

Department for International Development

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- improve the health of mothers
- combat HIV and AIDS, malaria and other diseases
- make sure the environment is protected
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Land

Better access and secure rights for poor people



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Contents

Introduction: landmark issues	1
How secure access to land can promote shared growth	5
Good governance – the vital ingredient in land reform	12
DFID's approach to land issues	21
Glossary	27
References	29



Former landless people proudly display their new title deeds in Bangladesh, thanks to the SAMATA programme which receives funding from DFID

Landmark issues

If rights to land and property are clear and secure, this can help to boost economic growth, tackle inequality and reduce poverty. These rights enable people to invest in their future which means they are more likely to do so. They open up space for new housing and provide opportunities for investment and accumulation of wealth, especially where rights can be used as collateral for loans. They also encourage business which stimulates economic activity. Secure property rights provide a basis for tackling disputes over land and can reduce the risk of conflict. And, once people have security of place, this provides them with a platform to establish a broader spectrum of rights.

Two major problems

Firstly, in many poor countries, **land distribution is highly unequal (Box 1)**. This slows economic growth and closes down opportunities for poor people.

Box 1: Unequal land distribution in India

Like many poor farmers, members of the disadvantaged dalit caste expected to benefit from laws that promised to redistribute state land to the landless. But in the last 10 years, less than 10% of the land earmarked for redistribution to people like the dalits was actually awarded to landless people, with the remaining 90% tied up in litigation and lying unused. For people, land markets provide an important alternative way for poor people who have been failed by land reforms to access land. However, restrictive legislation means that land rental is illegal in most Indian states. This denies another opportunity for families to gain a foothold on the ladder out of poverty.

Box 1

Secondly, poor men and women face barriers that prevent them from establishing **secure tenure** – rights to land and property. Insecure tenure makes people vulnerable to eviction, and discourages them from making productive investments. This is detrimental for poverty, growth and the environment in countries like Rwanda **(Box 2, 3)**.

“Growth benefits poor people most where access to land is fair”

William Easterly, MIT¹

¹ Easterly (2001)

Box 2: Insecure land tenure in Rwanda: the abandoned wife

With seven children Maria struggles to grow enough food on her tiny farm. After 20 years of marriage, her husband abandoned her for another woman. He denied Maria access to their land, leaving her no means to support her family. Although Maria begged the local authorities to recognise the farm as hers, since she had farmed it all this time, they refused. If the land had been registered in her name, as well as that of her husband, her rights would have been more secure, and she would have been able to continue using the land.

BOX 2

Box 3: Insecure land tenure in Rwanda: the vulnerable orphans

Innocent is a 17-year old orphan. After his father died, he and his younger brothers and sisters went to live with his aunt, who now farms the land they inherited from their father. When Innocent discovered that his aunt had sold off all the inherited land and spent the money on herself, he appealed to the authorities. But he couldn't afford to pay the bribes they demanded to nullify the sale. With no land, the children must struggle to find other ways to support themselves. Proper land registration, with all the children's names listed, would have strengthened Innocent's case.

BOX 3



Agricultural land in Rwanda, where DFID is supporting land reforms

Obstacles to reform

These twin issues – **fair distribution of land** and **secure tenure** – can be summarised as **secure access to land**, the big challenge facing hundreds of millions of poor people. To reverse the inequality, insecurity and exclusion faced by families like those of Maria and Innocent, institutions which govern access to land need to work effectively.

At the moment they don't – and here's why:

- Land is often held under different legal systems (such as statutory and customary), as well as under a range of informal systems².
- Excessive regulation imposes costs and uncertainty, which raises the price of access to land and denies access to the poor.
- Gender discrimination restricts women's ability to own or inherit land.
- Land registers are often incomplete and out of date.
- Institutions lack the capacity to deliver efficient land administration services; corruption is rife; and intended reforms are often hijacked against the interests of the poor.

But if the access of poor people to land is to improve, and if they are to secure their rights, then land reforms must accelerate. We need to make land markets work better for poor people and enhance their security of tenure. Actions to secure rights need more support, so that people can learn to use these rights in order to reduce their poverty. Success ultimately lies with improving governance – tackling the institutions and power structures that control access to land. And, given population pressures, we must pay special consideration to the particular challenges faced in both urban areas, and their ('peri-urban') outskirts where there is high pressure to 'convert' land into urban uses.

DFID works in a range of countries, regionally and with the international system (see Box 4). There are two priorities:

- First, connecting poor people to economic opportunities in a process of **shared economic growth** across a country's population.
- Second, **improving governance** so that poor men and women can gain secure access to land and property.

² In many African countries, formal tenure only covers between 2-10% of land. To extend the legal system to those living on informally held land, many countries have begun to recognise customary tenure and its institutions. This can be positive provided that customary arrangements uphold the rights of women.

Box 4: DFID activities on land and property rights at a glance



Box 4

A landless group in Bangladesh assess how their lives have changed as a result of being part of a programme to improve their rights [supported by DFID]

DFID currently has some £50 million worth of commitments on land and property rights.

Working at country, regional and international level, directly, or through our partners, DFID:

- supports initiatives in 21 countries: Afghanistan, Angola, Bangladesh, Cambodia, China, Ethiopia, Ghana, India, Indonesia, Kenya, Malawi, Moldova, Mozambique, Nigeria, Pakistan, Rwanda, South Africa, Tajikistan, Tanzania, Uganda, Vietnam;
- helps the African Union develop a regional framework to support national action plans on land;
- held national/state workshops, with the World Bank in Uganda, India, Ethiopia, and China in 2006. These will lead to the development of practical options for land policy and administration in each country, and improve access to land and secure tenure;
- provides funding and advisory support to help the Commission for Legal Empowerment of the Poor develop practical policy options – for better legal protection and economic opportunities for poor people; and
- helps to secure property and user rights in forest areas through support to the research, policy and advocacy activities of the global Rights and Resources Initiative.

