Terms

- Land tenure
- Land governance
- VGGT
- Land administration
- Land reform
- Land formalization
- Summary
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”
Sticks in a bundle

A bundle of rights
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)
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
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
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
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
    o From large private holders or the state
    o Expropriation or market mechanism
  – Tenancy reform and other law reforms
  – Restitution
• Other efforts: regulatory interventions
  – Land use planning
  – Land consolidation
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.
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