issues related to women

and gender crosscut the entire population and all sectors of the economy. For these reasons, women and gender are treated separately.

There are, however, other population groups that are marginalized or whose vulnerability is potentially increased by LTPR interventions: pastoralist communities; indigenous populations; and people who have been displaced during violent conflicts (e.g., refugees, IDPs, demobilized combatants) or who have been or are threatened to be displaced by natural disasters or climate change (“climate refugees”). These are populations who, either because of their ascribed characteristics (e.g., gender, ethnicity), livelihood systems (e.g., mobile populations, commonly held resource bases), and/or external shocks (e.g., natural disasters, violent conflict), have weak claims on land rights that might be formalized as part of land tenure reform.

- **Pastoralist societies.** As a system of land use and management, pastoralism is characterized by several unique features that are particularly challenging from a land policy perspective: seasonal mobility, fluid boundaries, different degrees of access rights, and the common use of grazing lands. Traditional pastoral land use systems are under threat from population pressure and the expansion of sedentary agriculture in areas bordering on rangelands. Pastoralist lands have been subject to many attempts at tenure and property rights reform, which broadly fall into the categories of privatization and nationalization. The allocation of individual private property rights in pastoral areas has transformed some formerly pastoral and nomadic systems into agro-pastoralist systems. State ownership of pastoral lands, which is the most widespread policy framework in rangelands around the world, has been largely unsuccessful due to government agencies’ limited knowledge of agro-ecological conditions and local rules of use and management.
- **Indigenous populations.** Indigenous populations, who have inhabited and derived livelihoods from specific territories within modern nation states since the pre-colonial period, have recently become the subject of targeted land tenure reforms aimed at clarifying and strengthening their property rights. These new policies and programs have been particularly important in Latin America and have given rise to a host of issues and conflicts related to the granting of large land areas—often containing valuable natural resources—to minority indigenous communities. International Labor Organization Convention 169 establishes the international legal framework for the recognition of the territorial rights of indigenous and tribal populations, including special safeguarding of natural resource rights. Significant progress has been made over the past 20 years in granting land rights to indigenous populations, particularly in the tropical lowland forest areas of Latin America. Almost 50 million hectares of public forest in nine countries is currently reserved for use by indigenous peoples, and these communities own another 200 million hectares outright. Obstacles to the granting of use and ownership rights to indigenous populations in Latin America include competing land claims and conflicts over natural resources, such as timber and hydrocarbons.
- **Post-conflict and climatically vulnerable groups.** Post-conflict land tenure issues revolve around three primary sets of concerns: 1) land issues that may contribute to the initial cause and conduct of the conflict, 2) land and property issues that emerge during a conflict, and 3) tenure-related issues necessary for effective recovery. Land conflicts originating either in historical inequities or in increased land scarcity can have far-reaching impacts on social peace. In addition to these preexisting land issues, a host of new and volatile land-related problems invariably arises during civil conflicts—many related to the large dislocations of the population. At the heart of these directly conflict-related land issues are competing claims to property by refugees and IDPs on the one hand, and by those who either have occupied abandoned lands during the war or have become “hosts” to dislocated populations on the other. These

competing claims are complicated by the fact that, especially in Africa, evidence of rights to land is largely undocumented and rooted in local-level institutions that have often been transformed or destroyed as a result of the violence. Even though pre-conflict customary institutions are weakened during social upheavals, several studies have found that improvised, local-level solutions to post-conflict land disputes are often the best building blocks for national policy with respect to stabilization and recovery.

In addition to the almost 70 million people worldwide who have been displaced by war and civil conflict, an emerging concern among both climate change experts and the international refugee community is the potentially widespread displacement of large populations due to flooding, drought, and other severe weather events brought on by global warming. Numerically and geographically, South and East Asia are particularly vulnerable to large-scale forced migration. The relevance of climate migration to land policy lies in the necessity of developing legal norms and practices to facilitate the resettlement of affected populations, both within their nations of origin, as well as across international borders.

## **9. LACK OF GOVERNMENT AND COMMUNITY CAPACITY (CROSSCUTTING)**

### **THIS CONSTRAINTS CATEGORY RELATES TO THE IDENTIFICATION AND DEVELOPMENT OF HUMAN CAPITAL IN SERVICE TO LAND AND PROPERTY RIGHTS REFORMS.**

The absence of informed, capable people prepared to engage honestly, fully, and professionally in these reforms is a major deterrent to effective LTPR reform; highlights larger issues of transparency and fragility; and frustrates the social, political, and economic goals of effective property rights reform. Each LTPR constraint category must be examined for existing human capacity. The degree to which the failure or absence of human capacity deters the development and advancement of LTPR reforms must be determined.

## **A2. CATEGORIES OF LTPR INTERVENTIONS**

### **1. INSTITUTIONS AND GOVERNANCE (ROW 1)**

**INSTITUTIONAL ARRANGEMENTS THAT IMPROVE THE GOVERNANCE OF PROPERTY RIGHTS FROM CENTRAL TO LOCAL LEVELS BY ESTABLISHING RULE OF LAW, DEVOLVING AUTHORITY, DECENTRALIZING DECISION MAKING, ENSURING IMPARTIALITY OF THE JUDICIARY, PROVIDING FOR CITIZEN PARTICIPATION, AND ENSURING ACCOUNTABLE AND DEMOCRATIC GOVERNANCE.**

In each LTPR category column, there is a set of institutional arrangements/interventions that constitute preconditions for successful LTPR programming, and the success of LTPR interventions is predicated on their presence and growth over time. Deficiencies in these key institutional arrangements can retard or negate efforts to advance LTPR programming. In the wake of significant and violent conflict, governments' motives and actions are often tainted, particularly where government is seen to be siding with one ethnic group versus another, where it exercises abuse of power, or where it engages in actions that curtail human rights. Trust gives credence to institutions and is reinforced by faith that rights will be protected once laws are enacted. The foundations of trust and faith can be destroyed or undermined at multiple levels by governments engaged in war or political strife, groups sparring for political power over a scarce resource, or local tribal leaders who exercise illegitimate over customary property.

In post-conflict situations, embarking on programs of policy change first requires confidence in government's commitment to change and its role as mediator. Hence, this set of interventions begins with the precondition of political will and the pursuit of democratic governance aimed at restoring rule of law. Once there is commitment to restoring safety and security and strengthening basic human rights, there will be need for judicial reform to strengthen legal recourse. Governance defines how people relate to rights and resources in terms of power, organization, and management. Key institutional arrangements include the creation of laws and development of Government structures and frameworks that demonstrate accountability, transparency in decision making, checks and balances on power, due process, legal recourse, and commitment to stamp out corruption. It also requires the development of institutional frameworks and structures that broaden participation of civil society in governance and include the role of citizens in participatory governance, including decentralization and devolution of power.

### **2. LEGAL AND REGULATORY FRAMEWORK (ROW 2)**

**INTERVENTIONS THAT PROVIDE INDIVIDUALS, GROUPS, COMMUNITIES, OR LEGAL ENTITIES WITH IMPORTANT LEGAL RIGHTS OF OWNERSHIP, USUFRUCT, EXCLUSION, AND TRANSFERABILITY, AND TYPICALLY FOCUS ON LEGAL AND REGULATORY REFORMS THAT INCREASE CLARITY OF RIGHTS, STRENGTHEN RIGHTS OWNERSHIP, AND PROVIDE FOR LEGAL RECOURSE AND DUE PROCESS.**

This set of LTPR interventions includes the legal creation of property institutions, both for individual and communally held property. Legal and regulatory interventions apply to land and natural resource access and use in rural and urban areas and to the mechanisms that are used to secure rights of ownership, transferability, exclusivity, and use.

The policy and legal framework that defines land relations and natural resource access should create clear, resilient, and enforceable land tenure and property rights. Significant numbers of legal interventions may apply – constitutional or legislative reform, development of civil code, legal review, consolidation of existing legislation, or provision of conflict/dispute mediation. Additional interventions need to be aimed at

strengthening customary tenure and developing a legal framework for enabling land markets, including provisions that govern the regulation of rental contracts, land sales, and property transactions. There are statutory legal interventions that include provisions for the secure redistribution of land and property and land conflict/dispute resolution.

Since both statutory and customary laws can discriminate against minority and women's interests, parallel approaches that address both formal and informal or customary practices are sometimes warranted to secure and protect LTPR rights as they affect different segments of society. Since laws and their interpretations often remain inaccessible or unavailable to citizens, legal and regulatory LTPR interventions often include support for legal aid clinics that can provide people, particularly the poor, with easy, cost-effective access to legal information and services. This is particularly important during times of land and agrarian reform, when land and resource redistribution and efforts to secure LTPR are new and systems are still fragile.

### **3. RIGHTS AWARENESS AND EMPOWERMENT (ROW 3)**

**INTERVENTIONS AIMED AT RAISING CITIZEN AWARENESS AND UNDERSTANDING OF THEIR PROPERTY RIGHTS, AS WELL AS THE PROCEDURES AND FACILITIES AVAILABLE TO CLAIM, DEFEND AND ENFORCE THOSE RIGHTS. ILLUSTRATIVE INTERVENTIONS INCLUDE MASS MEDIA, HUMAN CAPACITY TRAINING, COMMUNICATION STRATEGIES, AND INFORMATIONAL MEETINGS TARGETING BENEFICIARIES.**

Land policy, law, and regulations help to clarify and strengthen people's rights in land and property, but those rights in practice may go unheeded due to imperfect or incomplete public awareness. Public information awareness is aimed at increasing people's understanding of their rights and responsibilities in law, and—along with strengthening the country's cadaster, land registration, and land administration system—help to connect rights in law with the rights of land and property holders on the ground. This category of interventions is related to strengthening human knowledge and the understanding of both government and community in service of land and property rights reforms.

The need for public awareness becomes even more critical when LTPR undergoes a period of sustained reform. In the face of land and agrarian reform, land titling and registration efforts, statutory change, the development of land administration institutions and land markets, and incentives for land and natural resource conservation, public information plays a central role in transparency and decision-making. Failure to consistently and publicly inform people throughout a land tenure reform exercise can lead to the loss of access to land and natural resource access and can unintentionally permit these rights to be misappropriated by others. Public information about rights or the lack thereof is often central to misunderstanding and frustration among returning refugees and internally displaced persons in post-conflict situations and between refugees and indigenous people during periods of conflict. Public awareness campaigns on land redistribution, access, and resettlement programs can help mollify anxieties and contribute to more orderly and informed participation of affected people.

Intervention packages include a strong public information and awareness component supported by communication strategies designed to accommodate local realities and capitalize on existing media channels. These efforts must remain persistent and regular over time and must take special effort to reach out to women and other vulnerable groups to avoid missing the people most in need of this information, depriving them of benefits, or, worse, subjecting them to harm.



#### **4. CONFLICT AND DISPUTE RESOLUTION (ROW 4)**

##### **FORMAL AND INFORMAL CONFLICT MEDIATION AND DISPUTE RESOLUTION STRATEGIES AND MECHANISMS AIMED AT MEDIATING CONFLICT, RESOLVING DISPUTES, DISPELLING OR AVERTING VIOLENCE, PROVIDING EFFECTIVE LEGAL RECOURSE, AND ENABLING COMPENSATION IN THE EVENT OF RESETTLEMENT AND PUBLIC TAKINGS.**

This set of interventions includes both formal and alternative land and natural resource dispute resolution methods and mechanisms, as well as improving recourse to rule of law. Since conflict and disputes often characterize land and natural resource access, and since poor land and resource use and unequal access also contribute to conflict, there is a need to focus LTPR interventions that resolve disputes and reduce or mitigate conflict before it spirals out of control. The scale of disputes will dictate the role of formal mediation and government involvement as a mediator, particularly in situations where the conflict supersedes the boundaries of any one local tradition and where customary law and practice have been severely weakened by conflict. There must be dedicated systems to resolve the conflict inherent in multiple or overlapping systems specific to statutory and customary law.

LTPR interventions aim to strengthen mechanisms and methods in support of both formal and informal institutions that mitigate encroachment on land, resource access and use disputes, forced resettlement, farm evictions, and social, ethnic, and religious violence resulting from competing interests over land or natural resources. The focus of this set of interventions must be on the resolution of competitive property claims, compensation, or replacements of lost land, assets, and livelihoods. This includes the development of specific, dedicated mechanisms and procedures to address disputes before they become violent in nature. Because court systems can be too formal, bureaucratic, costly, and time-consuming to be effective, many property and resource disputes are more easily resolved with the appropriate mediation of family, neighbors, or community authorities. Ironically, government and customary dispute mediation and conflict resolution processes that operate in parallel but not in coordination can fuel or exacerbate conflict.

LTPR interventions must include low cost or affordable solutions that resolve disputes among claimants, including legal aid, land tribunals, alternative dispute resolution, land claims courts, or increased access to the courts. Mechanisms must also exist for compensation to be provided beyond the control of the immediate parties involved, particularly in instances of resettlement and public takings.

#### **5. RESTITUTION, REDISTRIBUTION, AND CONSOLIDATION (ROW 5)**

##### **LAND REFORM AND RESETTLEMENT TO REDRESS LAND CONCENTRATION, PRIVATIZE OWNERSHIP, RESTITUTE RIGHTS, RESETTLE DISPLACED POPULATIONS, OR CONSOLIDATE SMALL, FRAGMENTED UNITS INTO LARGER ONES WITH THE AIM OF REDRESSING HISTORICAL INJUSTICES AND ACHIEVING A MORE FAIR, EQUITABLE, AND PRODUCTIVE LAND AND AGRARIAN STRUCTURE.**

Redistribution has been a major focus of land tenure reform programming worldwide in regards to agricultural land and agricultural production, and, in urban areas, in regards to housing and industrial privatization. Broader redistribution programs involve the reallocation of land and property, the privatization of state or company assets, and the relocation of populations in order to provide access to land and related resources. Often these programs follow violent conflicts over land because of skewed land ownership and landlessness. Land tenure reform broadly focuses on the redistribution of land and physical resources, while agrarian reform additionally involves interventions (e.g., market development, infrastructure, credit institutions, technology, human capacity development) that enable beneficiaries to achieve secure livelihood and asset productivity. In addition to transferring land to new or rightful holders, secure tenure and property rights are requisite to enable good husbandry, and a speedy judicial or administrative process is required to

resolve conflicts between the competing interests involved—state and land reform beneficiaries, returning refugees and settled populations, landholders and the landless.

