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# **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



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## 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



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## 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***

<i>Actor</i>	<i>Type of rights</i>
<i>Community (historical and current)</i>	<i>Possession</i>
<i>Council of elders</i>	<i>Management rights</i>
<i>Household heads</i>	<i>Management rights at HH level; Use rights</i>
<i>Household members</i>	<i>Use rights</i>



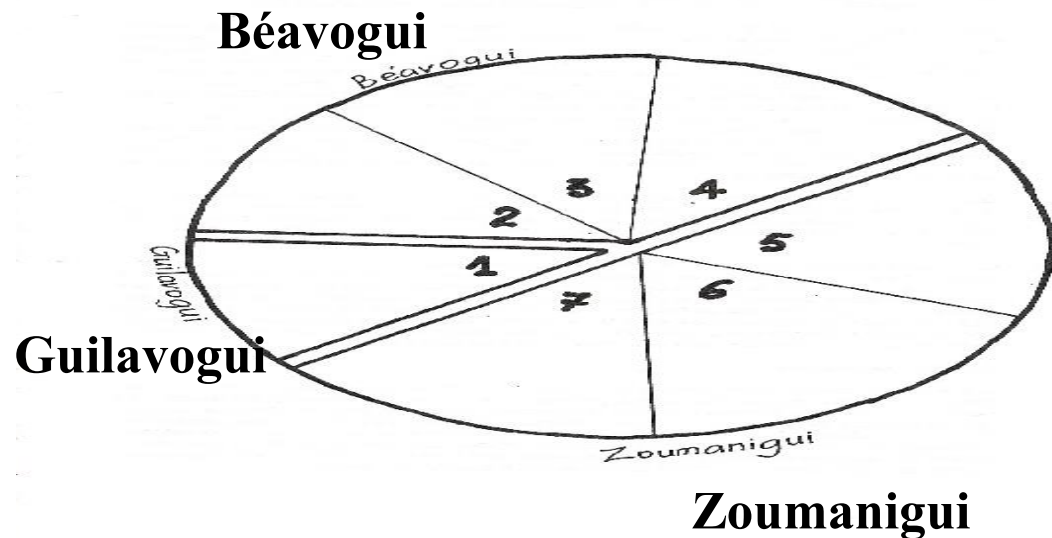
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## An example of customary natural resource property governance from Guinea

### The Property System

In Sogoloou  
village property  
rights apply to 7  
defined areas  
held by 3  
founding  
families







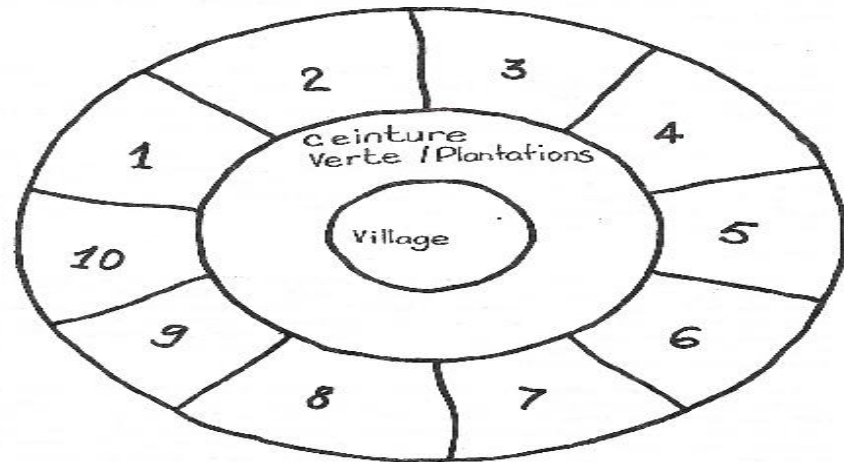
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**All village residents must conform to management decision regardless of property rights**

