

## Securing Land Rights

### The Background

According to World Bank estimates, about 70% of the world's population has no access to formal land registration systems.<sup>1</sup> Worldwide, only about 30 countries have functioning land administration systems.<sup>2</sup> In Africa, only 10% of the land area is registered.<sup>3</sup> Access to land in rural areas is predominantly regulated by rights of use according to local customary law. At the same time, demand for land is increasing and large-scale agricultural investment is on the rise. Globally, about 50 million ha land have already been the target of investors, of which 10 million ha are in Africa.<sup>4</sup>

Due to the population growth in Africa of approx. 2.3% per year, it is foreseeable that the demand for land will continue to rise both, for urban growth and for agriculture. Especially, peri-urban areas are under massive pressure due to the growth of cities. Sustainable land management under these conditions means not only legally secure access to land but also improved spatial and land use planning (see position paper "Integrated spatial and land use planning").

Land rights can be seen like a continuum (see Illustration 1).<sup>5</sup> On one side of the continuum, land rights are defined informally for individuals or groups. On the other side of the spectrum are registered land titles for communities (e.g. indigenous groups) or individuals registered in a modern land registration system. Other forms of rights exist between these poles.

Reliable access to land creates incentives for sustainable economic activity and encourages investment. This promotes economic productivity. In registered areas in

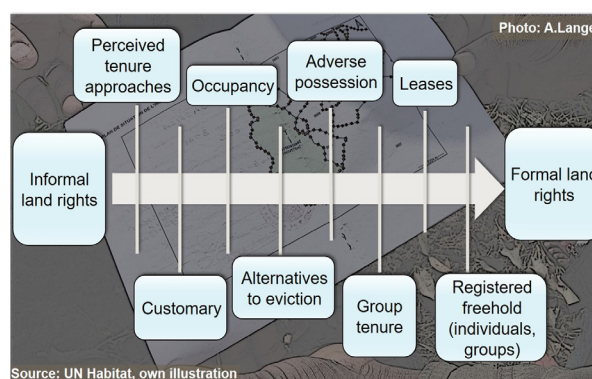


Illustration 1: The Continuum of Land Rights (Source: UN-Habitat. Photo: A. Lange)

Cambodia and Ethiopia, yields increased by up to 35% compared to unregistered households.<sup>6</sup> In Rwanda, registered households invested twice as much in dams or terraces.<sup>7</sup> Secured land rights are therefore an essential prerequisite for food security.

Often two different land rights systems face each other: The traditional land law, which is oriented towards communal use and anchored locally, and the state (or modern) land law, which is oriented towards private property. Rural regions are often characterised by traditional land law. Traditional authorities assign rights to individual groups or individuals, usually without written documentation. Since modern land law in many countries does not sufficiently respect traditional land law, violent conflicts sometimes arise.

In traditional systems, securing women's rights remains a major challenge. Often, women have only secured

rights of use due to family relationships with a male person. Women are often disadvantaged in matters of inheritance or divorce. There are frequently political or cultural reservations about granting women equal access to land. Modern legislation and traditional customs, such as divorce and inheritance law, occasionally contradict each other.

In large parts of Africa less than 10% of landowners are women, although they provide about half of the labour force in agriculture. Women invest more in nutrition, education and family health than men. In Rwanda, registered households run by women invested three times more in soil conservation than unregistered households run by men.<sup>8</sup> The OECD estimates that children in countries with gender-sensitive land rights systems are 60% less at risk of hunger.<sup>9</sup>

Land has a particularly high traditional, religious and social value for indigenous groups. Securing their collective rights is usually very effective. The deforestation rate in registered indigenous areas in the Brazilian Amazon is 11 times lower than in other areas.<sup>10</sup>

In recent years, governments have repeatedly defied traditional rights and awarded land to national or international investors.<sup>11</sup> In some cases, this has been done without compensation for existing users and has led to forced relocations in some cases (see position paper "Large-scale land acquisitions").

An uncertain legal situation and a non-inclusive registration system promote corruption. Transparency International estimates that one in five people worldwide has paid bribes in connection with land transactions in recent years. One in two people in Africa is affected.<sup>12</sup>

The traditional system is therefore increasingly reaching its limits. The challenges of a modernising economy and changing lifestyles (e.g. migration to cities, expansion of infrastructure, rising investments) as well as population growth require better documentation and legal security of land rights. In addition, the target groups are often not sufficiently familiar with international guidelines or the national legal framework. Only when the population know their rights, can they stand up for them.