How secure access to land can promote shared growth

DFID’s 2006 White Paper sets out how economic growth is the single most powerful way of pulling people out of poverty. Better access to land can play a large part in addressing the four big challenges for growth identified by the White Paper – ensuring **faster growth**, **tackling inequality**, making growth **sustainable** and enhancing **mobility**.

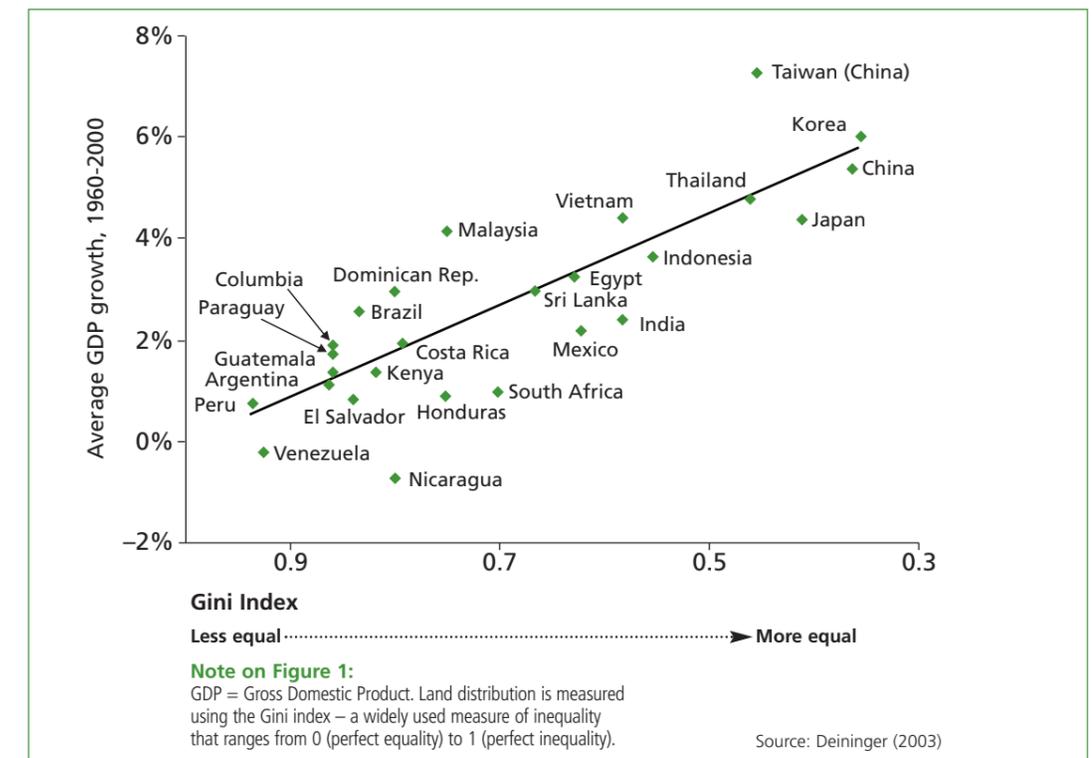
Faster growth

Economic growth tends to accelerate when people can access land fairly and efficiently, and when land tenure is secure (**Box 5**). Countries where levels of income are least equal have the most unequal distribution of land and property ownership⁴. These countries tend to have slower growth rates than those with a more equal distribution of land (**Figure 1**). At the same time, insecure tenure, restrictive land policies and inefficient land administration are formidable obstacles to investment.

“Growth is faster in countries where the initial distribution of land is more equally shared”

Dani Rodrik, Harvard³

Figure 1: Initial land distribution and economic growth in selected countries



³ Rodrik D (1998)

⁴ DFID (2004)

Box 5: The influence on growth made by access to land and security of tenure

- Analysis of 73 countries between 1960 and 2000 shows that those with more equitable initial land distribution achieved growth rates 2-3 times greater than those where land distribution was less equitable.
- Excessive legal and regulatory frameworks that impede land markets rob India of 1.3% annual GDP growth.
- Poor access to land was recently highlighted as the biggest barrier to business by 57% of enterprises in Ethiopia, 35% in Bangladesh, and 25% in Tanzania and Kenya.
- In Pakistan, two studies co-financed by DFID showed that insecure property rights (especially land titling), and poor enforcement of contracts, are major barriers to investment⁵.
- China's successful expansion of agriculture in the 1990s was largely due to the decision to open up land by allocating private plots.

Sources: Deininger (2003); World Bank (2005)

Box 5

Secure access to land reverses this situation by improving both the environment for business and the 'investment climate' – creating more and better jobs:

- DFID was the lead donor in 2006 of the Business Environment Strengthening in Tanzania (BEST) Programme, which supports the government with its Strategic Plan for the Implementation of the Land Laws.
- In Kenya, DFID and the World Bank are supporting a Financial and Legal Sector Technical Assistance Programme, which will improve the investment climate by helping digitise land records for the central business district of Nairobi.
- In Rwanda, land administration forms one of three components of an Investment Climate Facility for Africa initiative to improve commercial justice and registration services.

As well as attracting external investment, secure tenure encourages local people to make productive investments in agricultural land, businesses, homes and neighbourhoods. Few people will take the risk of investing savings and improving



New seedlings in Indonesia, where DFID has helped to strengthen land rights and give farmers the confidence to make productive and sustainable investments in their land. Photo: Multistakeholder Forestry Programme.

land and property that they might lose. However, the interests of external and local investors are not necessarily the same. If external investment is likely to increase land and property prices to levels which local people can't afford, inequality will increase, at least in the short to medium term. On the other hand, if regulations are not attractive enough to external investors they will go elsewhere.