## **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.

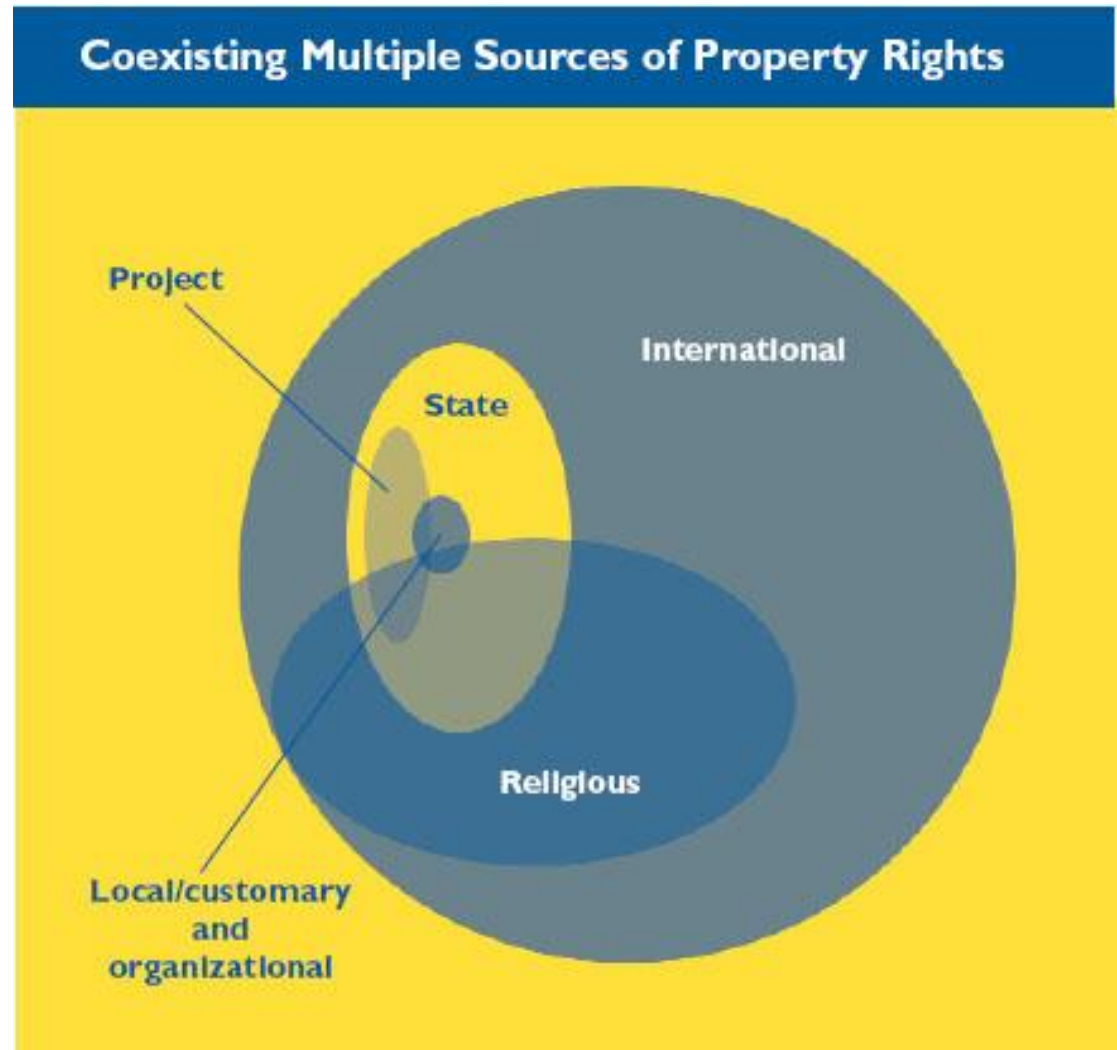




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## What is legal pluralism?





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## 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





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## 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)**



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## 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 providers
  - Lack of enforcement capacity
- Rising demand for land (large-scale land acquisitions)



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## **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



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## **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



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## 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?