

# Land Tenure Reform and Decentralization



**T**here is renewed interest in land tenure reform policies in many countries as resources become more scarce and competition for land increases. Although the term “land reform” is still associated with redistribution of land, there are many types of land tenure reform or land policy.

#### SOURCE:

Meinzen-Dick, R., M. Di Gregorio and S. Dohrn. 2008. *Decentralization, Pro-Poor Land Policies, and Democratic Governance*. CAPRI Working Paper No. 80. International Food Policy Research Institute, Washington, D.C.

The following are the four major types of reform:

- 1. Land Registration.** This involves the recording of existing rights. Registration can include marking of plot boundaries, local mapping of holdings, and community land registries, up through full cadastral surveys and titling. In most cases, registration focuses on individual rights, but in some cases collective rights are registered, as in Liberia or Mozambique.

Codification can strengthen existing rights by making it clear that the state will enforce the rights that are duly registered. However, this may come at a cost to other users of the resource whose rights are not recorded. For example, when rights are registered in the name of the male head of the household only, it can also increase women’s insecurity of tenure. In Africa, some find the titling process a source of insecurity because elites would have an advantage in acquiring titles.

2. **Redistributive Land Reforms.** These reforms have been variously associated with objectives of increasing equity or productivity, reducing poverty, and responding to political demands and agitation. Redistributive reforms require a strong central government commitment, either to expropriate land from private land owners or to transfer state lands to individuals (a form of privatization).
3. **Restitution.** Land restitution can be seen as a variant of redistributive land reform that addresses past injustices, as in South Africa, Zimbabwe, in post-socialist societies such as Eastern Europe and Central Asia, or after a violent conflict. In addition to the challenges of regular land redistribution programs, land restitution is invariably linked to rectifying injustices of the past, and the state has to decide what constitutes legitimate claims to that end.
4. **Recognition of Land Rights.** State recognition of land uses that are already being exercised without government approval represents a fourth category of land tenure reform. The recognition of the land rights of customary land users or indigenous peoples provides an important example of such reforms. The rights of people living on land that the state claims as government property for protected areas (such as national parks), forests, or rangelands may also be strengthened or transformed through state recognition.

#### Informal Land Registration in Madagascar

Madagascar is an example of a highly decentralized informal registration system practiced at the local level, which runs parallel to official land administration. Instead of updating the land titles, which is a very costly process (in terms of both money and time), local people go to the village head to have their land transactions certified in the form of contracts. These have the advantage of tapping in to local knowledge of who is the rightful holder of the land by calling witnesses.

This system of using contracts, generally called “petits papiers,” to serve as proof of purchase and ownership is also practiced in other African countries. While it often serves as adequate security of tenure within the community, it may not withstand challenges from outsiders who may use their greater access to formal titling systems to place a claim on the land.

#### Restitution in South Africa

The Chatha “betterment” claim in South Africa is an example of the importance of the involvement of all stakeholders in negotiation around restitution. Starting in the 1950s, the so-called betterment policies were used to control rangeland degradation by redefining land use in rural villages, and forcibly resettling villagers into new residential areas.

Because returning to the original settlement pattern was seen as undesirable by all parties, negotiations led to the creation of a development package and support to develop and implement a development plan, which again resulted in the creation of a Settlement Support and Development Planning division within the Regional Land Claims Commission to support claimants after settlement.

Restitution claims over nature reserves constitute another complicated situation. The case of Dwesa-Cwebe resulted in a decentralized management scheme, handing over two reserves to a trust and establishing co-management between claimants and national conservation authorities.

## Land Tenure and the Role of the State and Communities

The successful implementation of all forms of land tenure reform calls for some substantial role of governments, as well as some forms of organized local involvement. However, this does not imply that all have to be subsumed into one formalized arrangement subject to state law.

## Pro-Poor Land Policies

The analysis of different types of decentralization programs and land tenure reforms provides a starting point for identifying appropriate strategies to develop the central/local and state/civil society partnerships that can enhance land tenure security for the poor.

**Table 1. Comparison of Different Forms of Land Tenure Reform.**

Type of Reform	Registration	Redistribution	Restitution	Recognition
<b>Strengthen existing or transfer rights</b>	Strengthen existing rights	Transfer from large landowners to landless	Transfer land back to original holders	Strengthen existing rights
<b>Context</b>	Customary tenure	Highly unequal landholdings	History of expropriation or conflict	Indigenous people, others using forests, rangelands, etc.
<b>Common bundles of rights</b>	Ownership	Ownership	Ownership	Use, some management rights
<b>Individual/collective</b>	Usually individual	Usually individual	Usually individual	Usually collective
<b>Potential role of local organizations</b>	Identify rightholder, keep local registry, conflict resolution	Identify recipients (and sellers if market-based), conflict resolution	Identify rightful claimants, conflict resolution	Identify claimants, manage resource on continuing basis
<b>Care needed for pro-poor outcomes</b>	Include recognition of secondary rights important for poor and marginalized groups, including women	Support (e.g. credit, marketing) to enable poor to access land and use it productively	Avoid further exclusion of poorer sections without restitution rights, but who have been investing in land	Safeguard women's rights in patriarchal systems

Finally, millions of farmers, fishers, and foresters have no formal rights to the resources they depend upon. State recognition of such rights can do much to strengthen the tenure security, livelihoods, social cohesion and dignity of these people. Many of the unrecognized users are indigenous groups or other disadvantaged minorities, so strengthening their land rights can contribute to overall human rights.

### Suggested Readings

Alden Wily, L. 2006. *Land Rights Reform and Governance in Africa: How to Make it Work in the 21st Century?* New York: UNDP Dryland Development Centre.

Chilundo, A., B. Cau, M. Mubai, D. Malauene and V. Muchanga. 2005. *Land Registration in Mampula and Zambezia Provinces, Mozambique: Securing Land Rights in Africa*. Research Report 6. London: IIED.

World Bank. 2003. *Land Policies for Growth and Poverty Reduction*. World Bank Policy Research Report. Washington, D.C.