For bigger investments, which require access to credit, private banks may lend to people who can offer clear and transferable property rights as collateral⁶. But this does not always happen. Poor people often find themselves unable to secure loans in this way, due to the high cost of handling small loans and a perceived high risk of default. At the same time, many poor people are reluctant to borrow from banks in case they lose their only asset. This highlights the related issue of improving poor people's access to credit.

As land administration becomes more efficient it saves more time and money – and land taxes generate revenue for local governments. The JNNURM⁷ programme in India, for example, promotes the upgrading of land registers and property tax collection efficiency as one of a series of urban reforms strengthening local governance.

In Ethiopia, some farmers see payment of land tax as a way of securing their leasehold and making their use of land legitimate.

In Egypt, people who live in urban slums also collect payment receipts for services as evidence of residence – using them to increase security of tenure.

Evidence from other countries also shows that people are willing to pay local taxes, providing the amounts are affordable, and that in return they receive benefits such as improved services. Increased demand for land, together with investment in infrastructure and roads, tends to increase land values.

Recognising that action on land is good for economic growth and poverty reduction, countries like Rwanda are, with support from DFID, giving land renewed emphasis in poverty reduction strategies.



Proper land registration means that poor farmers in Ethiopia have more confidence to invest in their land without fear of eviction. Photo: Dieter Telemans/Panos Pictures

⁵ DFID co-financed an Investment Climate Assessment by the World Bank, and an Administrative Barriers to Investment study by Foreign Investment Advisory Service

⁶ Using land title as collateral to unlock the 'dead asset' is a strategy for tackling poverty and inequality strongly argued for by de Soto (2003).

⁷ Jawaharlal Nehru National Urban Renewal Mission: <http://jnnurm.nic.in/>

Tackling inequality

'Shared growth' means giving poor people fair and equal access to economic opportunity⁹. Growth can be more beneficial to poor people when they have fair access to land and secure tenure (**Box 6**). Small entrepreneurs find it hard to transform good ideas into viable enterprises because of corrupt and inefficient systems of land administration and allocation. How land rights are defined, how its ownership – and access to it – is permitted, and how land disputes are resolved are critical factors in determining whether people can climb out of poverty.

“Barriers preventing poor people from accessing land have been a key strategy for limiting their economic advancement”

Klaus Deininger, World Bank⁸

Box 6: Secure land rights give opportunities to poor people

In Ethiopia, land registration has increased the volume of land rented and improved perceptions of security among poor farmers.

In India, DFID is working with the UN's Food and Agriculture Organisation to distribute basic homestead plots to landless people, giving them the basic assets to establish a home and generate a livelihood.

In Cambodia – where around 80% of rural households do not have a formal land title – the introduction of secure land rights in the form of a formal land certificate contributed to:

- Increased agricultural productivity of 60%, and a 12-20% increase in profitability of different crops.
- Increased land values of nearly 40%, and rental values of nearly 60%.
- Increased household welfare – a 24% increase in household consumption

After Holden et al (2006); Deininger and Jin (2006); World Bank (2006),

Box 6

⁸ Deininger (2003)

⁹ DFID (2006)

Certain groups remain particularly disadvantaged – for example on the basis of ethnicity, tribe or gender. In many countries, culture, tradition and formal legislation really stack the odds against women. Rural women produce 60-80% of the food in most developing countries, but in India, Nepal and Thailand, fewer than 10% of women farmers own land. Even where laws governing tenure and inheritance are more progressive, many women are still discriminated against due to lack of awareness or resistance to change (**Box 7**). The story of Maria (p.2) illustrates how land may be registered in the name of men only, regardless of who is using it. Widowed women may be thrown off the land in favour of male relatives, and single mothers may find it hard to get a land title. We must work to ensure that women are given the same options as men.



Women are the mainstay of farming in developing countries, but gender discrimination prevents many from owning or inheriting the land that they farm. Photo: Pierre Montavon/Strates/Panos Pictures

Box 7: Gender, growth and land in Kenya

Poor access to property rights prevents Kenyan women from accessing credit and limits their potential contribution to the country's economic growth. Kenyan women provide 70% of agricultural labour in the country, but only 1% of them own the land that they and their families farm. This makes them vulnerable to land grabbing.

In theory, women have inheritance rights¹⁰, and married women have equal rights to own property¹¹. But in practice, the justice system – from judges to chiefs – are unaware of these legal principles and do not apply them in the vast majority of cases.

A recent study of gender and growth in Kenya, supported by DFID, recommended that the government trained magistrates and traditional chiefs on women's land rights – particularly where statute law prevails over discriminatory customary law – and monitored the impact of this training on local property rights decisions. It also recommended enhanced awareness-raising on women's property rights and how they can be enforced, including the use of radio soap operas and will-writing campaigns.

After Holden et al (2006); Deininger and Jin (2006); World Bank (2006),

Box 7

¹⁰ As laid down in the Law of Succession Act.

¹¹ As laid down in formal statute law and the 1882 Married Women's Property Act.

But despite persistent and deeply-felt inequalities, change is possible. In India, Bangladesh and Cambodia our programmes and partners are helping to improve access to common property resources of tribal, landless and other marginal groups. And our work in Indonesia (**Box 10**) will not only provide economic and social opportunities for poor people – and possibly boost the local economy by \$1.4 billion with 1.6 million jobs – it is also greatly reducing tensions and violent conflict.

To influence policy decisions that affect unequal access to land, DFID is also helping the World Bank to gather and share evidence from China, Ethiopia, Uganda and India. This includes examining how women's land rights, and their prospects for generating income – can be improved by the use of land certificates and other measures that establish secure tenure.

Sustainable growth

Secure access to land provides an incentive to act sustainably. People are more likely to make investments which improve yields on existing land rather than expanding cultivation into marginal or forest areas. This helps to conserve natural resources and prevent further climate change. People are more likely to invest in good management of soil and water, and manage their resources more carefully, if they have clear user rights and security against eviction.

