Land Policy and Administration

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Property Rights and Resource Governance
Issues and Best Practices
Washington, DC
October 2012
“Land policy lies at the heart of economic and social life and environmental issues in all countries.”

“An official statement by a government of its intentions and plans regarding the conservation, use, and allocation of land, but does not have the force of law.” - EU
Continuum of Land Rights

Continuum of land rights

- Formal land rights
  - Registered freehold
  - Leases
  - Group tenure
  - Adverse possession
  - Anti evictions
  - Occupancy
  - Customary

Informal land rights

Perceived tenure approaches
- political statements
- service delivery without legal tenures

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July 1996. Land Policy

“recognizes the finite nature of Country’s land resources and the need to correct decades of indiscriminate use and poor development practices.

The policy aims to complement socio-economic development plans and programmes including poverty eradication, whilst challenging and seeking to remove inefficient, onerous and outdated legal, administrative, management and other barriers.”

1999 – Public Sector Modernization Project
2001 – National Land Agency
Land Policy

- Customary Tenure Forms (Pastoralists, ethnic, religious groups)
- Land redistribution
- Land consolidation
- Land divestment
- Land acquisition
- Increased Agricultural Productivity
- Protection for disadvantaged groups
Land Policy

- Decentralization of services
- Improved Service Delivery
- Improved Food Security
- Post conflict
- Protection of Commons
- Peri urban/Urban – Housing/Shelter
- Biodiversity Protection
- Resource Management/protection
- Increased Investment
Land Legislation

- International Treaties
- Regional Agreements
- National Constitutions
- National Laws
  - Statutory Law
  - Customary Law
  - Religious Laws (Sharia)
- Harmonization-simplification
- Legislative Drafting
- Regulations
- Notaries
- Access
- Modernization (E-Commerce, E-Conveyancing, Digital Signatures)

“Act of making or enacting laws, usually by a legislature or other governing body”
‘THE PROCESS OF DETERMINING, RECORDING AND DISSEMINATING INFORMATION ABOUT OWNERSHIP, VALUE AND USE OF LAND, WHEN IMPLEMENTING LAND MANAGEMENT POLICIES’ (UN/ECE, 1996).
Land Administration

- Acts as a basis for sustainable development
- Sustain stability & economic development by recognizing all property rights that promote internal confidence between its people, its commercial enterprises and its government,
- Property rights are a major source of national wealth
Land Administration

- States that prosper promote widespread and secured ownership of property rights as a foundation of agricultural, social and economic policy,
- Protect rights of disadvantaged groups (particularly as value of land increases).

“This is the judgement of sober men Will be this long desired Registry Upon whose fond none can be cheated when They trade or trust on that security Which if it pass as it is now fitted The just are double blessed, the knaves outwitted”

Andrew Yarranton ‘A Plain Dealer’s Prayer for a Registry’ 1660 England
Land Administration: Good Governance Challenges

Customary
- Recognition
- Capacity
- Migration
- Transparency/Doc
- Equity/Abuse
- Authority Figure recognition/disputes
- Boundaries

Statutory
- Centralization
- Lack skilled/well paid pers.
- Barriers to entry high
- Data/Standards/Complete
- Power Elite
- Institutional competition/complexity
- Outdated land legislation
- Lack of maintenance/funding

Private Sector  Value added products  |  Professional organizations  |  Services
Land Administration – Challenges for Women

Disadvantaged groups may include women, single males, heirs, and the poor - with women often being completely “left out” of the land administration process.

Considerations to assure inclusion/participation:
- Civil registration of marriages, births
- Creation of joint titling “forms” and incentives to encourage joint titling
- Specific effort to identify and record women’s rights during systematic registration/data collection
- Education and awareness
Land Administration

- Access/Delivery of Service
- Understandable Procedure for Recognizing Rights
- Effective, Equitable, Secure Documentation of Rights
- Protection against Infringement of Rights by Others
- A Public Record of these Rights so Others Know
- Records Complete and Incontrovertible Proof
- Convenient Methods for Transferring
- Effective Procedures for Preserving the Written Record
Cambodian soldiers accused of land rights abuse in Prey Trolach forest
Sections of community forest allegedly bulldozed despite prime minister Hun Sen forcibly speaking out against land seizures

Mark Tran
guardian.co.uk, Friday 3 August 2012 13.35 BST

Uganda election: Politics and land rights collide in the country's oil-rich east

The surge in land deals
When others are grabbing their land

Evidence is piling up against acquisitions of farmland in poor countries

May 5th 2011 | from the print edition
Possible Interventions

- Develop and maintain a land policy
- Modernize/simplify/harmonize legislation
- Public Sector Modernization
- Capacity Building – Statutory and Customary
- Develop private sector capacity – surveyors, lawyers, realtors, assessors etc.
- More inclusive and flexible approach to Customary Tenure forms
- Rights based approach → move incrementally along the continuum of tenure
- Flexible cadastral systems
- Spatial Information → key to land administration - NSDI