Land consolidation refers to the amalgamation of fragmented holdings into a larger holding, or the consolidation of multiple smallholders (and their holdings) into a larger enterprise via the establishment of cooperatives, out grower schemes, agro-industrial enterprises, equity sharing, and other business models, usually with aims to consolidate service delivery and marketing.

In post-war and post-conflict situations, there is an immediate need to resettle ex-combatants and refugees to reconstitute rights, reclaim property, secure livelihoods, and restore peace. In instances where women and marginalized groups are disadvantaged by law or customary practice, redistribution of land and recognition of rights through legal reform may be necessary to promote equity. Privatization, de-collectivization, and farm restructuring are all aimed at problems of centralized control of resources in the newly emerging states of Eastern Europe and the former Soviet Union. For different, but related, reasons, land and agrarian reform in other parts of the world seeks to resolve the problems of dual economies and unequal resource distribution created by colonialism. The process of breaking up state lands or large enterprises into smaller units raises complex restructuring issues, particularly regarding natural resources – forests, pastures, waterways – that require common property interventions that promote sustainable resource management and prevent biodiversity loss. In an era where government budgets are tight and administrative reallocation is seen as too slow and too ineffective, market-assisted land tenure reform giving beneficiaries greater control over land acquisition and development with government grants or incentives is sometimes promoted, but at the risk of leaving behind the poor and vulnerable.

## **6. RIGHTS DELIVERY AND ADMINISTRATION (ROW 6)**

### **EFFECTIVE AND LOW-COST LAND ADMINISTRATION INTERVENTIONS THAT CONNECT RIGHTS TO LAND, RESOURCES AND PROPERTY IN LAW WITH THE EXERCISE OF THOSE RIGHTS IN PRACTICE AND FOCUS ON IMPROVING THE EFFECTIVENESS AND REACH OF GOVERNMENT IN SUPPORT OF RIGHTS REGISTRATION, LAND DEMARCATION, SURVEYING, MAPPING, AND CADASTRAL DEVELOPMENT.**

Administration and supporting systems combine interventions that record and disseminate information about ownership, value, and use of land and related resources and delegate agencies to undertake this role. Public sector agencies play a key role in land and resource management and administration, helping to secure rights of ownership, transfer, and exclusivity. Although they vary from country to country in organization, structure, size, and scope of responsibility, they typically provide regulation, administration, and services to land demarcation and adjudication of rights, titling and registration, land (and property) registries, surveying and mapping, credit and mortgage transactions, real estate development, town and country planning, and taxation. In addition, strong and transparent land administration institutions are valuable for preventing and resolving land disputes. They also include efficiency improvements in the functioning of land administration systems along with decentralization and devolution.

While development of a legal and regulatory framework (Row 3) gives these interventions legal weight and authority, there is the additional need for government to establish structures that deliver these services on the ground effectively and efficiently. An accurate record of property rights allows the government to produce statistical data on property ownership, transactions, and land values; monitor economic trends; and adapt policies accordingly. The private sector also plays an important role through various land-related professions (e.g., surveyors, valuers, lawyers, real estate agents), but the public sector is needed to ensure that professional standards and systems for licensing and regulation are established and maintained. Land administration



interventions can also help realize benefits in favor of community land and property rights holders. The decentralization of land administration systems to local levels includes the establishment of community title to community land and the use of concessions (in essence, community licenses to third-party users) for both land and natural resources. Environmental and economic valuation of land and resources help to ascertain concession and licensing terms and conditions, establish financial and environmental indicators of performance within the law, and balance these indicators against broader community property rights.

## **7. RESOURCE USE MANAGEMENT (ROW 7)**

### **STRENGTHENED PROPERTY RIGHTS AND GOVERNANCE TO IMPROVE LAND AND NATURAL RESOURCE MANAGEMENT, CONSERVATION, AND BIODIVERSITY PROTECTION, OR LAND USE PLANNING FOR MUNICIPAL/URBAN DEVELOPMENT, AND INCLUDING SUCH INTERVENTIONS AS PARTICIPATORY DECISION-MAKING, ZONING, TRUSTS, CONSERVANCIES, PROTECTED AREAS, AND CO-MANAGEMENT MODELS.**

Land use planning is at the forefront of a range of land use management tools used to address this set of interventions. It is the systematic assessment of the potential of land and related natural resources, the determination of objectives, and the examination of alternative patterns of land use management. Planning is done to select and accommodate land use options that are the most beneficial to land users without degrading the resource base or the environment to accommodate physical, social, and economic conditions. Numerous tools are employed to help in these exercises, including land suitability assessments, land classification, and biodiversity inventories and assessments.

Land use management is the set of mechanisms employed to implement the land use plan, and it includes a variety of governance, institutional, financial, and physical/technical interventions with the objectives of:

- Promoting efficient management of land resources used, management of land not previously accessible, stopping extractive resource misuse, or reclaiming land for productive purposes.
- Achieving more equitable access to the economic benefits of land and resources supported by participatory town and regional planning, targeted tax incentives, and balanced and rational use of zoning, and taxation.
- Providing for urban expansion, regional development, and sustainable land use development, including provision to the poor of residential housing and basic infrastructure, such as sewer and water facilities augmented by rational zoning schemes, green areas, and incentives.
- Protecting the natural environment and biological diversity from degradation and loss. Biodiversity conservation aims to perpetuate the greatest diversity of species variety and variability and is intimately tied through property rights to incentives for stewardship, investment, and sustainability.

Because many natural resource management institutions operate largely independently of one another, sustainable natural resources and biodiversity conservation demand a mechanism capable of collectively examining land, landscapes, natural resources, and impacts and how these relate to property rights. Hence, participatory land use planning, zoning, and collaborative management mechanisms are often employed to balance the need between livelihoods and conservation. Community land trusts, conservancies, protected areas, and co-management models are all contemporary tools used to match livelihoods with property rights and sustainable natural resource conservation and management.




# ANNEX B: MATRIX OVERLAY SUMMARY TABLES



# **B.I LAND TENURE AND PROPERTY RIGHTS**

**TABLE B.I.I. LAND TENURE AND PROPERTY RIGHTS OVERLAY: CONSTRAINTS AND COMMON SUB-ISSUES**

Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing Land Markets	Unsustainable Natural resources management and Biodiversity Loss
<ul style="list-style-type: none"> <li>▪ Conflict arising from land and resource inequality</li> <li>▪ Tenure insecurity derived from competing or overlapping claims</li> <li>▪ Population displacement and institutional regress resulting from external shocks</li> <li>▪ Conflict among nomadic pastoralists and between pastoralists and sedentary farmers</li> <li>▪ Land and resource grabbing by investors, elites, and nation states</li> </ul>	<ul style="list-style-type: none"> <li>▪ Lack of transparency, participation, and accountability</li> <li>▪ Inequitable treatment of women under customary tenures</li> <li>▪ Weak capacity and authority</li> <li>▪ Plurality of statutory and customary tenure systems</li> </ul>	<ul style="list-style-type: none"> <li>▪ Land disputes, overlapping claims, and land-related conflict</li> <li>▪ Inadequate security for fixed-place land investment</li> <li>▪ Infrastructure development and informal settlements upgrading</li> <li>▪ Insecure tenure for women and vulnerable groups</li> <li>▪ Weak or poorly functioning land administration systems</li> <li>▪ Lack of government legitimacy</li> <li>▪ Land grabbing</li> </ul>	<ul style="list-style-type: none"> <li>▪ Landlessness and land scarcity</li> <li>▪ Fragmented or small land holdings</li> <li>▪ Inequity created by state concessions or land allocations</li> <li>▪ Gender inequality within customary systems</li> <li>▪ Displacement and natural disasters</li> <li>▪ Informal urban settlements</li> <li>▪ Large-scale land acquisition</li> </ul>	<ul style="list-style-type: none"> <li>▪ Low incidence of land leasing and sharecropping contracts</li> <li>▪ Lack of a mortgage market</li> <li>▪ Inaccurate or unavailable market information</li> <li>▪ Exclusivity and displacement</li> <li>▪ Tenure insecurity and growth of unplanned development</li> </ul>	<ul style="list-style-type: none"> <li>▪ Insecure, poorly defined, or inadequate land rights</li> <li>▪ Destruction of traditional stewardship institutions</li> <li>▪ Lack of transparency and accountability</li> <li>▪ Unregulated externalities</li> <li>▪ Environmental shocks and inability of tenure institutions to cope</li> <li>▪ Difficult tradeoffs between promoting conservation and providing for community needs</li> </ul>
<p><b>Crosscutting Constraints</b></p> <p>Gender / Women Vulnerability</p> <p>Ethnic and Socially Marginalized Populations</p> <p>Lack of Government and Community Capacity</p> 					

**TABLE B.1.2. LAND TENURE AND PROPERTY RIGHTS OVERLAY: INTERSECTION OF CONSTRAINTS AND INTERVENTIONS**

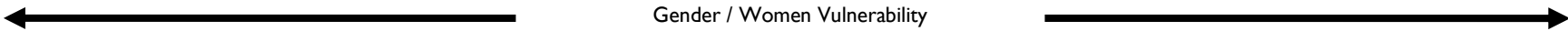
LAND TENURE AND PROPERTY RIGHTS THEMES AND CONSTRAINT CATEGORIES							
	Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing Land Markets	Unsustainable Natural resources management and Biodiversity Loss	
<b>LAND TENURE AND PROPERTY RIGHTS INTERVENTIONS</b>	<b>Institutions and Governance</b>	Create political will Strengthen civil society Establish reconciliation commissions Establish/strengthen local or special purpose courts Comply with international treaties/standards	Strengthen civil society Support administrative devolution Facilitate decentralization and local governance Comply with international protocols and voluntary guidelines Promote elections of local leaders	Strengthen civil society advocacy Facilitate devolution to local authorities and communities Establish fair and impartial judiciary Support access to justice Streamline overlapping institutional responsibilities	Strengthen constitutional and statutory rights Support devolution of authority Empower local governance Promote fair and impartial judiciary Reduce or eliminate overlapping jurisdictions	Decentralize land market regulation Support local land governance bodies Monitor and prosecute corruption	Streamline jurisdictional responsibilities Decentralize NRM to local governments & communities Strengthen civil society capacity Support interagency coordination Strengthen transnational NRM Encourage corporate social responsibility
	<b>Legal and Regulatory Framework</b>	Strengthen awareness of customary law and rights of displaced peoples Clarify rights to enable legal recourse Remove scale bias in land law and policy Promote voluntary transactions	Harmonize land tenure with national policy Support advocacy to improve governance Formalize customary institutions Strengthen credibility of government and local authority	Support land tenure reform Formalize rights for women and improve enforcement Harmonize statutory and customary tenure systems Strengthen capacity and regulation Provide for participatory community demarcations and registrations Strengthen security of leasing contracts	Strengthen rights regulation and enforcement Augment privatization of public lands Comply with international protocols and voluntary guidelines Strengthen the judiciary Enable community group registration/title	Revise legal framework and capacity for transactions Strengthen women's transfer rights Facilitate land use/rental contracts Enable community land grants/concessions	Enact protected areas legislation Reform forest and pasture law Encourage sustainable agriculture Strengthen indigenous/customary rights Enforce environmental protections
	<b>Rights Awareness and Empowerment</b>	Increase awareness of rights, benefits, and recourse Improve advocacy and negotiation Build conflict awareness Support social networking	Strengthen the judiciary Improve participatory governance Publicize procedures Promote transparency and rights awareness Strengthen governance through stakeholder forums Promote community dialogue	Strengthen civil society advocacy Raise awareness through community outreach Support empowerment programs	Educate people on land policy options Strengthen accountability of community leaders Strengthen civil society advocacy	Raise awareness of land market risks/opportunities Lower the costs of market information dissemination Provide skills and literacy training	Promote environmental awareness Promote local biodiversity awareness Strengthen civil society monitoring and advocacy
	<b>Conflict and Dispute Resolution</b>	Promote access to justice Synchronize formal/informal dispute resolution Validate/expand alternative dispute resolution Sponsor dispute resolution forums Provide restitution and compensation Strengthen judicial capacity	Strengthen the judiciary Broaden access to legal assistance Decentralize or localize dispute resolution Support civil society monitoring	Facilitate dispute resolution forums Strengthen advocacy for women and vulnerable groups Remove impediments to accessing justice Support conflict mapping and monitoring Mitigate disputes via boundary demarcation/adjudication	Promote participatory dispute forums Strengthen dispute resolution and legal aid Engage civil society in early warning	Mediate conflict Regularize/formalize land takings Strengthen access to justice Support early dispute detection Provide legal aid to women & vulnerable groups	Improve dispute resolution Create systems for just compensation Provide legal aid to vulnerable groups Monitor environmental impacts