“Land policies are fundamental to sustainable growth”

Nicholas Stern¹²



Slope erosion on agricultural land in Rwanda

¹² Foreword to Deininger (2003)

Forest management practices improved in Nepal and Vietnam, for example, after rights to state forests were transferred to communities and individual farmers¹³. And in Indonesia, clarifying the property rights of indigenous people has enabled them to negotiate more effectively with outside groups and manage resources more sustainably¹⁴.

Enhancing mobility

Economic transformation relies on people's freedom to move, in order to take advantage of new opportunities. In Ethiopia, farmers' land will be redistributed to others if they leave it. This means they are reluctant to migrate which puts a brake on growth and economic diversification¹⁶. With secure land rights, people have the confidence to rent land to others and exit profitably from agriculture – migrating to more viable activities elsewhere.

Evidence from China shows that secure land tenure and effective land markets enhance agricultural productivity and support positive patterns of migration¹⁷. Economic migrants also rely on improved services in their urban destinations. This includes an increase in the availability of affordable land in appropriate locations for both existing and newly arrived urban poor.

“Development is a process of change – central to this is the shifting of people from the countryside to towns and cities, and secure land tenure is a key precondition for this”

Nicholas Stern¹⁵

¹³ Kajima et al (2000); Otsuka (2002)

¹⁴ Pye-Smith (2006)

¹⁵ Quoted in World Bank (2003)

¹⁶ Holden (2006)

¹⁷ See also DFID's forthcoming paper on 'Making Rural Land Markets Work'

Good governance – the vital ingredient in land reform

Despite all the benefits of shared growth that secure and affordable land can offer, land is far more than merely a productive asset. It is also a source of identity, status and political power. And policies and institutions governing land have been shaped more by these factors than by promoting an agenda of shared growth. The result is a diverse, complex and politically charged set of arrangements.

In order to negotiate these, there needs to be substantial progress in building the capacity, accountability and responsiveness of those institutions responsible for access to land. And we must see greater efforts to help poor people realise their rights.

The way a state handles land access is a good test of its broader commitment to good governance, poverty and human rights. So, while it is important to keep working for good governance overall, the land sector demands dedicated focus **(Box 8)**.

“ Good governance is closely correlated with improved access to land ”

Paul Matthieu, FAO¹⁸

Box 8: Targeting land within broader action on governance

In **Nigeria**, DFID undertakes specific actions on land in five states¹⁹ as part of a £30 million programme on security, access to justice and reducing corruption. Working through the British Council, DFID endeavours to reduce the time it takes for courts to settle land disputes. We are also working to improve the slow and costly business of registering and transferring land in the country. Progress is being made – the number of days to register a property has fallen from 274 in 2005 to 80 in 2006²⁰. DFID is also working with the Federal Ministry of Lands to develop best practice standards, and we are helping states to build the capacity of institutions that deliver land registration services so that they can achieve these standards.

Box 8

¹⁸ Matthieu (2006)

¹⁹ Lagos, Kano, Enugu, Benue, Jigawa

²⁰ According to the World Bank's Doing Business report <http://www.doingbusiness.org/>

The governance challenge

Many developing country governments are aware of the need for land reform and for efficient and equitable land administration, but their performance is notoriously poor. They face a range of problems including:

- Weak legal and institutional frameworks.
- Chaotic and corrupt land administration, arbitrary land acquisition and eviction.
- Inadequate arrangements for land dispute resolution.
- Breakdown of customary systems of common property resource management.
- Unsustainable systems of land use.

The main political challenge is that the more unequal the distribution of land, the more difficult it is to achieve reform. As a result, this diminishes the incentive for governments to try to achieve change. Unequal distribution of land is often strongly linked with broader inequalities, such as those based on ethnicity – potentially explosive issues which politicians may be unwilling to tackle.



In China, a man points to the land where his village was taken over for new construction activity. Photo: Panos Pictures

Powerful elites continue to use their discretionary power and influence over land allocation for political and personal advantage. Poor people are denied access to vital information and so are prevented from accessing land. This is the very information which encourages speculative land purchase by elites for massive profits. Landowners and land professionals with vested interests often obstruct simple, accessible and efficient systems for land transfer, land survey and the registration and collection of land information. Red tape and corruption in land administration make it costly and time-consuming for people to register land – even where land reforms have taken place **(Box 9)**.

²¹ Land is ranked third in Bangladesh, India and Sri Lanka; and is the most corrupt sector in Pakistan (Transparency International, 2002).

“ In South Asia, the land administration sector is in the top three sectors prone to corruption ”

Transparency International²¹

Box 9: How Russia's farmland was tied up in red tape

In the 1990s, one in three people in rural Russia received land shares totalling some 113 million hectares of agricultural land. But by 2003, 90% of these had been lost, because shareholders had failed to turn their shares into land plots and set up private farms within the allotted time. Why?

Because completing the entire procedure of turning a land share into an actual demarcated land plot takes, on average, 12 visits to six different institutions, involving 32 hours waiting in queues over a period of at least four months. It takes at least 53 more days to obtain rights to the plot, while the documents needed as part of that formalisation process often become invalid after only 10-30 days.

These highly bureaucratic processes meant that more than 10 million shareholders failed to secure their ownership of land before their claims became invalid – an estimated \$55 billion in lost assets. Many people lost their land, many farm enterprises went bankrupt, and people were coerced into selling land shares at low prices. Land redistribution alone does not work – in fact it can make people's lives a lot worse.

Source: CLEP, 2006

Box 9

The challenge facing DFID and our partners is that land reform on its own is not enough to improve access to land and security of tenure. There needs to be both broad political consensus and wider reforms – in short, the creation of effective states. Yet, despite the complexities involved in land issues, a multitude of positive stories show that it is possible to take small steps towards better governance in a difficult sector.

