What is Tenure Security? Why does it matter?

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Land Tenure and Property Rights Issues and Best Practices Workshop
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Formal v. informal systems

- Land is governed in different ways:
  - By government (formal statutory/constitutional systems)
  - By non-state actors (customary systems; social/family tenure)
  - Informally but not through a traditional governance system (informal settlements)
  - When systems overlap this can create uncertainty for people and insecurity
What IS customary land tenure?

- Devolved governance systems managed by local leaders – often through social/family arrangements
- May provide high levels of security
- Exists in many parts of the world
- What are the strengths/weaknesses of these systems?
  - They are the primary source of legitimacy for most people in the developing world
  - They can provide sufficient security
  - However, increasingly under pressure, driving insecurity
  - They can also be discriminatory and
  - They evolve over time if not blocked by legislation
Examples of legitimate* customary property rights

*Legitimacy – recognition and respect of a property right by key (often local) stakeholders – is a key element of good land governance

<table>
<thead>
<tr>
<th>Actor</th>
<th>Type of rights</th>
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<tbody>
<tr>
<td>Community (historical and current)</td>
<td>Possession</td>
</tr>
<tr>
<td>Council of elders</td>
<td>Management rights</td>
</tr>
<tr>
<td>Household heads</td>
<td>Management rights at HH level; Use rights</td>
</tr>
<tr>
<td>Household members</td>
<td>Use rights</td>
</tr>
</tbody>
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An example of customary natural resource property governance from Guinea

The Property System

In Sogoloou village property rights apply to 7 defined areas held by 3 founding families.
All village residents must conform to management decision regardless of property rights

The Management System

Each year a **Council of Elders** representing all three families determines the date and location for rice production based on 10-year rotation, as well as the opening and closing dates for palm oil harvesting.
What is legal pluralism?
Concerns around legal pluralism

- Multiple land governance systems co-exist
- May be well or poorly coordinated; in the latter case, insecurity and conflict may arise.
- What might this mean if you are a farmer or a slum dweller?
  - You may be perfectly secure if no one is likely to evict you or assign your rights to others OR
  - You may face massive insecurity and cannot protect your claims or your access to land/resources
  - Or you may live with some level of insecurity between these extremes
  - Insecurity decreases incentives for long-term, costly investment
What makes tenure secure?

- Any tenure right has the potential to be insecure
- Security = an expectation that you can use land/resources for a period of time (it’s a subjective perception)
- Free from unreasonable interference from outsiders
- Ability to reap benefits of labor and capital invested, either in use or when leased or rented to another
- **Secure tenure creates positive incentives to:**
  - Invest
  - Conserve
  - Protect
  - Maintain security (prevent conflict)
What factors contribute to tenure insecurity?

- Corruption/poor governance
- Legal Pluralism
- Ambiguous/missing legal/regulatory frameworks
- Lack of information and documentation
- Lack of government capacity to administer land rights/access/manage processes
  - Lack of professional service provides
  - Lack of enforcement capacity
- Rising demand for land (large-scale land acquisitions)
Best practice: shoot for “secure enough” tenure

• You may be “secure enough” with:
  – Public recognition of customary or indigenous rights
  – Certificates that secure the rights to use or manage resources
  – Community-managed titling process
  – More formal strategies such as land titling or creating public land registries

• Secure enough for what? Reduced conflict, investment, better management

• USAID programming can move people from less secure to secure enough
Secure land tenure/property rights contribute to development objectives:

• Critical part of an enabling environment AND
• Often necessary, if not sufficient, condition to help achieve development outcomes:
  – Enhance food security
  – Reduce conflict
  – Address global climate change
  – Empower women
  – Improve governance and human rights
Key questions

• What makes tenure secure?
• What contributes to tenure insecurity?
• What are some examples of overlapping rights, contradictory rules, and competing authorities?
• How do specific events/trends – such as rising demand for land/resources, urbanization, disasters, climate change – highlight or interact with tenure concerns?