<b>Restitution, Redistribution and Consolidation</b>  <b>Rights Delivery and Administration</b>  <b>Resource Use Management</b>	Conduct evictions with social safeguards Comply with international resettlement standards Resettle displaced populations Support participatory relocation plans Formalize secondary/tertiary rights Facilitate single purpose committees Remove impediments constraining resettlement	Use open and participatory processes Strengthen rights to communal lands Promote group ownership models Formalize rights	Develop restitution and compensation regulations Provide compensation for involuntary takings Use participatory processes Establish land and property valuation standards	Institutionalize eviction processes Support state land redistribution Settle displaced populations Provide compensation for involuntary takings Establish land banks	Establish land banks Support asset pooling and leasing Strengthen leasing contracts	Broaden access to assets and livelihoods Conduct ecosystem assessments Support stakeholder engagement and consultation Purchase of protected areas for conservation
	Secure records Reconstruct property records Invest in land information systems Build capacity for land surveying/demarcation Formalize rights	Institute downward accountability Formalize rights to enable good governance Make records transparent and accountable Streamline administration Build trust in government institutions	Formalize and document individual rights Formalize group/customary rights Improve land administration processes Establish land cadaster Support land/geographic information systems	Build capacity for land surveying and demarcation Make records accessible Institute downward accountability Formalize land holdings Remove administrative bias	Build capacity of real estate professionals Facilitate land market development Determine appropriate valuation/fees Value community resources Strengthen information systems	Strengthen common property rights Support community concessions Implement cadastral survey of protected areas Enforce environmental regulations Recognize secondary/tertiary rights
	Support participatory land use planning Support assessments and strategic planning Develop early warning systems	Practice participatory land use planning Strengthen common property management Monitor tenure impacts Pilot equity sharing/group ownership models Support social assessments and monitoring	Undertake participatory land use planning Pilot equity sharing/group ownership models Improve environmental monitoring Increase use of spatial technology	Document settlement patterns Pilot equity sharing/group ownership models Provide incentives for conservation Promote equity sharing models	Develop/exercise zoning Levy a land tax to increase land use intensity Support participatory land use planning Pilot equity sharing/group ownership models Develop protected areas/easements Support public-private partnerships	Conduct national planning Establish buffer zones Introduce conservation easements Zone environmentally sensitive areas Leverage co-management Integrate land and water use planning
<b>Crosscutting Constraints</b> <b>Gender / Women Vulnerability</b> <b>Ethnic and Socially Marginalized Populations</b> <b>Lack of Government and Community Capacity</b>						



## **B.2 FRESHWATER LAKES, RIVERS AND GROUNDWATER**

**TABLE B.2.1. FRESHWATER LAKES, RIVERS AND GROUNDWATER OVERLAY: CONSTRAINTS AND COMMON SUB-ISSUES**

Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Water Resources	Poorly Performing Water Markets	Unsustainable Natural resources management and Biodiversity Loss
<ul style="list-style-type: none"> <li>▪ Upstream-downstream watershed conflicts</li> <li>▪ Transboundary and riparian conflicts over water capture and quality</li> <li>▪ Groundwater access conflicts</li> <li>▪ Competition for control over water points and sources</li> <li>▪ Conflicts over irrigation water</li> <li>▪ Competition between urban and rural users of water</li> <li>▪ Construction of dams and river diversions displacing peoples</li> <li>▪ Displacement resulting from flooding, drought, and climate change</li> </ul>	<ul style="list-style-type: none"> <li>▪ Challenges with managing/governing a mobile resource</li> <li>▪ Legal pluralism and contradictory rules governing water access and management</li> <li>▪ Weak systems of administration for managing public water supply and sanitation</li> <li>▪ Overlapping jurisdictions and lack of institutional coordination</li> <li>▪ Inadequate data or information to guide decision making</li> <li>▪ Centralization and lack of citizen participation in decision making</li> <li>▪ Weak local institutions for collective water management</li> <li>▪ Weak dispute mediation systems to secure enforcement of water rights</li> </ul>	<ul style="list-style-type: none"> <li>▪ Weak property rights or inability to enforce rights</li> <li>▪ Legal pluralism</li> <li>▪ Problems in formalizing customary rights</li> <li>▪ Unequal rights and elite bias</li> <li>▪ Problems in fulfilling universal human rights to water as a basic need</li> <li>▪ Fluctuations in water availability and climate change</li> <li>▪ Inaccurate water availability forecasting and overharvesting</li> </ul>	<ul style="list-style-type: none"> <li>▪ Regional inequality in water distribution</li> <li>▪ Climate change and increasing uncertainty in seasonal water supply</li> <li>▪ Disparate access to adequate water supplies, both quantity and quality</li> <li>▪ Privatization of land contiguous to public waterways and water sources</li> <li>▪ Marginalization of water rights claims by less powerful stakeholders</li> <li>▪ Lack of water supply infrastructure in poor or remote areas</li> </ul>	<ul style="list-style-type: none"> <li>▪ Failure of water privatization to serve the poor</li> <li>▪ Risks of transferable water rights and voluntary exchanges</li> <li>▪ Water subsidies regressive to the poor</li> <li>▪ Difficulty creating water-based ecosystems services markets</li> </ul>	<ul style="list-style-type: none"> <li>▪ Increasing demand coupled with decreasing supply of fresh water stocks</li> <li>▪ Limitations of environmental impact assessments</li> <li>▪ Inadequate capacity or resistance to adaptive water management</li> <li>▪ Weaknesses in regulation, monitoring, and enforcement</li> <li>▪ Lack of institutional coordination and overlapping institutional mandates</li> <li>▪ Environmental stresses and ecosystem degradation created by infrastructure</li> <li>▪ Groundwater depletion and contamination</li> <li>▪ Water quality reduction</li> </ul>
<p><b>Crosscutting Constraints</b></p> <p>Gender / Women Vulnerability</p> <p>Ethnic and Socially Marginalized Populations</p> <p>Lack of Government and Community Capacity</p> 					

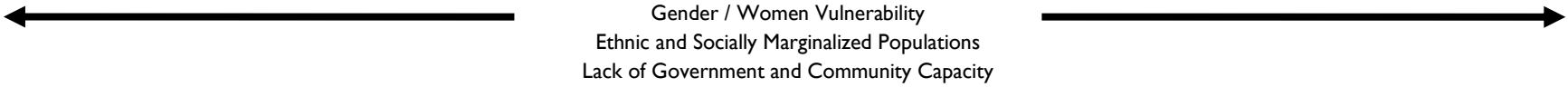
**TABLE B.2.2. FRESHWATER LAKES, RIVERS AND GROUNDWATER OVERLAY: INTERSECTION OF CONSTRAINTS AND INTERVENTIONS**

LAND TENURE AND PROPERTY RIGHTS THEMES AND CONSTRAINT CATEGORIES							
	Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Water Resources	Poorly Performing Water Markets	Unsustainable Natural resources management and Biodiversity Loss	
<b>LAND TENURE AND PROPERTY RIGHTS INTERVENTIONS</b>	<b>Institutions and Governance</b>	Create multi-stakeholder negotiation platforms Support multi-stakeholder policy dialogue Encourage transparency and inclusiveness Support participatory decision making Strengthen cooperation between authorities Establish payments for ecosystem services Strengthen local dispute resolution institutions	Strengthen civil society Facilitate decentralization and local governance Reinforce water governance authorities Support water user associations Enable local governance Streamline administration	Streamline water management and planning institutions Devolve authority Strengthen legal recourse Strengthen civil society	Decentralize water resource governance Develop and support international water treaties Ensure affordable water Create utility partnerships Create and expand water user associations Promote women-led community-based organizations	Decentralize water allocation and rights governance Create utility partnerships to expand water supply and distribution Promote women-led community-based organizations	Streamline overlapping institutional mandates Promote decentralization of water management and use decisions Devolve authority over water rights and allocation Establish and support international water management agreements
	<b>Legal and Regulatory Framework</b>	Strengthen water rights and rights enforcement Legally protect customary rights Conduct law review forums Broaden access to justice Forge and leverage international treaties Formalize rights to compensation	Legitimize collective rights Build on customary law and practice Enforce water-sharing agreements Streamline dispute resolution processes	Develop water policy Clarify and strengthen legal rights Harmonize mandates and improve interagency coordination Bolster local governance	Reform legal water frameworks Improve delivery to poor and underserved populations Promote equitable water distribution Protect women's access to water and water rights	Develop water policy Initiate progressive water pricing Assign value to water resources	Clarify water rights and strengthen enforcement Provide environmental incentives Adopt integrated water resources management Regulate water pollution and over use
	<b>Rights Awareness and Empowerment</b>	Increase public awareness Strengthen advocacy Encourage civil society engagement and public debate	Hold stakeholder forums Strengthen rights communication Institute downward accountability Empower communities	Increase public awareness Support water rights advocacy Conduct stakeholder forums Promote community mobilization and participatory governance	Engage the public in participatory decision making Raise public awareness Foster collective action Increase women's management capabilities	Engage the public in water allocation/distribution decisions Raise public awareness Broaden participation in water auctions and distributions	Raise public awareness Conduct water use and management stakeholder forums Improve water rights and use advocacy
	<b>Conflict and Dispute Resolution</b>	Increase access to legal assistance Support alternative dispute resolution Conduct stakeholder forums Strengthen restitution and compensation systems Create inter-riparian forums Support development of multilateral water treaties	Increase access to justice Capacitate local authorities Bolster alternative dispute resolution	Support alternative dispute resolution Make legal aid accessible Improve access to formal justice Monitor water disputes and support their resolution	Broaden access to courts Provide for legal assistance Reduce bias in adjudication Sensitize authorities on gender roles and constraints in water policy	Build capacity of the judiciary to handle water allocation issues Strengthen access to justice Mediate water market conflict	Inform alternative dispute resolution Provide legal aid Apply and enforce water and environmental regulations Recognize multiple, overlapping water rights

<b>Restitution, Redistribution and Consolidation</b>  <b>Rights Delivery and Administration</b>  <b>Resource Use Management</b>	Resettle displaced populations Develop strategies and plans for relocation Compensate for state takings Devise water sharing agreements Reconstruct property and/or records	Support regulatory reforms that promote equality Support local organizations in managing water rights Compensate aggrieved parties suffering lost rights Negotiate water-sharing agreements Consolidate water rights management	Redistribute water rights Restitute water rights Compensate for state takings	Establish water subsidies for the poor Penalize tax polluters Control unbridled water resource exploitation through regulation Incentivize water utilities to provide affordable water to the poor	Implement cross water subsidies Subsidize connections to water supply networks Apply volume-based water pricing systems	Purchase water rights for conservation Impose water quality restrictions
	Document water rights Secure records to document assets Create use restrictions to control spillovers Support mapping of property claims	Support water records systems and revenue collection Streamline institutional mandates Strengthen enforcement of contracts and laws	Formalize water rights Recognize individual rights Register customary rights Empower water user associations Incentivize water conservation	Formalize water rights Establish water use quotas or tariffs Remove gender bias in water access	Segment water markets Differentiate water services delivery Incentivize water services delivery	Monitor water (quantity and quality) use Provide for community demarcation and registration of water resources Improve capabilities to value ecosystem resources Support statutory water rights enforcement
	Establish payment for ecosystem services programs Promote water conservation technology Adopt water reclamation measures Control water quality degradation and support enforcement Support assessments and strategic planning Develop early warning systems	Adopt integrated water resources management Promote participatory land use planning Establish payments for ecosystem services Strengthen interagency coordination Improve application of water measurement technology	Institute collaborative management Improve information management Strengthen water resources and use monitoring Support watershed and urban water planning	Conduct environmental planning Strengthen coping strategies Support water-efficient technology creation and diffusion Preserve or strengthen common water property management	Establish water payment for environmental services programs Reduce water costs and waste to lessen demand Improve water flow measurement and pricing	Improve adaptive water management Promote co-management of water resources Provide water conservation incentives Support integrated water management Increase water use efficiency through improved water delivery systems
<b>Crosscutting Constraints</b> <b>Gender / Women Vulnerability</b> <b>Ethnic and Socially Marginalized Populations</b> <b>Lack of Government and Community Capacity</b>						

## **B.3 MINERALS**

**TABLE B.3.1. MINERALS OVERLAY: CONSTRAINTS AND COMMON SUB-ISSUES**

Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Minerals	Poorly Performing Mineral Markets	Unsustainable Natural resources management and Biodiversity Loss
<ul style="list-style-type: none"> <li>▪ Financing conflict with minerals</li> <li>▪ Conflict created by legal plurality</li> <li>▪ Expropriation of land and resources without compensation</li> <li>▪ Inequitable distribution of wealth, employment and benefits</li> <li>▪ Conflicts due to environmental degradation</li> <li>▪ Weak, vague, or unimplemented corporate social responsibility commitments</li> <li>▪ Establishment of mineral traceability systems</li> </ul>	<ul style="list-style-type: none"> <li>▪ Highly centralized control by central governments</li> <li>▪ Weak enforcement of government laws and policies</li> <li>▪ Corruption and complicity between states and companies</li> <li>▪ Control by political, military, rebel, and wealth elites</li> <li>▪ Poorly functioning administrative systems</li> <li>▪ Absence of publicly available data</li> <li>▪ Lootable nature of most mineral resources</li> </ul>	<ul style="list-style-type: none"> <li>▪ Legal contradictions between surface and sub-surface rights</li> <li>▪ Contradictions between statutory law and customary tenure systems</li> <li>▪ Forcible eviction of resident communities</li> <li>▪ Displacement of indigenous peoples</li> <li>▪ Insecurity of tenure for all stakeholders</li> <li>▪ Unclear and overlapping boundaries</li> </ul>	<ul style="list-style-type: none"> <li>▪ Dispossession of ancestral lands by the state and mining companies</li> <li>▪ Marginalization of artisanal and small-scale miners</li> <li>▪ Process for legalization of artisanal mining rights not compatible with local contexts</li> <li>▪ Inequities in benefit sharing</li> </ul>	<ul style="list-style-type: none"> <li>▪ Power relations and criminal elements disadvantage small-scale miners</li> <li>▪ Land market speculation</li> <li>▪ Inability of artisanal miners to assess mineral markets</li> </ul>	<ul style="list-style-type: none"> <li>▪ Biodiversity loss</li> <li>▪ Pollution from improper toxic waste and wastewater disposal</li> <li>▪ Adverse local environmental health impacts</li> </ul>
<p><b>Crosscutting Constraints</b></p> <p>Gender / Women Vulnerability</p> <p>Ethnic and Socially Marginalized Populations</p> <p>Lack of Government and Community Capacity</p> 					