Improving community access to unused land

In Indonesia, DFID is helping civil society to strengthen farmers' voices and encouraging local government to respond. Helping poor people to access unused and deteriorating state land for agro-forestry activities reverses both poverty and environmental decline (**Box 10**). Mapping traditional territories has helped to clarify access rights and prevent illegal use of community forest land. But the initiative is about more than trees. Some 560

“Rural communities are beginning to stake a claim to land previously allocated to business interests”

Multistakeholder Forestry Programme²²



In Indonesia, DFID helps to secure community rights to gather forest products and manage the forest more sustainably. Photo: Multistakeholder Forestry Programme.

grants have been used to help resolve land-use conflicts, to teach farmers marketing skills and to strengthen the role of the media in promoting good governance. Corruption has been exposed, markets are opening, local government regulations are being reformed and old mindsets are changing²².

“With secure access to land I can plant cash crops and get income to send my children to school”

Ruslan, community leader in Tipulu, Sulawesi

Box 10: Transferring state land to community forestry in Indonesia

Ruslan is a community leader in Sulawesi who has endured decades of clashes between the authorities and the hundreds of families who use the forest land. An agreement brokered by the DFID-supported Multistakeholder Forestry Programme (MFP) has provided these communities with secure access to this former state land. “Now we can look to the long term,” Ruslan explains, “and we are planting tree crops like cashew and jackfruit, not just seasonal crops”. Many families can now afford to send their children to school and pay for medical care.

Smallholder forestry in Indonesia supplies a range of goods for poor households, but also makes a significant contribution to the economy. Wide ranging policy reforms under the MFP have meant that tens of thousands of people living in forest areas of Indonesia have been able to lift themselves out of poverty, with the prospect of millions more in years to come. These changes will also generate extra growth for Indonesia's economy, and play an important role in protecting the environment.

Source: Multistakeholder Forestry Programme

Empowerment of landless people

The rural landless of Bangladesh are among its poorest people. Around 3.3 million acres of public land allocated for redistribution to them has been illegally occupied, often in collusion with corrupt officials but the legal system responds only slowly as it is tied up with land dispute cases²³.

Since 2001, DFID has provided £11 million to two organisations, SAMATA and Nijera Kori, to help improve poor people's access to public land. To date, SAMATA and partners have supported the redistribution of land among 138,319 families and guaranteed that new land titles are registered in the name of both husband and wife.

In Bangladesh, the rural landless comprise 57% of the population

²² See Pye-Smith (2006)

²³ 70% of court cases in Bangladesh are land disputes

Box 10

These previously very poor people can now have an extra meal a day, are more likely to send their children to school and receive healthcare, and are beginning to benefit from a broader range of rights **(Box 11)**.

Box 11: No land, no voice – no longer.



Thanks to the SAMATA programme, Atiful Ata, formerly landless, is now a happy homeowner

With the help of SAMATA, **Atiful** has managed to build a homestead in a community of 60 formerly landless people. Like other settled families, she has been harassed by illegal landowners and had six legal cases, based on false accusations, brought against her – often around harvest time. But SAMATA has worked patiently and persistently to build dialogue with authorities and elites to find solutions.

Although the transition has not been easy, being a member of a SAMATA group has enabled Atiful to transform her life for the better. Gender equality has improved, she says, as has health and hygiene, including vaccination of children. She has received training in how to raise livestock and poultry, and together with vegetables from her small plot and locally-caught fish, Atiful has improved her family's nutrition. At the same time collective bargaining by the group has led to a 40% increase in the wages that her husband receives for labouring.

Source: Chakrabarti and Orton (2006) for DFID.

Box 11

Tackling forced evictions

People with insecure tenure rights are often forcibly removed from their land without fair compensation or due process. Recognising past injustices, the Kenyan government, supported by DFID, is developing national guidelines to prevent this happening. DFID also funds civil society action to tackle eviction, through the Centre On Housing Rights and Evictions. A Presidential Commission report on illegal and irregular allocation of public land recommended a formal and transparent legal mechanism to redress injustices. DFID supports the implementation of the report. And, working with two ministries and the Kenya School of Law, DFID is also funding the training of 7,000 members of the Kenyan Land Control Boards and Land Disputes Tribunals. This will improve local decision-making on land administration and management.

Dispute resolution: legal support for poor people

If poor people cannot afford to pay legal fees to pursue their dispute, an out of court resolution can be an eminently practical tool. In Tajikistan, DFID has helped to make legal services available to 800,000 people (12% of the population) by supporting Third Party Arbitration Courts (TPACs). These courts provide poor people with a cheap, fair and accessible way of resolving disputes and protecting their rights. They are particularly effective at defending the rights of women to land and property **(Box 12)**. So far, more than 500 disputes have been successfully resolved.

In TPACs, the two sides nominate a third party whom they both trust to mediate their disagreement. Although they operate independently of the formal legal system, decisions are still recognised by Tajikistan's official courts. This means that, where parties do not comply with a decision voluntarily, the state can step in to enforce it – although this has only been necessary twice in the last 300 cases²⁴.

The approach has ensured fairness, affordability and speed in the massive land reforms in Russia, Kyrgyzstan, Moldova, Ukraine and Georgia. Furthermore, it has played an important role in protecting livelihoods and ensuring social peace.

“Effective dispute settlement mechanisms are as important as land reform law itself”

Bruce et al (2005)

Box 12: Third Party Arbitration courts in Tajikistan

Istoda lives in a semi-rural settlement in northern Tajikistan. She discovered someone else was farming the land – for which she held a proper certificate issued by the local administration. This farmer had also received a proper rental contract for Istoda's plot, as part of a large land area at the edge of a local leisure park.

In just five days, the TPACs mediation resulted in an amicable settlement. New documents were signed, stipulating rental payment and duration of contract. Istoda received legal recognition of her land rights, a rental payment for the current year and subsequent use of the land. And the other farmer did not lose his prior investment in the land.