The securing of land rights has been firmly anchored in the Sustainable Development Goals (SDGs). SDG objectives 1.4, 15.1 and 15.3 include equal access to land and its sustainable use. SDG objectives 2.3 and 2.4 emphasise

the importance of land rights for increasing productivity, income and resilience to climate change. Objective 5.a demands equal ownership and control of land for women.

Other international standards and guidelines for securing land rights are, for example, the "Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security" of the Food and Agriculture Organization (FAO), the "Framework and Guidelines on Land Policy in Africa" of the African Union and the Economic Commission for Africa of the United Nations (AU/ UNECA), the "Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security" (VGGT), the "Principles for Responsible Investment in Agriculture and Food Systems" (RAI), the "Kothari Guidelines" (Protection against Displacement) and the "ILO Convention 169" (Rights of Indigenous Peoples).

## Our position

In this context, GIZ takes the following positions:

### ■ No sustainable development without secure land rights

Legal certainty and long-term prospects for land use and property rights are key prerequisites for investment, economic development and sustainable and productive agriculture. Access to land must be socially balanced. We stand for the equal recognition and formalisation of the various possible forms of land rights according to the country context. This also includes traditional land rights and the land administrations used by traditional authorities. These should be formally recognised and integrated into the modern system, as this contributes to social and political stability.

### ■ Strengthen women's rights

Traditional systems do not always comply with human rights standards, e.g. with regard to women's rights. Therefore, certain protective measures (safeguards) should be observed during project implementation. It is important to promote the strengthening of women's rights by educating and advising partners, target groups and traditional authorities. Communicating the positive effects of rights for women should be a priority.

### ■ Promoting acceptance and alternative approaches

Land titles or certificates alone are not sufficient to secure land rights. They must also be accepted by the responsible institutions and the population involved. This requires changes in awareness and behaviour, both on the part of the implementing authorities and among the target groups. In addition, sanctions are needed so that violations of the land rights system can be punished. Alternative approaches such as local use agreements between all groups involved can also secure land rights. This applies in particular to areas in which, for example, cadastral systems are in conflict with local land use systems or can only be realised in the long term due to high start-up costs.

## Our recommended actions

GIZ considers the following the most important recommendations for action:

### ■ Strengthen the legal framework

GIZ supports governments in establishing legal and institutional structures. In Cambodia, for example, a white paper on land policy was drawn up with the help of GIZ and became the guiding document for the Cambodian government. In 2015, Namibia adopted the implementing provisions for the Flexible Land Tenure Act. This laid the foundations for the further implementation of land policies.

Since international guidelines such as the VGGT are often not implemented in national law, we recommend advising the partner on identifying and closing these gaps. This should be done jointly with civil society. In the Philippines, for example, an important part of land legislation could thus be aligned with the VGGT and fed into the political process.

### ■ Changing awareness

Depending on the local context, even simple measures such as the translation of important parts of legal texts or international guidelines into local languages can be very effective in educating the population about their rights. The implementing authorities and political decision-makers must be sensitised to the concerns of the target groups. Without these measures, there is usually a lack of willingness on all sides to participate actively. Radio pro-

grammes, theatre performances or films in local dialects and languages (e.g. in Namibia, Benin, Uganda or Laos) are often used for this purpose.

### ■ Formalize land rights

It is possible to formalise different forms of ownership, use or possession, as shown by projects with German support e.g. in Cambodia (3 million parcels) and Georgia (1.4 million parcels). In Namibia, around 160,000 parcels were surveyed on communal land and a third of Burundi's total state land was inventoried. In Peru, 19 indigenous communities benefited from the collective registration of their land.

The registration process should not cement existing injustices. Rather, rules are needed to secure rights for disadvantaged groups permanently. For this reason, agreements should be concluded between owners and users for the use of natural resources tied to the land.

The registration should be adapted to the needs of the owners, owners and users as well as the administrative capacity of the country. The International Federation of Surveyors (FIG) therefore recommends the use of the *fit-for-purpose approach*. The accuracy of surveying and the administrative burden of registering rights should not exceed US\$20-30 per plot in rural areas in order to maintain the ratio to plot value and ensure sustainable funding. The establishment and strengthening of land administration capacity must be based on the political will of the partner. A corresponding IT system for geo-data management is necessary for data maintenance.