**TABLE B.3.2. MINERALS OVERLAY: INTERSECTION OF CONSTRAINTS AND INTERVENTIONS**

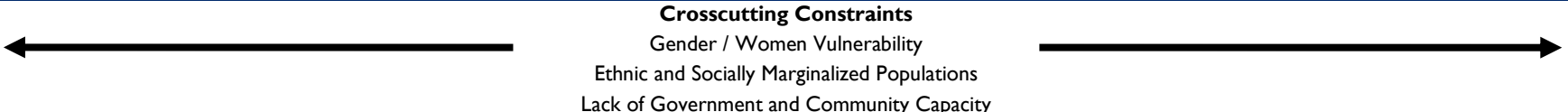
LAND TENURE AND PROPERTY RIGHTS THEMES AND CONSTRAINT CATEGORIES							
	Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Minerals	Poorly Performing Mineral Markets	Unsustainable Natural resources management and Biodiversity Loss	
LAND TENURE AND PROPERTY RIGHTS INTERVENTIONS	<b>Institutions and Governance</b>	Mobilize political will Improve financial transparency Enforce standards against trade in illicit minerals Train government and nongovernment actors Strengthen civil society Establish reconciliation commissions	Decentralize mining governance Promote transparency and reduce corruption Enforce accountability Build enforcement capacity Regularize taxation and minimize overlapping jurisdictions Support transparency and management of mining information	Decentralize to lower levels of government Improve administration of mining rights Improve surveying capacity Devolve mining rights to local communities Support organization and strengthening of mining associations Enforce mining contracts in concession areas Strengthen corporate social responsibility Target and stamp out corruption	Decentralize government structures Strengthen national coordination of central/local licensing offices Support watchdog groups Encourage corporate social responsibility	Decentralize regulation of land markets Monitor and prosecute corruption Eliminate protection that unfairly favors large corporate interests Monitor supply chains to promote licit sales	Designate and strengthen appropriate regulatory body(ies) Strengthen local institutional capacity Establish forums and joint management committees Support civil society watchdogs Develop communication systems to disseminate mining and mineral information
	<b>Legal and Regulatory Framework</b>	Reduce legal pluralism in statutory law Devolve authority in managing and regulating mineral rights Institutionalize gender equity Conduct law review forums Strengthen eminent domain provisions Enforce compensation commitments to communities and artisanal miners	Reduce legal pluralism Strengthen rights regulation Safeguard procedural rights Streamline tax collection	Harmonize national mining policy Reduce legal pluralism Reduce contradictions between land and mineral laws Promote formalization of mining rights Secure durable tenure for mining interests Protect rights of indigenous populations Codify free, prior and informed consultation	Harmonize national mining policy Enact policy that empowers artisanal miners Clarify legal definitions of mineral rights Recognize and formalize customary rights to mineral holdings Reform laws to ensure equity Promote equitable benefit sharing Defend rights of indigenous groups Codify free, prior, and informed consultation Safeguard procedural rights Require corporate transparency Impose time limits to curb land hoarding	Promote transferability of mineral rights Enforce reporting of mineral transactions Promote equity in land markets in mineral-rich areas Enable community governance of mining concessions	Harmonize legal codes related to land, minerals, and other natural resources Strengthen customary rights Strengthen environmental regulation Establish or update mining regulations Promote corporate social responsibility and monitoring for compliance
	<b>Rights Awareness and Empowerment</b>	Raise awareness of indigenous perspectives Increase mineral rights and conflict awareness Strengthen negotiation capacity Follow best practices on indigenous rights	Strengthen civil society organizations Create dialogue between mining companies, government, and communities Support capacity of women's offices Comply with international standards	Raise rights awareness among communities Raise rights awareness within government Conduct mining stakeholder forums Strengthen mediation Promote social impact monitoring and corporate social responsibility	Raise mineral rights awareness Spread legal literacy within government Strengthen community voice Strengthen civil society advocacy Empower small enterprises	Strengthen transparency in mineral sales and transmission of price information Raise legal awareness Widely disseminate market information Train artisanal and small-scale miners in mineral marketing Disseminate reliable, current information on mineral prices and financing opportunities Provide women with business skills and financial literacy	Promote environmental awareness Raise mineral rights awareness Support civil society groups

<p><b>Conflict and Dispute Resolution</b></p>	<p>Hire women for conflict / dispute resolution committees Build conflict awareness Raise corporate risk awareness Strengthen judicial capacity Bolster alternative dispute resolution Provide legal aid Encourage private sector engagement in conflict resolution Create peace constituencies Demilitarize security</p>	<p>Support civil society watchdogs Use independent mediation Broaden access to improved dispute resolution</p>	<p>Monitor mining disputes and conflict Strengthen legal recourse for small or artisanal miners Support alternative dispute resolution Offer legal aid</p>	<p>Enable early dispute detection and resolution Expand alternative dispute resolution Increase access to the courts Provide legal aid Reduce bias in adjudication of mining claims</p>	<p>Enable early dispute detection and resolution Provide legal aid Reduce bias in adjudication of mining claims</p>	<p>Monitor environmental disputes Improve dispute resolution Strengthen judicial procedures Provide legal aid Enhance participation of women and vulnerable groups</p>
<p><b>Restitution, Redistribution and Consolidation</b></p>	<p>Conduct public reviews and support restitution Institutionalize compensation Support development and application of social impact assessments Make compensation packages culturally appropriate Set up development trusts Support development and application of resettlement action plans</p>	<p>Comply with international standards Decentralize restitution</p>	<p>Support artisanal and small-scale miner's associations Institutionalize restitution and prompt, adequate, and effective compensation Provide for fair and transparent compensation Adhere to international standards Mainstream indigenous, women, and vulnerable populations and interests Engage civil society</p>	<p>Expand artisanal and small-scale sector mining Review concessions for illegal takings Promote equitable benefits sharing Restitute rights of artisanal and small-scale miners Strengthen artisanal and small-scale miners associations Provide the means for resettlement and compensation</p>	<p>Enable equity sharing arrangements Enable consolidation (pooling) of mineral rights</p>	<p>Avoid or minimize population displacement Create systems for paying compensation Compensate lost primary and secondary rights</p>
<p><b>Rights Delivery and Administration</b></p>	<p>Bridge formal and informal systems Formalize mineral rights Document mineral rights Secure mineral records and registries Record mining disruptions to ensure mining concessions are maintained</p>	<p>Develop and support improved information management Encourage sharing of concessions and mining information Document mining rights Make mining records accessible Improve mining administration services</p>	<p>Formalize mining claims and concessions Demarcate concessions Create transparency in mining concessions and transactions Strengthen national coordination of central/local licensing offices Develop mineral information management systems Integrate data systems</p>	<p>Promote equity in the artisanal mining sector Formalize customary land and mineral claims Empower women in mining Strengthen mineral cadastral systems Streamline formalization of mineral rights and mining concessions Promote transparent transactions</p>	<p>Prioritize and target government regulation Strengthen mineral markets and the chain of custody Formalize mineral markets Encourage competition</p>	<p>Strengthen common property rights Enforce environmental regulations Strengthen surface rights of artisanal miners</p>
<p><b>Resource Use Management</b></p>	<p>Ensure public safety Publicize environmental hazards Continue environmental enforcement Conduct integrated land use planning Respect diverse perspective in impact assessments</p>	<p>Require and support environmental impact assessments Create multi-stakeholder environmental management bodies Conduct integrated land use planning and zoning Incentivize rehabilitation of mining sites</p>	<p>Provide security and infrastructure for resettlement and restitution Conduct participatory land use planning Strengthen monitoring of mineral rights interventions</p>	<p>Develop integrated land use plans Develop environmental impact assessments Strengthen monitoring of land and mineral use Develop rehabilitation initiatives Promote local participation in resource use management</p>	<p>Employ land use planning Support land use zoning</p>	<p>Develop land use management plans Demarcate and zone land use Require mitigation and monitoring plans Establish reclamation regulations Fund reclamation and safety Train miners in environmentally friendly methods Provide conservation incentives Engage women in sustainable natural resources management</p>
<p>← <b>Crosscutting Constraints</b> →  <b>Gender / Women Vulnerability</b>  <b>Ethnic and Socially Marginalized Populations</b>  <b>Lack of Government and Community Capacity</b></p>						



## **B.4 TREES AND FORESTS**

**TABLE B.4.1 TREES AND FORESTS OVERLAY: CONSTRAINTS, AND COMMON SUB-ISSUES**

Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing Land Markets	Unsustainable Natural resources management and Biodiversity Loss
<ul style="list-style-type: none"> <li>▪ Conflict over high-value forest resources</li> <li>▪ Conflicting claims between the state and local or indigenous communities</li> <li>▪ Deforestation and degradation as a consequence of conflict</li> <li>▪ Conversion of natural forest and woodlands to commercial wood and biomass production or agricultural uses</li> </ul>	<ul style="list-style-type: none"> <li>▪ Centralized forest management</li> <li>▪ Limits to devolution</li> <li>▪ Challenges of co-management</li> <li>▪ Poorly managed concessions</li> <li>▪ Contradictions between national macroeconomic and forest conservation policies</li> <li>▪ Unbalanced incentives in private forest management</li> </ul>	<ul style="list-style-type: none"> <li>▪ Legal pluralism</li> <li>▪ Unclear and limited rights to forest resources</li> <li>▪ Contested state land takings and dispossession of indigenous groups</li> <li>▪ Loss of, or diminished rights to, forest resources</li> <li>▪ Insecurity driven by commoditization of carbon</li> <li>▪ Farmland inequality and landlessness negatively impact forests</li> <li>▪ Duration of rights and incentive problems</li> <li>▪ Tenure insecurity's impact on tree planting</li> </ul>	<ul style="list-style-type: none"> <li>▪ Disparities between rights allocated to logging companies and local forest users</li> <li>▪ Disparities between rights allocated to concessions and community forest land</li> <li>▪ Intra-village and inter-village inequities</li> </ul>	<ul style="list-style-type: none"> <li>▪ National policies and laws promoting forest land conversion</li> <li>▪ Forest conservation measures increasing land speculation</li> <li>▪ Development of roads stimulating land market development and speculation</li> <li>▪ Uncontrolled occupation of forested land and illegal land sales</li> <li>▪ Conflict between government and indigenous peoples over territorial development</li> <li>▪ Lack of tenure security for long-term forest investment</li> </ul>	<ul style="list-style-type: none"> <li>▪ Lack of recognition and protection of local rights</li> <li>▪ Stewardship limits of local institutions</li> <li>▪ Weakening of local institutions</li> <li>▪ Poorly managed protected areas</li> <li>▪ Corrupt governance</li> <li>▪ Unplanned development</li> <li>▪ Unregulated access and use of trees and forests</li> <li>▪ National policies promoting forest land degradation</li> <li>▪ Property damage from wildlife depredation or catastrophic events</li> </ul>
<p><b>Crosscutting Constraints</b></p> <p>Gender / Women Vulnerability</p> <p>Ethnic and Socially Marginalized Populations</p> <p>Lack of Government and Community Capacity</p> 					

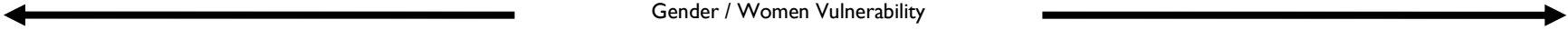
**TABLE B.4.2. TREES AND FORESTS OVERLAY: INTERSECTION OF LAND TENURE CONSTRAINTS AND INTERVENTIONS**

		LAND TENURE AND PROPERTY RIGHTS THEMES and CONSTRAINT CATEGORIES					
		Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing Land Markets	Unsustainable Natural resources management and Biodiversity Loss
LAND TENURE AND PROPERTY RIGHTS INTERVENTIONS	Institutions and Governance	Strengthen capacity of forest authorities Promote coordination among government forest agencies Promote access to justice Strengthen civil society Support local communities with participatory governance Decentralize or devolve forest governance	Decentralize governance Streamline and strengthen institutions Allocate and manage concessions transparently Improve fiscal management of concessions Strengthen civil society Establish and strengthen co-management institutions	Decentralize governance Devolve governance and strengthen civil society Support networks of civil society organizations Enable enforcement of logging contracts Support corporate social responsibility	Devolve forests to local communities Promote equity in devolved forests Encourage corporate social responsibility	Control corruption in forest land and lease transactions Support institutions responsible for local forest governance	Decentralize forest management to local governments Support interagency coordination Conduct national planning to improve resource allocation Introduce conservation easements Encourage corporate social responsibility
	Legal and Regulatory Framework	Reduce legal pluralism Harmonize forest and land laws Promulgate or revise forest regulations	Harmonize forest policy with national priorities Safeguard procedural rights Create clear and enforceable contracts Promote forest certification schemes Devolve ownership and management	Harmonize forest policy with national priorities Strengthen rights in forest codes Reduce legal pluralism Strengthen rights to forests and ecosystems Clarify policy on rights to forest carbon Protect forest rights of indigenous populations Codify free, prior, and informed consultation Modify incentive structures to conserve forests Secure tenure for concessions	Reform laws to ensure equity Safeguard procedural rights of indigenous local populations Abide by international standards governing indigenous rights Codify free, prior, and informed consultation Control illegal occupation and enable rights restitution Promote legal and policy frameworks in support of benefit sharing Formally recognize secure, transferable and long-term rights of small enterprises	Review land market distortions created by land and forest policy Create investment incentives that increase land value Recognize the rights of vulnerable groups to secondary forest resources	Clarify community rights on forest land Facilitate stakeholder consultations and negotiation Eliminate incentives that encourage forest clearance Regulate hunting methods Update forestry regulations Privatize ownership of trees and forests Harmonize legal codes governing natural resources Enforce environmental regulations
	Rights Awareness and Empowerment	Raise public awareness Improve forest rights advocacy Foster public education and engagement	Raise awareness of forest management responsibilities Formalize and promote customary forest rights Ensure participation of marginalized forest groups Support watchdog organizations to stamp out corruption Promote partnership on community lands	Raise legal awareness of forest rights Conduct stakeholder forums Strengthen rights awareness of marginalized groups Enhance participation of local forest organizations Strengthen advocacy for community/gender-based forestry management	Raise public awareness of forest rights and legal recourse Spread legal literacy of customary and statutory laws Foster collective action for access and control of forest resources Advocate for forest resource access	Raise awareness about benefits of forest retention and market opportunities	Inform users and managers of rights and responsibilities Conduct stakeholder forums Provide training in exercising management rights Strengthen civil society monitoring and advocacy of forest rights and biodiversity issues
	Conflict and Dispute Resolution	Increase access to legal assistance Promote alternative dispute resolution Conduct stakeholder forums	Improve formal and alternative dispute resolution Empower communities to resolve disputes	Monitor disputes between loggers and communities Support alternative dispute resolution Strengthen legal recourse Make legal aid accessible	Engage civil society in dispute early warning Support alternative dispute resolution Increase capacity and reach of judiciary to mediate forest rights Provide legal aid Promote inclusion of women in adjudication	Support mediation to resolve conflict over forest concessions or illegal timber sales	Support stakeholder dialogue Provide education on environmental sustainability Enable payments from conservationists to forest users suffering damage Provide legal aid Build capacity to enforce environmental laws