Following the civil war that ended in 1997, and large scale migration of men to Russia and Kazakhstan, Istoda is one of 25,000 women heading a household in Tajikistan. As she and other women have found, TPACs provide access to a system that no longer works against them.

Source: Brustinow (2006) for DFID

Box 12

²⁴ Brustinow (2006) for DFID.

Land rights in post-conflict situations

Competition for land, when combined with wider political factors, has played a part in numerous violent conflicts. For example, throughout Africa, disputes over patterns of changing land use have led to conflicts between agriculturalists and pastoralists. Land is affected by a complex network of power relationships, economics and inequalities. And where environmental degradation, climate change and population movement increase pressure on scarce resources, this can increase the likelihood of conflict and violence.

“Secure tenure is essential for peace”

Liz Alden Wiley²⁵

On the other hand, land rights can form a critical element in peace-building, stabilisation and economic reconstruction in post-conflict situations. If countries emerging from conflict are to begin the process of economic recovery, resettle refugees and displaced people, and prevent land grabbing by the powerful, they will have to deal with land rights. And they have to do this while avoiding further social tensions, injustice or secondary conflicts.

Although the challenges vary considerably, it is possible to identify five commonly used approaches to tackling land rights issues in post conflict situations²⁶:

- Reparation, including restitution of property to victims (as seen in Kosovo)²⁷.
- Supporting mechanisms for resolving land disputes.
- Creating or reforming land registries to protect property records.
- Opening up additional stocks of usable land, for example through removing mines, using irrigation, reallocating state land.
- Undertaking comprehensive reform of laws and institutions for managing, registering and allocating land. This is particularly the case if the conflict was partly motivated by grievances about land (as it was in post-apartheid South Africa), or if a post-conflict country is newly independent, or switching from a socialist to a free market system (as in Mozambique and Cambodia).

²⁵ Alden Wiley (2006)

²⁶ FCO (2006)

²⁷ Restitution of property is increasingly recognised under international law, e.g. para 19 of the UN Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of International Human Rights and International Humanitarian Law, adopted by UN General Assembly on 16 Dec 2006, at <http://www.ohchr.org/english/law/remedy.htm>



Despite the signs warning of unexploded land mines, people in Cambodia risk serious injury and death to themselves and their livestock in order to make a living. Photo: Sean Sutton/MAG/Panos Pictures

All of these approaches involve more than mere money and administrative capacity, they require significant political will. There are few quick wins in improving access to land and securing tenure, and this is particularly true in post-conflict situations. It is always difficult to judge exactly how much can or should be done. And the stakes are very high, because reforms can significantly shape a country's future social and economic structures.

But post-conflict situations – with the benefit of heightened international attention and aid – can sometimes provide a rare window of opportunity to deal with deeply rooted problems²⁸. That is why in countries like Rwanda, Mozambique, Angola, Tajikistan, and, most recently, Afghanistan (**Box 13**) DFID has supported efforts to resolve land disputes and reform land tenure.

²⁸ Countries like Taiwan and South Korea successfully used the post-conflict period to implement comprehensive land reform. Rwanda amended women's property rights after the 1997 genocide.

Box 13: Fairer policies and clearer rights as part of peace-building and post-conflict reconstruction

Resolving tenure security in **Afghanistan** is an essential part of stabilising rural areas and reversing 20 years of economic and social decline. War and drought have caused traditional land management practices to break down, leading to insecure and unclear land rights that promote unsustainable use of pasture. Dwindling natural resources are a major cause of declining social welfare and increasing instability and conflict in the rural communities that make up 70% of the population. Working with the Asian Development Bank, DFID is helping the government tackle the situation by clarifying rights and building local agreements over the management of pasture. A national land policy is being prepared, together with a new land titling and registration system, in order to make land administration more efficient and fair.

In **Angola**, civil war led to many people relocating in the capital, Luanda. To tackle the consequent problems of urban poverty, and to support the peace process, DFID co-funds the Luanda Urban Poverty Project. This aims to influence fairer and more inclusive policies, and best practices for poverty reduction in Luanda. Civil society has been encouraged to take a more active role in advocacy alongside the government. Angola's recent Land Law was published in local newspapers – a new step in transparency – and public consultation on planning issues has improved.

Box 13

DFID's approach to land issues

Our policy

DFID helped to shape the EU Land Policy Guidelines (2004), which provide a framework for member states when designing support to land policy and land reform processes. They include practical policy and operational advice for practitioners, enabling them to assess the land situation at country level²⁹.

Improving poor people's access to land is one of seven priorities for action included in DFID's 2005 Agriculture Policy Paper³⁰. It is also highlighted by the Commission for Africa Report, particularly the challenge of addressing barriers to land access based on gender³¹. And it forms one of four pillars of the New African Partnership's (NEPAD) Comprehensive African Agricultural Development Programme, which DFID supports.

Tackling both rural and urban problems

Restricted access to land and property hurts poor people in both urban and rural areas. Around a billion people live in slums in urban and peri-urban areas (UN Habitat, 2006) and without action this number is expected to double by 2030.

Population densities, land values and competition over land rights are much higher than in rural areas – increasing the potential for disputes and heightening the risk of conflict. In this context, people may need the enhanced security offered by a formal individual title, in order to establish clear rights to land and property. Nevertheless, in



Slum area of Kinshasa in the Democratic Republic of Congo

some urban areas leasehold and communal tenure arrangements are also being successfully implemented. Experience suggests that the key to building secure and legitimate tenure is to build on what works locally³².

