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Land Tenure and Land Administration Systems

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Land Tenure and Property Rights Issues and
Best Practices Workshop

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Terms

- Land tenure
- Land governance
- VGGT
- Land administration
- Land reform
- Land formalization
- Summary





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What is land tenure?

- Largely synonymous with “property rights”
- Rights and obligations in land & resources and immovable things on land (buildings)
- Rights exist along a continuum
 - From pavement dwellers with no rights to
 - Tenants with some rights for a term to
 - Fee simple/freehold owners with a “thick” bundle of rights for an indefinite term
- Why are secure property rights/land tenure important?
 - Allocate resources (by gift, sale, inheritance, etc.)
 - Reduce conflict (by clarifying rights & obligations/boundaries)
 - Creates positive & negative incentives
- Lawyers often talk about a “bundle of rights”



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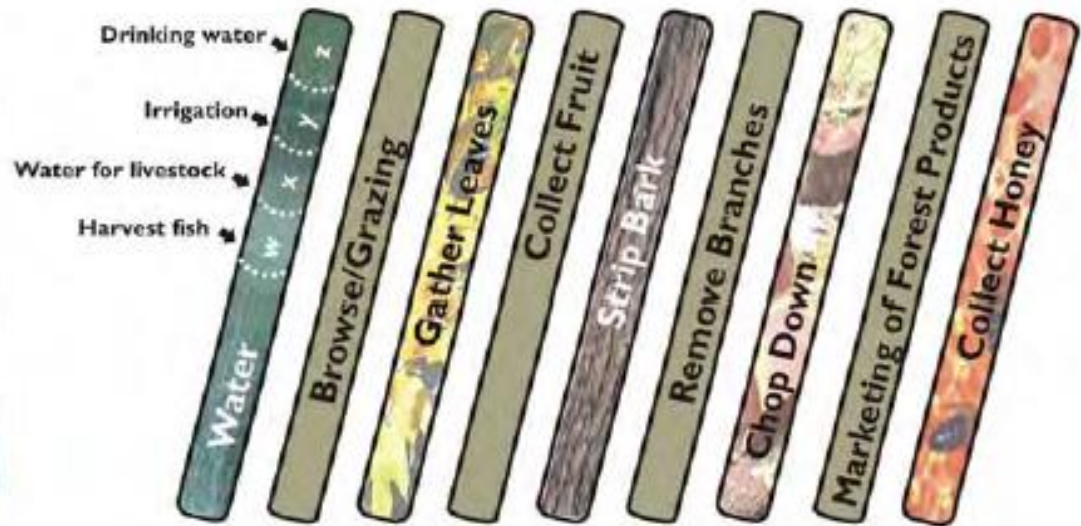


Sticks in a bundle

A bundle of rights



Resources



Use Rights



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Basic elements include

- How do we classify land?
 - By how things are “owned” (freehold – unlimited term), tenancy (leasehold – limited term), usufruct (use right, such as: concession)
 - By who “owns” things: private (individual or communal), state (public), open access (no one owns – the high seas)
- Tenure systems evolve to meet local needs, changing local conditions
- Tenure rules can be formal (statutes, Constitutions) or informal (customary/religious rules)



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What is land governance?

- The rules, processes, structures and institutions through which decisions are made about:
 - How to allocate & use land
 - How to transfer land
 - How to enforce rights to land
 - Sanctions for violations of rules
- Includes:
 - Formal legislative and policy framework AND
 - Informal/customary law framework
- Land = power; land governance institutions may be the source of much corruption
 - They should be accessible, affordable and transparent



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What are the Voluntary Guidelines (VGGT)?

- The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the National Context of Food Security (VGGT)
- Best practice tracks guidance provided in the document
- Unanimously adopted by 96 countries & EU in May, 2012
- Voluntary international law focused on:
 - Improving land governance, particularly at national level
 - Supports recognition of customary land/resource rights
 - Strong focus gender equality in land relations
 - Encourages private sector to adopt participatory practices, community engagement and more rigorous assessment of impacts



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What is land administration?

- The structure for managing land relations
- In formal sector typically includes the following:
 - Title or Deeds Registry (the place/s where information about ownership and claims are stored, may or may not be digitized)
 - The Cadastre (the office that holds surveys and maps of particular pieces of land and ownership information)
 - Land Valuation services (the offices that place a price on parcels based on historic and market information and set tax rates)
 - Private surveyors or Mapping/Surveying agency (the offices that create maps for land use planning, settlement development, etc. and that scientifically identify boundaries)
 - Notaries, who authenticate transactions on land and issue deeds
 - Judiciary and other formal dispute/conflict resolution institutions



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What is land reform?

- Reforms designed to strengthen property rights and security including:
 - Land law/policy reform
 - Land rights formalization (via registration and titling or certification)
 - Reform of land management/land administration practices
- Some reforms aim to strengthen access
 - Redistributive land reform
 - From large private holders or the state
 - Expropriation or market mechanism
 - Tenancy reform and other law reforms
 - Restitution
- Other efforts: regulatory interventions
 - Land use planning
 - Land consolidation



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What is land formalization?

- Government recognition of rights
- Titling: a government issued document held by a person or group, recognizing rights to a specific piece of land. Evidence of ownership.
- Certification: a government issued document held by a person or group, recognizing (typically) more limited rights to a piece of land. Also evidence of “ownership.”
- Registration: creation of an official, public record of the right.
 - Sporadic titling: Demand driven, private initiative.
 - Systematic titling: Policy driven, public initiative.



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In summary

USAID best practices include:

- Programming that enhances “security of tenure” (your rights and access to land and resources are secure for your use) for all –
 - Women’s land & inheritance rights may need special attention
 - Rights of other vulnerable groups may need special attention
- Recognition that a continuum of rights exist & programming can focus on incremental change to help move people along the continuum
- Support programming that makes land governance accessible, affordable & transparent for all