<b>Restitution, Redistribution and Consolidation</b>	Develop fair and equitable restitution and compensation programs Resettle displaced populations Develop resettlement plans Compensate for state takings Consolidate forest management areas	Institutionalize restitution of forest rights Review concessions and support restitution Implement transparent compensation processes	Institutionalize restitution of forest rights Mainstream gender and vulnerable groups Adhere to international standards on enforcing indigenous rights Establish equitable benefits sharing Promote fair and transparent resettlement	Review concessions and protected areas for spatial accuracy and compliance Ensure that resettlement stemming from commercial forests is equitable Provide transparent benefit-sharing agreements with forest communities Mainstream gender and vulnerable groups Explore options for reducing illegal occupation of forest land	Prevent distressed sales or consolidation resulting in unsustainable forest land clearance Promote consultation in forest land acquisition	Recognize secondary rights in statutory and customary regimes Assess tenure impact of consolidation in conservation planning
	Formalize forest rights Shift from exclusion to managed use Demarcate forest concession boundaries Monitor and enforce agreements	Improve and streamline administrative processes Support community boundary demarcation Create transparency in transactions Introduce co-management agreements Support rights registration and broadly disseminate information Strengthen forest cadaster systems	Prevent illegal displacement of forest communities Establish clear property rights to private and community forests Ensure transparent concessions, contracts, and licenses Register customary forest rights Introduce co-management and community forestry concessions Strengthen forest data record management Strengthen forest cadaster	Support forest rights mapping Formalize customary forest claims Streamline forest formalization procedures Strengthen forest cadaster Protect common property forests Lease public forests to minority and vulnerable groups Promote transparency in forest concessions	Support group or community title establishing rights to forest resources and benefits Grant concessions/licenses to third party users Strengthen customary rights to acquire, manage, and use forest land and resources	Strengthen common property rights Enforce environmental regulations Develop effective systems for allocation, permitting, monitoring, and enforcement Promote forest and natural resource certification
	Consider non-timber forest product users Support forest certification programs Establish and strengthen co-management institutions Introduce technologies to improve management of forest and non-timber products Control unbridled forest exploitation Use forest assessments and strategic planning	Support multi-stakeholder management bodies Promote participatory integrated land use planning Promote public forests' management planning Undertake environmental impact assessments Develop community forest management plans Promote conservation easements	Support integrated forest land use planning Strengthen monitoring of forest use Promote agroforestry initiatives Institute collaborative management models Institute conservancies, co-management, and sustainable resource-sharing models Promote participatory land use planning and gender/minority inclusivity Establish community forest trusts Promote conservation easements	Develop integrated forestry land use plans Incentivize stewardship of degraded forest lands Strengthen forest land and resource use monitoring Promote forestry and agroforestry initiatives Institute conservancies, co-management, and sustainable resource-sharing models Support participatory land use planning Strengthen strategies for coping with climate change	Encourage environmental and economic valuations of forest resources Support environmental zoning Support tax incentives encouraging long-term investments Enable and implement green areas/easements	Facilitate co-management between the state and local communities Integrate land use planning Develop forest management plans Promote agricultural intensification to reduce forest encroachment Provide conservation incentives Reduce fuelwood consumption Zone land use for NRM protection Support environmental plans Establish and maintain fund for natural resource rehabilitation
<p>← <b>Crosscutting Constraints</b> →</p> <p><b>Gender / Women Vulnerability</b></p> <p><b>Ethnic and Socially Marginalized Populations</b></p> <p><b>Lack of Government and Community Capacity</b></p>						


# **B5 WOMEN, LAND, AND RESOURCES**

**TABLE B.5.I. WOMEN, LAND AND RESOURCES OVERLAY: CONSTRAINTS, AND COMMON SUB-ISSUES**

Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing Land Markets	Unsustainable Natural resources management and Biodiversity Loss
<ul style="list-style-type: none"> <li>▪ Male bias in resettlement</li> <li>▪ Women's loss of indirect access to land</li> <li>▪ Disruption of social networks</li> <li>▪ Women's barriers to dispute mediation</li> <li>▪ Vulnerability of female-headed households</li> <li>▪ Underrepresentation in decision-making bodies</li> </ul>	<ul style="list-style-type: none"> <li>▪ Incomplete or imperfect implementation of women's rights in law</li> <li>▪ Limited and biased dispute mediation systems</li> <li>▪ Underrepresentation in positions of authority</li> <li>▪ Lack of literacy and civic education</li> <li>▪ Inadequate gender data to guide decision making</li> <li>▪ Social protection undermined by HIV/AIDS epidemic</li> </ul>	<ul style="list-style-type: none"> <li>▪ Rights vulnerability due to customary family norms</li> <li>▪ Legal pluralism</li> <li>▪ Inadequate reach and bias of judicial systems</li> <li>▪ Inadequate reach and bias of administrative systems</li> <li>▪ Secondary rights often overlooked</li> <li>▪ Higher land values leading to loss of property rights</li> <li>▪ Gender bias resulting from overlapping or conflicting legislation</li> <li>▪ Forced removal of HIV/AIDS widows and property grabbing</li> </ul>	<ul style="list-style-type: none"> <li>▪ Gender bias in inheritance practices</li> <li>▪ Unequal treatment of spouses</li> <li>▪ Gender bias in state governance</li> <li>▪ Indirect exclusion of women resulting from lack of experience</li> <li>▪ Gender bias from socio-cultural factors</li> <li>▪ Unheard women's voices</li> <li>▪ Gender inequity based on differences in land quality</li> <li>▪ Compromised ability of HIV/AIDS widows to use or retain land assets</li> </ul>	<ul style="list-style-type: none"> <li>▪ Market engagement constrained by formal laws and customary rules</li> <li>▪ Lack of clarity about transferring rights</li> <li>▪ Challenges to formalizing pro-market rights</li> <li>▪ Limited access to formal credit</li> <li>▪ Undeveloped markets resulting in distressed sales</li> </ul>	<ul style="list-style-type: none"> <li>▪ Limited or constrained access to natural resources</li> <li>▪ Lack of representation</li> <li>▪ Limited access to capacity-building opportunities</li> </ul>
<p><b>Crosscutting Constraints</b></p> <p>Gender / Women Vulnerability</p> <p>Ethnic and Socially Marginalized Populations</p> <p>Lack of Government and Community Capacity</p> 					

**TABLE B.5.2. INTERSECTION OF LAND TENURE CONSTRAINTS AND INTERVENTIONS**

LAND TENURE AND PROPERTY RIGHTS THEMES AND CONSTRAINT CATEGORIES							
LAND TENURE AND PROPERTY RIGHTS INTERVENTIONS	Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing Land Markets	Unsustainable Natural resources management and Biodiversity Loss	
	<b>Institutions and Governance</b>	Restore law and order Strengthen capacity of traditional dispute resolvers Increase women's access to justice Improve civil society advocacy for affected populations Create reconciliation commissions Include women on staff of land agencies	Strengthen civil service to employ gender-sensitive approaches Train women's offices within government bodies Support transparent, inclusive, and participatory decision making Improve sharing of information between jurisdictions Support land administration entities to better serve women's interests	Promote fair and impartial judiciary Build gender awareness and capacity of public officials Harmonize national policy on women and land Strengthen civil society's capacity to advocate for women's rights Ensure clarity of institutional mandates regarding women's rights	Strengthen constitutional rights of women to land and resources Increase women's access to justice Support devolution of authority to promote equity Build gender capacity of public officials Promote adherence to gender laws and regulations	Increase women's confidence in legal market transactions Advocate for change to increase women's participation in markets Provide oversight to informal credit markets to promote gender equity Prevent bias against women in customary transactions Facilitate women's access to credit institutions	Increase gender awareness of professions in land and NRM Strengthen institutional awareness of gender issues Increase women's participation on working groups and planning committees Build local institutional gender capacity Collect disaggregated data to better document gender inequities
	<b>Legal and Regulatory Framework</b>	Codify women's basic rights Reform legal framework to protect women's rights Conduct law review forums focused on gender	Ensure non-discriminatory laws and regulations Provide gender sensitivity training to the judiciary Verify impact of laws affecting women	Strengthen women's tenure security Review and revise laws and regulations related to women and physical/natural property For communal land, recognize all adult members of a household as title or leaseholders Formalize secondary rights Ensure non-discrimination	Strengthen regulation and enforcement of women's rights Reform laws to ensure gender equity Regulate expropriation and eviction to protect women's rights Evaluate and strengthen women's rights in law and program implementation Reconcile gender differences between statutory law and customary practice Monitor impact of legal reform on women	Revise the legal framework to enable women's transactions For communal land, recognize all adult members of a household as title or leaseholders Establish fee structures that do not disadvantage women Develop policy/law promoting registration of women's rights Codify women's rights to buy, sell, and lease	Review laws governing natural resources for gender bias Harmonize legal and customary access rights for women Recognize secondary rights Recognize "hidden" uses for land takings and compensation For communal land, recognize all adult members of a household as title or lease holders Ensure laws and norms inform program design Ensure right to contract independently Solicit feedback from women
	<b>Rights Awareness and Empowerment</b>	Inform women of rights assistance options Build conflict awareness Strengthen capacity of civil servants and community leaders to deliver unbiased assistance Support organizations that assist women in conflict or post-conflict situations Provide gender training to development practitioners	Promote women's access to local-level government services Train and inform women leaders Improve communication directed at women Train officials and judiciary on laws aimed at securing women's rights Inform local leaders Support community conversations on women's issues and rights Create women community organizations to advocate rights and needs	Educate the judiciary on women and land issues and law Build gender awareness in dispute resolution options Strengthen government awareness/capacity of women's rights Raise gender awareness through community outreach Foster support networks for women Enrich civic education on women's issues and rights	Support gender dialogue on land reform options Provide support for women's advocacy and leadership training Reinforce accountability between local leaders and constituents including women Inform women of rights and access using means appropriate to women Support human rights commissions to strengthen women's rights Modify school curricula to mainstream gender	Use media and public consultation to increase gender awareness Accurately document women's rights Strengthen gender awareness of professionals involved in land-related transactions Inform women about land markets Support networking to reinforce women's rights in land markets Inform decision making regarding women's participation in land markets	Promote community dialogue and awareness Train and inform female leaders Ensure information access to women Ensure activities are accessible to women Modify curriculums to raise gender awareness

<b>Conflict and Dispute Resolution</b>	Promote gender-sensitive approaches in dispute resolution Improve women's access to dispute resolution Strengthen numbers and capacity of female advocates	Enhance gender-sensitive dispute resolution Improve women's access to dispute resolution Support legal assistance groups Build capacity to negotiate, mediate, and advocate women's rights	Provide leadership on protecting women's rights Improve women's access to dispute resolution Strengthen advocacy for women Provide legal assistance to women and minorities Remove impediments to accessing justice	Support women with dispute resolution and legal aid Promote participatory forums on conflict over women's access to land and resources Raise women's awareness on dispute resolution options Develop early warning systems to protect women	Build stakeholder confidence in dispute resolution institutions Defend women's rights in land transactions Provide legal aid to women Provide alternative dispute resolution options for women	Provide clear messages supporting and enforcing women's rights Train formal/informal dispute resolution groups on gender-sensitive approaches Train female leaders Ensure equal access to dispute resolution
<b>Restitution, Redistribution and Consolidation</b>	Explicitly address gender in resettlement efforts Promote gender-sensitive training to decision makers Foster gender equity in restitution, redistribution, and consolidation Strengthen gender sensitivity of ex-combatants Endorse gender equity in post-conflict land interventions Create ad hoc groups to address women's constraints	Mainstream gender Use open and participatory processes Record and formalize women's rights	Develop gender-sensitive restitution/compensation regulations Promote participatory processes inclusive of women Create gender-focused working groups	Evaluate results of land reform programs to ensure gender sensitivity Promote women's participation in land reform Institutionalize gender sensitive training in eviction processes Settle or resettle displaced women	Ensure gender sensitivity in policy and implementation Promote gender transparency and accountability Create and support working groups to address constraints for women	Raise gender awareness of government officials and traditional authorities Ensure fair and equal treatment Consider secondary rights when designing interventions
<b>Rights Delivery and Administration</b>	Document women's rights Address secondary rights in post-conflict interventions Institutionalize gender equity in rights delivery Publicize procedures for securing land rights using language and mechanisms that women use Collect, store, and report data disaggregated by sex Register women's rights in at-risk areas	Strengthen government capacity to clarify and record women's rights Remove gender bias in administration of land rights Build women's trust in public institutions Make records and procedures transparent and accessible to women	Formalize and document women's rights Ensure gender sensitivity in design of land formalization processes Remove gender bias in land administration	Enforce women's rights in redistribution and reallocation Make records accessible to women Formalize land holdings of women	Encourage registration of women's rights to protect ownership in land transactions Support gender disaggregation in information systems Remove gender bias in land markets Build professional capacity related to land formalization and transfer Record disaggregated land transactions	Raise gender awareness among staff of land/NRM organizations Train staff in gender rights. Obligations, and enforcement Hire women Address cultural and social barriers to women's rights delivery Raise awareness among women Consider adjustments in polygamous societies Undertake gender-based assessments
<b>Resource Use Management</b>	Validate women's role as natural resource stewards	Include women in natural resources management institutions Practice inclusive and participatory land use planning Broaden awareness of women's rights in natural resource planning	Include women in devolved natural resources management Support technology that broadens access of women and minorities to natural resources systems Build NGO capacity to inform government on gender and NRM	Document settlement patterns to prevent illegal displacement Provide incentives to women to support conservation Promote equity-sharing models that include women and address their constraints	Promote acknowledgement of women as economic producers and natural resources stewards Obtain women's consent in land and resource transactions by the head of household Register, map, and record women's rights to natural and common pool resources	Involve women in monitoring environmental impacts Reach out to women Raise awareness about women's resource management roles and importance Train organizations in approaches to address women's needs
 <p><b>Crosscutting Constraints</b> Gender / Women Vulnerability Ethnic and Socially Marginalized Populations Lack of Government and Community Capacity</p>						



# ANNEX C: GLOSSARY OF COMMON LAND AND LAND TENURE TERMS

(Sources for the definitions are cited in parentheses, where appropriate. The full citations can be found be indicated in the “Sources” section at the end of the glossary. Since many of these documents were developed by the different institutions at the same time, similar definitions have been used by each.)