The same is true in rural areas, where evidence shows that individual, communal, freehold and leasehold arrangements improve agricultural

²⁹ A short version can be found at: http://eur-lex.europa.eu/LexUriServ/site/en/com/2004/com2004_0686en01.pdf

³⁰ This can be found at <http://www.dfid.gov.uk/pubs/files/growth-poverty-agriculture.pdf>

³¹ <http://www.commissionforafrica.org/english/report/introduction.html>

³² For more detail on urban slums, see Moreno (2003) and UN (2003)

productivity³³. Different forms of tenure have the potential to offer sufficient security to encourage farmers to transfer land to more productive uses, or to more productive users, through sale or rental. In particular, leasehold and sharecropping arrangements may offer effective ways for poor people to access agricultural land that they cannot afford to buy³⁴. In remote areas – where more extensive use of forest and pasture resources is important for livelihoods, and where there is sufficient collective identity and interest – communal title may be an alternative, often not recognised by law. Selecting the best way to secure people’s rights needs to be matched to the context.

As urban areas expand into rural areas, they are more likely to be affected by traditional tenure systems (**Box 14**) and this presents land administration agencies with major challenges. Nevertheless, even small improvements in tenure status can encourage large numbers of people to improve their homes and living conditions.

Box 14: Making traditional systems more effective and accountable in Ghana



Clearer and more secure land rights will help to avoid disputes over land held under traditional systems in Ghana

In many African countries, ‘official’ state land laws co-exist with a diverse range of traditional systems and this makes land a complex and divisive issue. Ghana is a case in point, where access to 80% of land is controlled by a range of traditional tenure systems. There are some 60,000 unresolved court cases over land disputes. Problems associated with land rights are seen as the key obstacle to poverty reduction, private sector development and growth, and a major source of conflict.

Working with the World Bank, DFID is helping to coordinate support to the government’s Land Administration Project (LAP), including \$9 million funding. This aims to improve the effectiveness, transparency and accountability of traditional authorities (Customary Land Secretariats). Involving government, traditional leadership and the private sector, the initiative will benefit poor people. It will reduce the cost of registering land claims, cut out excessive red tape and rent seeking, and make the land allocation process more transparent, and land rights clearer and more secure.

Box 14

DFID’s approach recognises that urban and rural areas are increasingly linked by livelihoods, economics and migration. For example, in Southern Africa, DFID has two linked land programmes, totaling £2 million over two years:

- Urban LandMark aims to improve institutions and regulatory frameworks that make urban land and property markets work better for poor people.
- An associated rural land programme aims to help farmers to secure access and ownership rights to their land during the land reform restitution process, and provide post-settlement support to help them turn these rights into meaningful livelihoods.

Supporting country-led approaches

DFID is a lead development agency on land issues in a number of countries, including Rwanda, Tanzania, Kenya and South Africa. We support the work of other donors (such as China) or NGOs (as we do in Bangladesh), and help bring together the activities of government, donors and NGOs (as in Uganda). In most cases we contribute to multi-donor efforts.

Our work reflects the context of each country and ranges from urban land issues (Angola and, in part, South Africa) through support for land tenure reform (Rwanda), land titling and registration to land and governance (Nigeria and Malawi), and promotion of access rights by the poor (India and Cambodia).

DFID responds strategically when there are political opportunities to make progress on land reforms. In Kenya, for example, DFID is providing technical assistance to the Ministry of Lands to finalise the National Land Policy, together with its associated implementation framework and a multi-donor investment plan. Other recent actions include a reform assistance programme in the highly politicised land environment in South Africa; and a programme to strengthen poor people’s rights in Mozambique – developing their awareness of the country’s progressive new land legislation (**Box 15**).

“There is no template for land policy. What works in one country may not be suitable in another ...and land reform is not short term. It is a long term commitment”

Keith Bell, World Bank

³³ For more detail and DFID’s policy position on access to land and secure property rights for agricultural growth, see DFID (2005)

³⁴ For more detail, see DFID’s forthcoming paper on ‘Making Rural Land Markets Work’.

Box 15: Strengthening land rights in Mozambique



Scaring birds from the fields in Mozambique, where DFID is helping to improve people's awareness of the rights offered by the recent Land Law.

New land legislation in Mozambique recognises customary rights and women's individual rights to land. It also emphasises the importance of community consultation and agreement by those applying for or investing in land use. But despite the efforts of the government and civil society to spread the message, community awareness of their rights under the Land Law is still very weak

DFID leads a Community Land Use Fund, open to communities and civil society organisations, in three provinces³⁵. Working with five other donors, DFID is contributing half of the £4 million budget between 2006 and 2011. The programme will help

rural communities to register their land rights and negotiate economic benefits from land concessions – by helping government, private sector and NGOs to provide better services. It will raise awareness of the Land Law and link policy with practical actions, and integrate land rights allocation with local development planning. Lessons learned from the Fund will inform DFID's future activities.

Box 15

DFID's technical, political and institutional expertise comes from advisers in several disciplines, as well as links with UN agencies, other donors and international and local experts. This blend allows us to take a flexible approach depending on the situation. In Rwanda, for example, DFID's lack of colonial baggage is seen as an advantage; while in Ghana we have transferred expertise from other African countries.

DFID will do more where committed partner governments request support for their land reform processes and where we consider they are committed to supporting change. In Rwanda for instance, DFID has helped a government which is committed to making land administration fair and transparent, by supporting a consultation process leading to the development of a policy and legal framework. The ongoing task in Rwanda is to work out the detailed systems and safeguards for establishing decentralised land services.

³⁵ Gaza, Manica and Cabo Delgado.

In line with DFID's wider commitment to promote gender equality, we will also ensure that our work on land gives appropriate emphasis to improving women's rights of access and inheritance³⁶.

But action on land will only be effective when it forms one element of broader reforms, matched to the specific needs of the country in question. If poor people are to exercise newly acquired land rights, they need a range of support services. Only when they have access to information, affordable legal advice, methods of dispute resolution and access to markets, credit and agricultural opportunities, will they feel empowered to claim their rights and to turn these into improved livelihoods³⁷.