### ■ Dealing with conflicts

Neighbourhood conflicts, e.g. with regard to the boundaries of properties, can often be resolved at local level within the framework of registration. Unresolved cases should be dealt with through mediation mechanisms at regional or national level. Successful examples are the administrative commissions in Cambodia or the communal land boards in Namibia. The courts can be involved depending on the country context. Conflict cases should be recorded digitally in monitoring. However, asymmetric conflicts between powerful and rather poor and weak parties can usually not be resolved.

## ■ Access to land for women

Women should be considered separately in all initiatives and measures. A particularly effective measure is to issue registration documents specifically for women or, where possible, for men and women together. For example, 70% of all registered land titles in Laos were issued either to men and women jointly or only to women.

## ■ Value land rights

Project experience has shown that accompanying measures make sense in order to better value secured land rights. For example, beneficiaries of land reform in Namibia were able to increase their productivity through training measures. Securing land rights can also be used as a supporting measure in rural development projects or to support landscape or soil rehabilitation.

## Literature

- GIZ. 2017. Understanding, preventing and solving land conflicts. Eschborn.
- GIZ. 2016. Land in German Development Cooperation: Guiding Principles, Challenges and Prospects for the Future. Eschborn.
- GIZ. 2015. Land Management and Land Administration Projects in Southeastern Europe. Eschborn.
- GIZ. 2014. A Decade of Communal Land Reform in Namibia. Windhoek.

## References

- <sup>1</sup> World Bank. 2017. "Why Secure Land Rights Matter" <http://www.worldbank.org/en/news/feature/2017/03/24/why-secure-land-rights-matter>
- <sup>2</sup> Lemmen, Christiaan. 2010. The Social Tenure Domain Model. A pro-poor land tool. International Federation of Surveyors.
- <sup>3</sup> GIZ 2016.
- <sup>4</sup> compare Landmatrix.org.
- <sup>5</sup> Compare UN Habitat. 2016. Fit-For-Purpose Land Administration: Guiding Principles For Country Implementation. Nairobi.
- <sup>6</sup> Markussen, Thomas. 2008. Property Rights, Productivity, and Common Property Resources: Insights from Rural Cambodia. World Development, 36, 11: 2277-2296; Melesse, Mequanint B./Bulte, Erwin. 2015. Does land registration and certification boost farm productivity? Evidence from Ethiopia. Agricultural Economics 46: 757-768.
- <sup>7</sup> Daniel Ayalew Ali/Klaus Deininger/Markus Goldstein. 2011. Environmental and Gender Impacts of Land Tenure Regularization in Africa. Pilot evidence from Rwanda. Policy Research Working Paper 5765, The World Bank, Washington D.C.
- <sup>8</sup> See Ali et al. 2011.
- <sup>9</sup> OECD Development Centre. 2012. At Issue: Do Discriminatory Social Institutions Matter for Food Security?
- <sup>10</sup> Oxfam, International Land Coalition, Rights and Resources Initiative. 2016. "Common Ground. Securing Land Rights and Safeguarding the Earth". Oxford: Oxfam.
- <sup>11</sup> BMZ 2012: Investitionen in Land und das Phänomen des „Land Grabbing“.
- <sup>12</sup> Women, Land and Corruption. Resources for Practitioners and Policy-Makers. Transparency International. 2018.

Published by:  
Deutsche Gesellschaft für  
Internationale Zusammenarbeit (GIZ) GmbH

Registered offices  
Bonn und Eschborn

Address  
Dag-Hammarskjöld-Weg 1-5  
65760 Eschborn, Deutschland  
T +49 61 96 79-0  
F +49 61 96 79-11 15  
E [info@giz.de](mailto:info@giz.de)  
I [www.giz.de](http://www.giz.de)

Responsible/Contact:  
Dr. Andreas Lange  
KC Rural Development and Food Security  
E [Andreas.Lange@giz.de](mailto:Andreas.Lange@giz.de)

In collaboration with:  
Klaus Ackermann, Jana Arnold, Jorge E-spinoza, Matthias Hack, Anita  
Hernig, Elke Matthaer

GIZ is responsible for the content of this publication.

Eschborn 2019