**Access to land:** The local and/or legally recognized right to enter and use a physically defined area. Access rights may be obtained through family or group membership or through legally sanctioned processes such as allocation, purchase, and inheritance. Rights may be defined in terms of location, time, use, and the individual’s relationship to the community. (IIED, 2000)

**Adjudication of property rights:** The process leading to a final and authoritative determination of the existing rights and claims of people to land. This may be in the context of First Registration, or it may be to resolve a doubt or dispute after First Registration. It may also be used in redistributive land reform processes. The process of adjudication should reveal what rights already exist, who holds them, and what restrictions or limitations exist on them. (FAO, 2003, LAG, 1996)

**Adverse possession:** The right under the law of someone who has occupied a piece of land for a prescribed, extended period of time, behaving like an owner and not recognizing another’s ownership, to become the owner of the land. This is regardless of the fact that the land was owned by another when the occupant entered into the occupation. (Bruce with Holt, 2011)

**Agrarian reform:** A program of activities designed to alter the agricultural structure of a country to increase agricultural production and improve standards of living of rural populations. Such reforms will often include land reform or land tenure reform components. (Bruce, FAO, 2003)

**Agroforestry:** A land use system where woody perennials are growing on the same piece of land as agricultural crops and/or livestock, resulting in both ecological and economic interactions between the different components. (FAO, 2003)

**Agro-pastoralism:** A land use system that combines both crop agriculture and animal husbandry with pasture uses. (FAO, 2003)

**Alienation of land:** The transfer of ownership rights in land or property to someone without regard to status, implying both the existence of private property and free will. In customary tenure systems, land is rarely seen as a commodity that can be traded at will, and the ability to alienate land is limited. (Black, 2009, DFID, LAG, 1996)

**Allocation of state land:** The assignment of state land to an individual or group under specified tenure or use restrictions.

**Alternative dispute resolution:** A process of dispute resolution taking place out of the formal court structure using mechanisms upon which both parties have agreed such as arbitration, or mediation.

**Arbitration:** A formal process of dispute resolution through which a neutral third party renders a decision based on evidence and arguments submitted by the parties in contention. . (Black, 2009, FAO, 2003)

**Assurance of rights:** The act or process of assuring a right. (Black, 2009)

**Beneficiary:** A person for whose benefit property is held in trust; especially one designated to benefit from an appointment, disposition, or assignment (as in a will, insurance policy, etc.) or to receive something as a result of a legal arrangement or instrument. (Black, 2009)

**Boundary:** The physical demarcation on the ground or by a mathematical description, usually based on a coordinate system. The accuracy and cost of cadastral surveys is dependent on the accuracy needed for boundary descriptions. The accuracy should reflect factors such as the value of the land, the risk and cost of land disputes, and the information needs of the users of the cadaster. (FAO, 2003 citing FIG, 1991).

**Bundle of rights:** Rights held in relation to access and utilization of land resources. These include, but are not restricted to, such things as the right to sell, mortgage, and bequeath land; cut trees; cultivate; and construct homes. This bundle can be broken up, rearranged, and passed on to others. Some of these rights will be held by individuals, some by groups, and others by political entities.

**Cadastral map:** A map that shows the boundaries and ownership of land within a specified area. Some cadastral maps show details including district names, unique identifying numbers for parcels, certificate of title numbers, positions of existing structures, section or lot numbers and their respective areas, adjoining and adjacent street names, selected boundary dimensions and references to prior maps. (US Legal, 2013)

**Cadaster:** A type of land information system that contains a set of records on land parcels. Specialized cadasters may support records of property rights (judicial cadaster), taxation (fiscal cadaster), or land use (land use cadaster). A multi-purpose cadaster will register many different attributes of land parcels. (FAO, 2003, LAG, 1996)

**Civil Law:** The law lay down by the state regarding the rights of inhabitants. Also known as Roman law. (UNECE, 2004)

**Codification of customary law:** The process of collecting, systematically organizing and codifying the laws, customs and practice of a community as they relate to land and related resources. The end product may be formalized into statutory law or code.

**Codified law:** Laws, rules, and regulations that have been systematically collected and arranged, usually by subject, e.g., commercial code or criminal code.

**Collateral:** A term used to refer to property that is pledged as a guarantee for repayment of a loan. The most common form of use of immovable property being used as collateral is the mortgage, a transfer of an interest in the land as security for a debt. (IIED, 2000, FAO, 2003, LAG, 1996)

**Collective ownership:** A situation where holders of land rights are clearly defined as a group and have the right to exclude others from the enjoyment of those land rights. (GTZ, 2000)

**Common law:** The unwritten law based originally on common customs and precedent but now administered by the courts. (UNECE, 2004)

**Common property:** Land and other resources over which entitled beneficiaries, whether individual or community defined, have specific common rights. The community controls the use of the common property and can exclude non-members from using it. (FAO, 2003)

**Communal ownership:** A situations where rights to use resources are held by a community. While these rights may include communal rights to pastures and forests, they may also include exclusive private rights to agricultural land and residential plots. (FAO, 2003)

**Compensation:** The payment made for property taken or adversely affected by another. Compensation payments for land are generally related to expropriation exercises, but may also include planning and zoning restrictions. (FAO, 2003)

**Compulsory acquisition:** (See **expropriation**.)

**Concession:** A specialized form of lease, generally defined as a grant of specific rights and privileges over property by a government to an individual or company to develop the resources of the property, such as a mining concession, forestry concession, a concession to build a canal, or a concession to manage a government property. Payments for concessions may be related to the volume of sales or resources extracted, rather than a fixed annual rental payment.

**Condominium:** A form of ownership where parts of a property are owned individually (such as an apartment) and parts of the property are owned jointly (such as stairways and other components integral to the design of the property). (FAO, 2003, GTZ, 2000)

**Conflict over land:** See land conflict.

**Conflict or dispute resolution:** The process of resolving or settling claims between parties. Resolution mechanisms may exist through formal court structures, less formal though legally sanctioned procedures, traditional customary mechanisms, or various forms of arbitration.

**Continuum of land rights:** From informal land rights to registered freehold rights, the range of possible forms of tenure can be considered as a *continuum*. Each continuum provides different sets of rights and degrees of security and responsibility. Across a continuum, different tenure systems may operate, and plots or dwellings within a settlement may change in status, for instance if informal settlers are granted titles or leases. (UN, 2008)

**Cooperative:** An organization or enterprise owned by those who use its services or a dwelling owned by its residents to whom the apartments are leased. (Black, 2009)

**Co-ownership:** Property held jointly by two or more people. The enjoyment of a property in co-ownership is said to be in undivided shares, in that each person has the same right to any part of the property. There are two forms of co-ownership: joint tenancy and tenancy in common. (FAO, 2003)

**Customary land rights:** The holding of land in accordance with customary law or tradition. Customary land law regulates rights to enjoy use of land that arises through customary, unwritten practice, rather than through written or codified law. (FAO, 2003)

**Customary land law:** A community's mechanism for regulating the right to use land through customary practice, rather than through written law. (FAO, 2003)

**Customary land tenure:** The rules generated and enforced by a community or larger sub-state polity to govern the holding and use of land by its members. Customary rules are typically but not always unwritten. (Bruce with Holt, 2011)

**Customary law:** Law consisting of customs that are accepted as legal requirements or obligatory rules of conduct; practices and beliefs that are so vital and intrinsic a part of a social and economic system that they are treated as if they were laws. (Black 2009)

**Decentralization:** The transfer of administrative powers (decision making, executive, and fiscal) to lower levels of government, with varying degrees of autonomy.

**Deed:** The written document which transfers title (ownership) or an interest in real property to another person. (US Legal, 2013)

**Deeds registration:** A system of proof of property ownership and interests, based on the registration of transfer and other deeds. A deeds registration system is limited in that it does not provide a guarantee of title. All that it typically provides is access into the chain of transactions that can be used to prove title. (FAO, 2003)

**Delimitation:** See demarcation.

**Demarcation:** The marking-out of the boundaries of each land parcel on the ground. (LAG, 1996)

**Dispute resolution:** The settlement of conflict between groups or individuals. The factors determining how societies deal with internal disputes are related to the formal authority structures of courts and written law or traditional authority structures of family, village councils, and leadership figures. The existence of many different bodies for dispute resolution can raise opportunities for specialized fora and rules of procedure for different segments of society and different types of disputes. Dispute resolution may be formal (recognized by law and the state administration system for dispute resolution) or informal (such as community-based adjudication or mediation). Decisions made under informal resolution mechanisms are not always legally binding. (IIED, 2000)

**Easement:** The right of use over the property of another, for example, the right of access or the right of passage of utilities.

**Eminent domain:** The term “eminent domain” is used in some jurisdictions, such as the United States, to describe the process of compulsory acquisition or expropriation. (FAO, 2003)

**Eviction (of tenants and farm workers):** The dispossession by law from a plot of land or rental property which had been occupied or leased. (Black, 2009, DFID, FAO, 2003)

**Expropriation:** Compulsory acquisition or expropriation is a procedure by which public needs for land or property rights in the pursuit of government policy are met. The processes for expropriation will include a basis for setting compensation for the loss of the owner expropriated. (FAO, 2003)

**Fragmentation:** The division of land into units too small for rational exploitation, usually as a result of the system of inheritance. The process may lead to a multiplicity of parcels for one owner or many owners of one parcel. (UNECE, 2004)

**Freehold:** The right to full private ownership of land, free of any obligations to the state other than payment of taxes and observance of land use controls imposed by the state in the public interest. This term is used interchangeably with **private property** or *private land ownership*. (Bruce, 1998, IIED, 2000)

**FPIC:** The US interprets the meaning of FPIC as “free prior informed consultation”

**Geographical information systems (GIS):** “A set of computer tools for collecting, storing, retrieving, analyzing, transforming, and displaying spatial data.” (LAG, 1996, FAO, 2003).

**Illegal/informal occupation:** The occupation of land or housing by an individual or household without formal approval from the legal owner (state or private). Illegal occupation ranges from an individual squatting on the property of another to informal settlements where large areas of land are occupied by many people.

**Immovable property:** See real estate/real property.

**Inalienable:** Not transferable or assignable. (Black, 2009)

**Indigenous tenure systems:** Rights specific to a particular ethnic group, having evolved through interaction of culture and environment and overseen by authorities whose legitimacy is based on occupation and spiritual ties to the locality. (IIED, 2000, GTZ, 2000)

**Informal settlements:** Areas where a large number of people illegally occupy land and build housing and businesses. Informal settlements, also called “squatter settlements,” are generally located on the periphery of urban centers and are created because of a lack of access to urban land or housing. Rights to the property are not recognized by the state. Tenure in informal settlements is insecure and the property is not part of the formal property or financial markets.

**Land access:** The opportunity to acquire and use land; also the fact of having acquired access. (Bruce with Holt, 2011)

**Land administration:** The management of information about the ownership, value and use of land and its associated resources. The function of a land administration system is to record, maintain and make available information that can create security of tenure and support the land market. (UNECE, 2004)

**Land allocation:** The process through which the state distributes land resources in ownership or use rights. State land resources allocated/distributed may be from the existing state asset base, the result of a land reform program, where larger (formerly private) landholdings have been broken up for allocation, or where the land assets of former collectives or cooperatives are distributed. These allocations may be in the form of land shares in former state land assets. In customary tenure systems, the term refers to the process through which the traditional leader gives land use rights to individuals or families.

**Land based revenue:** Revenue generated from land through sales of state assets, property taxation, transfer fees, and various land administration fees.

**Land certificate:** A certified copy of an entry in a land title system and provides proof of the ownership and of encumbrances on the land at that time. (FAO, 2003)

**Land clarification:** See adjudication.

**Land commission:** Land commissions are formally constituted bodies to investigate land related issues, or to implement some aspect of land policy, such as adjudication. (FAO, 2003)

**Land conflicts:** Competing or conflicting claims to land, often to large areas of land, typically by groups, which reflect broader and deeper competing interests than those involved in most land disputes and which are not easily resolved through negotiation or adjudication within the existing legal framework.

The term ‘conflict’ implies tension and danger of violence but not the presence of violence unless this is specified. (Bruce with Holt, 2011).