Ill-conceived or hasty land reforms can exacerbate, rather than relieve, political tension – making things worse for poor people as was seen in Cote d'Ivoire and Zimbabwe. In particular, land reforms in fragile or conflict-affected states are unlikely to be effective without wider political resolution of underlying causes of fragility and conflict. There also needs to be support, training and secure title for existing and resettled occupants of land.

DFID's advisers share learning and experience through our land and property rights network, which connects country programmes to central policy and regional teams. Advisers and policymakers can get advice on land policies and administrative systems for improving agricultural growth from the DFID-supported policy research programme with the World Bank. This draws on new research in India, Cambodia, Vietnam, Tanzania, Uganda, Ethiopia and China. DFID also draws on analysis of the role and impact of urban land title programmes to inform policy of tenure policies and urban development work.

Supporting global initiatives

DFID supports the **Commission for Legal Empowerment of the Poor (CLEP)**³⁸, an independent global body that seeks to reduce poverty by expanding legal protection and economic opportunities for the poor. One of CLEP's five working groups focuses on property rights. Co-chairs Madeleine Albright and Hernando de Soto are supported by commissioners who include Gordon Brown. DFID has provided an adviser and programme funding to this global initiative to embed lessons from Eastern Europe and Central Asia on land reform and dispute resolution. We also support working group activities to develop practical policy options and implementation strategies for governments and development agencies.

³⁶ DFID (2005; 2006; 2007)

³⁷ CLEP (2006)

³⁸ <http://legalempowerment.undp.org/>

The relationships between forests, poverty, climate change and growth are strongly affected by governance and conditions of tenure. We want to tap the potential of forests for poverty reduction, preventing further climate change and sustainable economic development. This requires politically complex trade-offs and negotiations between different groups interested in forest conservation and exploitation.

DFID supports international and local processes which address this situation through the global **Rights and Resource Initiative**. This is an international coalition of research and non-government organisations that combines the efforts and expertise of leading community, conservation and development organisations. It aims to encourage greater global commitment and action on tenure, policy and market reforms that work for poor people.

The main goal of the Initiative is to reduce poverty among the 1.4 billion poor people whose livelihood depends on forests. It will do this by supporting action to increase the forest area under local ownership and administration, with secure rights to conserve, use and trade forest products and services.

Concerned and committed

DFID recognises the importance played by secure rights to land and property in reducing poverty and encouraging equality. We are committed to supporting poor countries' efforts to help poor people to gain fair access to land, without which they will not be able to build their livelihoods and secure a better life for their families and communities.



Secure rights to land and property give poor people some basic assets that they can use to improve their lives.
Photo: Sean Sutton/MAG/Panos Pictures

Glossary

The following glossary of terms is included in the EU Land Policy Guidelines followed by DFID.

1. LAND POLICY

- A land policy aims to achieve certain objectives relating to the security and distribution of land rights, land use and land management, and access to land, including the forms of tenure under which it is held.
- It defines the principles and rules governing property rights over land, and the natural resources it bears, as well as the legal methods of access and use, and validation and transfer of these rights.
- It details the conditions under which land use and development can take place and its administration. In other words: how the rules and procedures are defined and put into practice; the means by which these rights are ratified and administered; and how information about land holdings is managed. It also specifies the structures in charge of implementing legislation, land management and arbitration of conflicts.
- Land policy is contained in texts issued by governments, and is further developed through legislation, decrees, rules and regulations governing the operation of institutions established for the purposes of land administration, the management of land rights, and land use planning.
- To be effective, land policy must propose a practical and coherent set of rules, institutions, and tools, which are considered both legitimate and legal, and are appropriate for different context and interest groups.

2. LAND POLICY REFORM

In its broadest sense, land policy reform can involve deliberate changes to: the distribution of land resources or the forms of tenure under which they are held (land tenure reform); the rules regulating land use; and the institutions which administer and manage land and regulate land use. It may include an action on the distribution of rights itself (agrarian reform, regularisation, etc).

3. LAND TENURE

Land tenure should be defined broadly as the 'system of access to and control over land and related resources'. It defines the rules and rights which govern the appropriation, cultivation and use of natural resources on a given space or piece of land. Strictly speaking, it is not land itself that is owned, but rights and duties over it.

4. LAND RIGHTS

Land rights are not limited to private ownership in the strict sense. They can constitute a very diverse balance between individual rights and duties, and collective regulations, at different levels of family organisation, communities, local governments or state). One possible case might be private or family ownership. The rights and duties that individuals or a family hold are themselves embedded in a set of rules and norms, defined and enforced by authorities and institutions which may be those of rural communities and/or of the state. No system of land tenure can work without a body with the power and authority to define and enforce the rules, and provide arbitration in case of conflict.

In many countries, indigenous and tribal peoples are holding native title as collective entities through various forms of sui generis systems. The rights and duties attributed to individuals or other entities among those holding the native title will often be administered through their own social, economic, cultural and political institutions.

5. LAND TENURE SYSTEM

A land tenure system is made up of rules, authorities, institutions and rights. Land administration itself (maps, deeds, registers) is only one part of a land tenure system.

6. COMMON PROPERTY RESOURCES

Common property resources refer to land or other natural resources held in common by a group of people, such as a village or a community. Group members normally have defined rights of use to the resource, and individual members cannot appropriate it alone. Community rules allow the group to exclude non-members from using the resource, or determine the rules under which they are allowed to access it.

7. LAND ADMINISTRATION

Land administration involves a range of different functions. This includes information on rights and transfers, adjudication and arbitration supported by systems for:

- land survey,
- mapping,
- land information,
- land valuation,
- registration of rights,
- recording of transactions,
- issue of title,
- collection of fees or rents.

These functions can be fulfilled at different levels, by a range of bodies, such: as customary and traditional authorities; village level committees; district assemblies; local officials from the national administration; private sector operators; NGOs, under the supervision and control of national bodies.

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