**Land contract:** An agreement for the purchase and sale of land usually involving installment payments by the purchaser with the transfer of title occurring upon payment of the final installment. (Black, 2009)

**Land consolidation:** A sequence of operations designed to reorganize land parcels in an area, regrouping them into consolidated holdings of more regular form and with improved access. Consolidation of parcels of land into a single holding, whether voluntary or enforced, is intended to provide a more rational distribution of land to improve the efficiency of farming. (FAO, 2003)

**Land court:** An established court having exclusive original jurisdiction over land disputes.

**Land development:** The transformation of land to be used more efficiently through the application of capital, labor, or management.

**Land disputes:** Competing or conflicting claims to rights to land by two or more parties, individuals or groups. Disputes are generally related to boundaries, overlapping use rights, access to land, competition for resources, ownership and inheritance. (Bruce with Holt, 2011, FAO, 2003, GTZ, 2000)

**Land formalization:** The process by which landholding held ‘outside the law’ (informally, without a right to do so recognized by the state) is given such legal recognition by the state, a process that begins with legal recognition and is then often implemented through land titling and registration. (Bruce with Holt, 2011)

**Land fragmentation:** The ownership of multiple, non-contiguous parcels of land by a single owner. These are often described to be very small, non-economically viable land units. Fragmentation becomes a concern when the division of land results in units too small for rational exploitation or so widely dispersed as to present constraints to the effective management by the landholder. The principle cause of fragmentation is the subdivision of land through inheritance, but it may also have resulted from the owner’s acquisition of multiple parcels of land over time. The process may lead to a multiplicity of parcels for one owner or a multiplicity of owners of one parcel.

**Landholding:** A piece of land owned or possessed.

**Land governance:** The bundle of rules, rights, policies, processes, institutions, and structures created to manage the use, allocation of, access to, control, ownership, management, and transfer of land and natural resources found on land.

**Land governance systems:** Include state organizations that deal with land such as ministries of land, land registries and cadastral services, and courts. Informal land governance systems include customary (informal) institutions that develop land use rules, allocate land, and resolve disputes related to land.

**Land information systems:** A tool for legal, administrative, and economic decision-making and an aid for planning and development. A land information system consists, on the one hand, of a database containing spatially referenced land related data for a defined area and, on the other, of procedures and techniques for the systematic collection, updating, processing, and distribution of the data. The base of a land information system is a uniform spatial referencing system, which also simplifies the linking of data within the system with other land-related data. (FAO, 2003, citing FIG1991)

**Land law:** The body of law relating to the acquisition, use and disposal of land, including laws defining and regulating property rights and those conferring on state or other institutions competences with respect to

land (e.g., land administration, land management, land use planning and land taxation). (Bruce with Holt 2011)

**Land management:** The process of managing the use and development of land resources. Some of the critical, and sometimes conflicting, objectives that must be addressed by land management policies today include:

- Improving the efficiency of land resource use to support a growing population;
- Providing incentives for development, including the provision of residential housing and basic infrastructure, such as sewer and water facilities;
- Protecting the natural environment from degradation;
- Providing equitable and efficient access to the economic benefits of land and real estate markets; and
- Supporting government services through taxation and fees related to land and improvements. (FAO, 2003 citing FIG, 1991, LAG, 1996)

**Land market:** The foci where buyers and sellers of interests in land meet. Broadly speaking, the market in land includes a range of possible transactions, such as sales, leases, mortgages, land exchanges, and other temporary transfers. (Bruce, FAO, 2003)

**Land ownership:** The set of rights in land held by an owner or owners. These include rights to use and dispose of the interests in the land through sale, lease, bequest, or other terms agreed upon with the person acquiring those rights. (FAO, 2003)

**Land policy:** Land policy is the set of intentions embodied in various policy instruments that are adopted by the state to organize land tenure and land use. (FAO, 2003)

**Land reclamation:** The process of bringing unusable land to a usable state with higher value, for example, through swamp drainage, desalinization, reforestation, or recovery from past environmentally unsound land use or natural disaster.

**Land redistribution:** The redistribution of landholdings, usually involving the resettlement of farmers and reallocation of property rights over the land.

**Land reform:** The redistribution or reallocation of landholdings in an attempt to improve access rights to certain segments of a society. The process usually involves the breaking up of large landholdings and redistributing the land to landless people or to those who have been working on the larger landholdings. (Bruce, IIED, 2000, FAO, 2003; See also **agrarian reform** and **land reform**.)

**Land register:** A public register used to record the existence of deeds or title documents over land, comprising the registered details of each property. (LAG, 1996, FAO, 2003)

**Land registry:** The office and books or files in which records of property rights and maps are maintained, usually by a government agency. (Bruce with Holt, 2011)

**Land registration:** See land titling and registration. (FAO, 2003)

**Land registry fees:** Fees collected in the process of using the services of the land registry. These include initial registration as well as subsequent activities, such as obtaining copies of registration documents, registering mortgages, transferring titles, and subdividing property.

**Land rehabilitation:** (See **land reclamation**.)

**Land reserves:** Land set aside by the state for a particular purpose such as future allocation, protection of unique ecosystems or biodiversity, or exclusive use of indigenous peoples. (FAO, 2003).

**Land sector agencies:** Land-related administrative and regulatory institutions that play a vital role in land management and administration and in defining and supporting land markets. Although these institutions vary in organization, structure, size, locale, and scope of responsibility from country to country, they typically fill many of the same roles, providing regulation, administration and services in the following areas: land use and planning; taxation; land registration; surveying and mapping; credit and mortgage; insurance; and agency and brokerage.

**Land speculation:** The process through which land is acquired not for immediate productive use, but with the expectation that the land will increase in value and that subsequent sale will generate a profit. This practice is generally common in situations of rapidly-rising land values due to urban expansion, public works programs (road corridors), or other changing economic opportunities.

**Land subdivision:** The process through which a piece of land is divided into smaller units. This may occur for purposes of development or as a result of inheritance and the sharing of the land assets among the heirs of the landholder.

**Land taxation:** The process through which governments levy taxation on land parcels. This practice is a major source of local government revenue for those countries where land and property taxation is in place.

**Land tenure:** The relationship (whether defined under formal *de jure* law or under customary law) that individuals and groups hold with respect to land. Land tenure rules define the ways in which property rights to land are allocated, transferred, used, or managed in a particular society.

**Land tenure system:** The totality of property rights in land operating within a state or sub-state polity, as well as the institutions responsible for implementing them, the patterns of land distribution they have formed and protect, and the cultural meanings of land—all understood as a system in which the various elements work together to achieve policy objectives. (Bruce with Holt, 2011)

**Land titling and registration:** The processes by which the state confers land rights upon, or recognizes claims to, land rights by occupants or other claimants (titling) and then makes an official record of such rights to facilitate their proof (registration). (Bruce with Holt, 2011)

**Land transaction:** The transfer of property rights or ownership of land, permanently (thorough sales or inheritances) or temporarily (through leases, sharecropping arrangements, mortgages, etc.).

**Land use planning:** The systematic assessment of land and water potential, alternative patterns of land use and other physical, social, and economic conditions, for the purpose of selecting and adopting land use options which are most beneficial to land users without degrading the resources or the environment, together with the selection of measures most likely to encourage such land uses. (FAO, 2003 citing Choudhury, K., and Jansen, L. J. M., 1999)

**Land use/ownership certificates:** An alternative to formal title registration that provides evidence and legitimization of occupancy without a costly land registration program. This is often seen as an intermediate step between informal land records and more formal titling programs. Use certificates can offer security of tenure to land users without addressing potential conflicts over land ownership. In some countries or customary tenure settings, governments that are not willing to alienate land into private ownership use land use certificates as a mechanism to provide the necessary evidence of ownership or, as



in China or Vietnam, provides evidence of the long-term security of the use right, rather than an ownership right, to secure access to credit.

**Land valuation:** The determination of the value of property. Value can have many meanings in real-estate appraisal; the applicable definition depends on the context and usage. Appraisers estimate property value with specific procedures that reflect three distinct methods of data analysis: cost, sales comparison, and income capitalization. (LAG, 1996)

**Landlessness:** The state of having no access to land or rights in land.

**Landlord:** One who leases real to another. (Black, 2009)

**Law review commissions:** Temporary or permanent commissions established by government to review, amend and consolidate existing law, review proposed laws for conformity to existing law, or deal with issues arising in legally pluralistic societies.

**Lease:** To grant the possession and use of (land, buildings, rooms, movable property, etc.) to another in return for rent or other considerations. (Black, 2009)

**Leasehold:** A contractual arrangement under which a landlord (the lessor) grants the right of exclusive occupation of the land to a tenant (the lessee) for an agreed amount of money for an agreed period of time (UNECE, 2004)

**Legal aid:** The process of providing legal assistance and counseling to those who cannot afford private counsel, or who are uninformed of their rights.

**Legal pluralism:** The co-existence within a single polity of different bodies of law with different origins, and in the case of land involves the co-existence of different bodies of norms governing the use of land. (Bruce with Holt, 2011)

**Magistrate:** A judicial officer with limited legal powers and jurisdiction. Magistrates and magistrate's court are often the first entry into the formal court structure.

**Map:** The presentation of the earth's surface showing topographical features, such as mountains, lakes, and rivers, and other physical features, such as roads, forests, and areas of settlement. Thematic maps may deal with property boundaries, land use categories, soil quality, etc.

**Marginalized groups:** Those individuals or groups who have limited or restricted access to or control over land resources because of gender, economic or social status, tribal or ethnic background, citizenship, religion, or other stratification mechanisms. Marginalized groups typically have little or no security of tenure, access to resources, access to credit, access to bureaucratic/power structures, or representation.

**Marital property:** Property, including land, owned by married couples (and, in some cases, couples in consensual unions) which is managed during marriage and is divided if the marriage ends. Property brought into the marriage may have different rules than that which is acquired during the marriage.

**Market assisted access** (also known as *market assisted land reform*): A form of land reallocation which encourages willing buyers to negotiate land purchase deals with willing sellers, with the government facilitating the purchase process through grants and other supportive measures.

**Matrilineal inheritance:** A system by which, according to law or custom, property passes from the deceased owner through the female line to his or her heirs.

**Mediation:** A method of non-binding dispute resolution involving neutral third parties who try to help the disputing parties reach a mutually agreeable solution. (Black, 2009)

**Mortgage:** The conveyance of a property by a debtor (called the mortgagor) to a creditor (called the mortgagee) as security for a financial loan with the provision that the property shall be returned when the loan is paid off by a certain date. In some legal systems, there is provision that the mortgagee has the power to sell the concerned property when the interest is not paid in time and the loan is not paid off by a certain date in accordance with the agreed stipulations. (LAG, 1996)

**Movable property:** A category of property that can be moved. This is generally property other than immovable property, also referred to as **personal property**.

**Notary:** A person authorized to administer oaths, certify documents, attest to the authenticity of signatures, and perform official acts in commercial matters. (Black, 2009)

**Open access resources:** Resources to which everyone has unrestricted access and that are not considered to be the property of anyone. This does not imply that everyone has equal ability to use the resource.

**Parcel:** A single closed area or polygon that is determined geographically by its boundaries, contains land under homogeneous property rights and is held in one ownership. (UNECE, 2004)  
**Parcel/property identification (PID):** The mechanism to identify individual parcels of land. Every basic property unit and parcel recorded within a cadaster or land book register must have an identifier. In most jurisdictions where there are separate cadaster and land book systems both agencies use the same identifier although this is not inevitably the case. Two forms of identifier can be used – a basic property unit identifier and a parcel identifier. Both identifiers are sometimes referred to as PIDs (P = property or parcel, ID = identifier). The objective is to uniquely identify and number each parcel to allow ease of reference to information recorded about that parcel between these two components (UNECE, 2004).

**Plot:** A closed polygon on the surface of the Earth that belongs to only one parcel. A plot is an area that can be plotted on a plan and is the smallest unit that can be identified for the purposes of land resource management - such as a field with a particular type of vegetation or form of use, or an area under specifically designated use such as a building. One or more plots make up a land parcel. (UNECE, 2004)

**Pastoralism:** An economic and social system dependent on livestock and the range and water resources necessary to support it. It may include both natural vegetation and agricultural land where animals graze following harvests.

**Patrilineal inheritance:** A system by which, according to law or custom, property passes from the deceased owner through the male line to his or her heirs.

**Peri-urban area:** Peri-urban denotes neighborhoods, suburbs or villages in or around the boundaries of a city or town, characterized by urban physical development activities, based on active land market transactions. (IIED, 2000)

**Personal property:** (See **movable property**.)

**Plot:** (See **parcel/plot**.)

**Prescription:** (See **adverse possession**.)

**Private property:** Private property is property that is held privately, whether individually, jointly or corporately. (FAO, 2003)

**Privatization:** The transfer of economic activities and resources from state ownership and/or control into private ownership. These activities include state enterprises, state farms, collectives, and public lands.

**Property rights:** The rights individuals, groups and the state hold with respect to particular land, resources and other assets, and in relation to each other so there is some overlap between the concepts of land tenure and property rights.

**Public property:** Property owned by any level of government.

**Real estate/real property:** Land and anything permanently attached to it.

**Registration:** The process of recording rights in land either in the form of a register of deeds and other documents associated with the ownership of the land rights or else in the form of a register of titles to land. (UNECE, 2004)

**Regularization:** A process through which informal or illegal occupation of land is legalized by statute giving the occupiers a recognized legal right of access to the land through ownership or leasehold. (FAO, 2003)

**Remote sensing:** Remote sensing is the set of techniques used for gathering information about the environment without being in direct contact with it. (FAO, 2003).

**Resettlement:** The relocation of individuals, households, or communities from their land or from land they are occupying. Resettlement often results from infrastructure upgrading, large development initiatives, new government land policies, or natural disasters that destroy land. Resettlement can also be driven by government policies dealing with marginalized or minority groups. Resettlement can be either voluntary or involuntary. *Voluntary resettlement* is accomplished with the free will of the persons to be resettled. *Involuntary resettlement* occurs without the informed consent of the displaced persons and results in the forced movement of people from their land to other locations.

**Restitution:** Land restitution is the process of restoring land or other property to its former owners. In cases where property cannot be returned, restitution may involve compensation for its loss.

**Rule of law:** The supremacy of regular as opposed to arbitrary power. Respect for the legal system (Constitution, Civil Code, laws, and regulations) in a given country by all citizens and public authorities, such that legal decisions are made by application of the law in a systematic and transparent fashion. (Black, 2009, GTZ)

**Security of tenure:** The perception by people that rights to land will be recognized by others and protected in the event of specific challenges.

**Sedentary agriculture:** Agriculture practiced at a fixed location utilizing the same pieces of land in successive years for crops production.

**Servitude:** An encumbrance consisting in a right to the limited use of a piece of land or other immovable property without the possession of it; a charge or burden of an estate for another's benefit. (Black, 2009)

**Sharecropping:** Sharecropping is a system of agricultural production where a landowner allows a share cropper to use the land in return for a share of the crop produced on the land. In this situation, labor-short households are able to provide land-short households with land for cropping without losing their rights over that land. (Bruce, FAO, 2003)

**Sporadic registration:** The process of registering land on a case-by-case basis. This practice is usually based on a specific action or actions of the owner of the property to trigger its entry into the registration

system. The most common actions used to trigger sporadic registration are the sale of the property or the need to have evidence of title to have access to credit. It has the advantage that it tends to target most economically active property first and may be less expensive in the short-term than systematic registration. The disadvantage is that it will take much longer to achieve complete coverage of all titles within a given jurisdiction if that is the aim of the government. If the intention is to register all (or even most) parcels, then sporadic registration cannot be cheaper and will likely be more expensive because of lack of economies of scale. Sporadic registration can also be criticized because the claims of each case are determined separately and, hence, not always very transparently. This is especially critical in transition countries, while sporadic registration does not allow an overall comparison of boundary locations or an adjudication of ownership and other real rights relative to neighboring parcels. (Bruce, FAO, 2003, LAG, 1996)

**Squatter:** Someone who takes unauthorized possession of unoccupied premises. (FAO, 2003)

**Statutory land rights:** Land rights derived from state law, national or local, as opposed to customary, religious or traditional laws and practices.

**State land:** Land owned by the state, in contrast to land owned by private persons, either legal or natural.

**State land management:** The legislative and administrative framework that defines how state land can be allocated and managed. The legal regime governing state land will cover specific aspects of its management and mode of exploitation. This may include defining the organizations responsible for managing the land, and stating the general principles, and, in some cases, the detailed basis for its use.

**Survey:** The process of measuring land and recording the related geographical information for planning, management, and administrative purposes.

**Systematic registration:** The systematic approach to adjudicating, surveying, and registering parcels in an area-by-area basis and bringing all claims in an area to light at the same time. Systematic registration is relatively expensive in budgetary terms, because of the typically large numbers of parcels being dealt with, although, on a per-parcel basis, the average cost per parcel may be significantly lower than with sporadic registration as a result of economies of scale.

Systematic registration has the advantage that it will provide more comprehensive land information within a given time frame. It allows the population at large to scrutinize the claims being made, and it will give more people improved rights more quickly, thus supporting the general development impact of increased security of ownership and reduced transaction costs. (Bruce, FAO, 2003, LAG, 1996)

**Tenant:** A lessee who has the exclusive right of possession of premises under a lease. (FAO, 2003)

**Tenure insecurity:** The situation whereby tenure rights are considered precarious, due to the risk of dispossession by the actions of other individuals, communities, or the state.

**Tenure security:** The situation in which landholders consider their continued occupancy rights to be guaranteed whether by virtue of formal rights, customary rules, or some other form of assurance. (IIED, 2000)

**Title registration:** A system for improving the quality of ownership and proof of title through the recording of documents which confer rights over land. (FAO, 2003)

There are, broadly speaking, two parts of the register. The first is a map on which each parcel is demarcated and identified by a unique parcel identifier. The second is text that records details about the

title, the name of the owner, and any rights or restrictions associated with the parcel's ownership, such as restrictive covenants or mortgages. When the whole of the land is subject to transfer, only the name of the owner need be changed in the registry. A division of the land or alteration of the boundaries requires amendment to the plan and the issue of new documents or certificates. The official title registration record is definitive. Under such a system, the ownership of land can be guaranteed. Anyone who is dispossessed of land through the functioning of the registers will be compensated, even though the mistake was not made by the registry, but rather was a case of fraud. (FAO, 2003, LAG, 1996)

**Town and regional planning:** A planning framework that enables decisions to be made on how land should be used. Such planning can be relatively flexible, allowing for negotiation in implementation in the public interest, or relatively fixed, through the imposition of zoning regulations designed to protect individual property rights. (FAO, 2003)

**Topography:** The discipline of “topography” describes measures and represents land forms and features at local level. The topographer carries out surveys, either by taking direct measurements or by using aerial or satellite photographs. The term topography is also used to describe the geographical features of an area (IIED, 2000 citing Kasser, *École Supérieure des Géomètres et Topographes*, pers. comm.)

**Transaction costs:** The expenses involved in completing a transaction in land rights. These costs are both opportunity costs and monetary costs. Opportunity costs involve the cost of transportation and accommodation (if coming to the registration office from long distances) and rent-seeking practices of land registry officials. Monetary costs may include sales contracts, survey costs, legal fees, and stamp duties, as well as the cost of registration of the transaction in the title or deeds registry

**Transhumance:** The seasonal search for grazing and eating by people and livestock, usually involving long distance movement from village territory. (FAO, 2003, IIED, 2000)

**Tree rights:** Specific rights held by individuals over trees and their products. These rights include the right to plant trees, harvest fruits from the trees, harvest the trees themselves, and own or inherit the trees. While trees are attached to the land, tree rights may vary from the land rights over the land on which the tree grows. (FAO, 2003)

**Trust:** An arrangement through which property rights are transferred from an individual to one or more trustees to be held for a set of beneficiaries. A trust may be set up to manage property on behalf of minors, or a charitable trust may be established to manage income from property on behalf of a large group of people. (IIED, 2000)

**Urbanization:** The process of development of towns and cities where population growth and population drift typically result in rapid acceleration in the size of the urbanized population. (FAO, 2003)

**Use right:** The right to use a thing in accordance with its designated purpose. It may be linked to membership of the resident community and perpetuated by stable and continuous occupation, confirmed by the work carried out by a family of farmers. (IIED, 2000)

**Usufruct:** Usufruct is a right in a property owned by another, normally for a limited time or until death. It is the right to use the property, to enjoy the fruits and income of the property, to rent the property out and to collect the rents, all to the exclusion of the underlying owner. The usufructuary has the full right to use the property but cannot dispose of the property nor can it be destroyed. (US Legal, 2013)

**Valuation:** Valuation is the process of putting a price on a piece of property. The value of businesses, personal property, intellectual property (such as patents, trademarks, and copyrights), and real estate are all commonly determined through the practice of valuation. (US Legal, 2013)

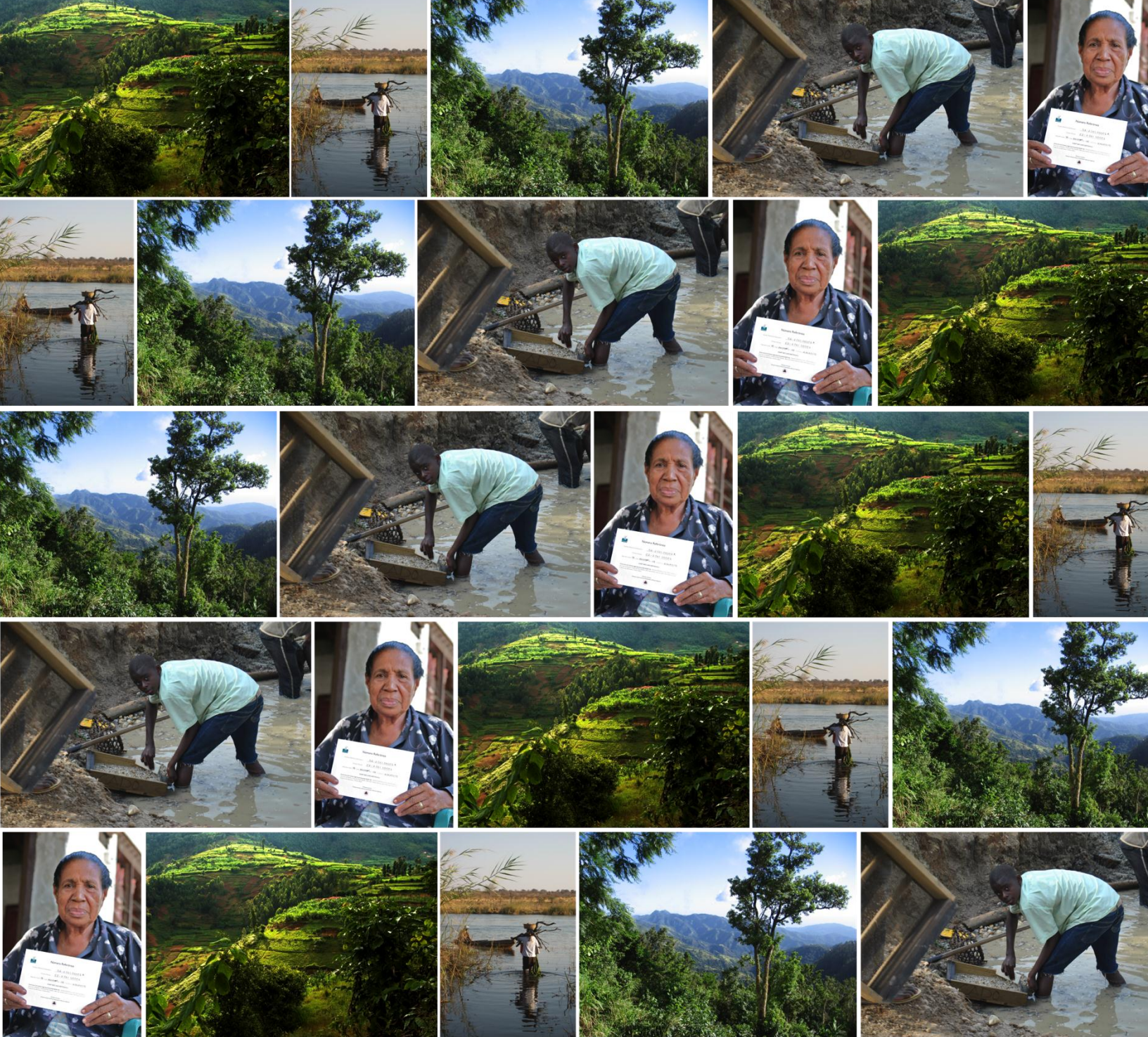
**Willing buyer/willing seller:** Generally used in the context of land reform or land redistribution programs where government avoids coercion or other actions to acquire land against the seller's interest. Rather, land redistribution reinforces land market transactions where seller and buyer willingly negotiate over terms of sale. The buyer may be government on behalf of smallholders, tillers and communities, or private individuals or companies.

**Zoning:** A planning procedure where a designated area is allocated for a specified use or uses. This is a commonly used approach to planning, which identifies the uses to which the zoned land may be put and specifies the type, amount, and location of that development. It is planned to promote orderly development and to reduce or avoid inconsistent uses being adjacent to one another. (FAO, 2003)

## SOURCES

- Black, Henry Campbell. 1990. *Black's Law Dictionary*, 6<sup>th</sup> ed. West Publishing Co., St. Paul, MN. (Black, 1990)
- Bruce, John. 1998. "Review of Tenure Terminology," Tenure Brief No. 1, Land Tenure Center, University of Wisconsin. (Bruce, 1998)
- Bruce, John with Holt, Sally. 2011. *Land and Conflict Prevention*, Initiative on Quiet Diplomacy, University of Essex, United Kingdom. (Bruce and Holt, 2011)
- Choudhury, K., and Jansen, L. J. M., (eds.) 1999. "Terminology for Integrated Resources Management and Planning," FAO/UNEP, Rome.
- Dorner, Peter. 1972. *Land Reform and Economic Development*, Penguin.
- Garner, Byron, (ed.) 1990. *Black's Law Dictionary*, 9<sup>th</sup> ed. West Publishing Co., St. Paul, MN. (Black, 2009)
- Gérard Ciparisse, (ed.) 2003. *Multilingual Thesaurus on Land Tenure*, English version, FAO, Rome. (FAO, 2003)
- Leonard, Rebeca and Longbottom, Judy, (eds.) 2000. "Land Tenure Lexicon: A Glossary of Terms from English and French-speaking West Africa," International Institute for Environment and Development. (IIED, 2000)
- Münkner, Hans-H., and Kaunianen, Hagen Henry. 2000. "Fachglossar zum Orientierungsrahmen Bodenrecht und Bodenordnung der GTZ," GTZ. (GTZ, 2000)
- United Nations Economic Commission for Europe. 2004. *Guidelines on Real Property Units and Identifiers*, New York and Geneva, 2004. (UNECE, 2004)
- United Nations Economic Commission for Europe. 1996. *Land Administration Guidelines: With Special Reference to Countries in Transition*, Geneva. (LAG, 1996)
- United Nations Settlement Program. 2008. *Secure Land Rights for All*, Kenya. (UN, 2008)
- US Legal Inc. 2013. *US Legal.com Definitions*. Accessed 3 May 2013. <http://definitions.uslegal.com> (US Legal, 2013)
- Wikipedia contributors, "Land Grabbing," *Wikipedia, The Free Encyclopedia*, [http://en.wikipedia.org/wiki/Land\\_grabbing](http://en.wikipedia.org/wiki/Land_grabbing) (accessed May 16, 2013). (Wikipedia, 2013)





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