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Securing land and property rights in sub-Saharan Africa: the role of local institutions⁽¹⁾

Camilla Toulmin⁽²⁾

I. INTRODUCTION

Most land in sub-Saharan Africa has no registration of who owns it or has rights to use it. Various new initiatives are underway to address this, in the belief that land registration and titling can promote investment, reduce poverty and encourage better natural-resource management. For instance, the Commission for Africa has recognized this need, while the newly established High Level Commission on the Legal Empowerment of the Poor,

1. This chapter is a revised version of *Securing Land and Property Rights in Africa: Improving the Investment Climate Global Competitiveness Report, 2005-06*. World Economic Forum, Switzerland. The author wishes to express appreciation to many colleagues for their collaboration on land tenure issues over the last decade, especially Hubert Ouédraogo, Thiendou Niang, Arlindo Chilundo, Ben Cousins, Mitiku Haile, Moussa Djire, Philippe Lavigne Delville, Jean-Pierre Chauveau, Julian Quan, David Brown, and colleagues Su Fei Tan, Lorenzo Cotula, Ced Hesse, Nazneen Kanji from the International Institute for Environment and Development (IIED).

2. Camilla Toulmin is Director of the International Institute for Environment and Development (IIED), London.



Will land titling safeguard the livelihoods of smallholders and pastoralists who make up the majority of all households in Africa and who are responsible for most agricultural production?

building on the work of Hernando de Soto, plans to provide a framework for titling the property of millions of urban dwellers, farmers and small-scale entrepreneurs across the continent.

But attempts at setting up conventional land registration systems have generally not worked well. They are usually expensive, complex and slow to implement. If the costs have to be borne by the person or group seeking formal title, this tends to exclude poorer groups from getting title to the land they farm or the land on which their home is built. In addition, powerful vested interests at all levels will seek to ensure that any land titling and registration benefits them and dispossesses other claimants. It would be naïve to think otherwise. Thus, one of the key questions for poverty reduction in Africa is whether support for land titling and registration will benefit poorer groups. Will it safeguard the livelihoods of smallholders and pastoralists who make up the majority of all households in Africa and who are responsible for most agricultural production? In urban areas, will it help the hundreds of millions of people who live in shantytowns to get title to the land they occupy – or will it act to expel them or, as it has done in many cities, lock them into highly exploitative tenant relationships with powerful landlords? Will land registration systems be able to support the secondary land-use rights of many farmers and pastoralists? And will they support the local systems and institutions that currently manage common property resources?

Central governments have neither the capacity nor the local knowledge to implement a just, large-scale national land registration system. Support to local institutions to undertake intermediate forms of land registration has been shown to be far more effective in many places – although these need careful checks on abuses by powerful local (and external) interests, measures to limit disputes (too many of which can overwhelm any institution) and measures to ensure that the needs of those with the least power – typically women, migrants, tenants and pastoralists – are given due weight. These locally grounded systems can also

provide the foundation for more formal registration systems, as needs and government capacities develop. Even if there are the funds and the institutional capacity to provide formal land title registration to everyone in ways that are fair and that recognize local diversity and complexity, and could manage disputes, this may often not be needed. For the vast majority of people, cheaper, simpler, locally grounded systems of rights registration can better meet their needs for secure tenure.

II. LAND UNDER INCREASING PRESSURE AND COMPETITION

At one time land seemed an almost inexhaustible asset in Africa, but population growth and market development have created mounting competition for land resources, especially close to towns and cities, and in the productive, high-value agricultural areas. Customary land management is also under pressure in many places. With such a high proportion of land being unregistered, the risks of dispossession for the poor majority from a major land-grab are high. Historical experience suggests that in the evolution of oral to formal, written rights, certain interests tend to lose out, typically the poor holders of secondary rights.⁽³⁾

Apart from its historical and spiritual significance, land is at the heart of social, political and economic life in most African economies, which continue to rely heavily on agriculture and natural resources for a significant share of GDP, national food needs, employment and export revenue.⁽⁴⁾ This is not likely to change in the foreseeable future.

The family farm has been central to the agricultural economies of most African nations, and has proved to be highly productive, and responsive to new markets and opportunities when conditions are right. Now, the challenge is how best to secure family land rights, so as to enable the



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3. Clancy, MT (1979), *From Memory to Written Record, England 1066–1307*, Blackwell, Oxford.

4. Commission for Africa (2005), *Our Common Interest: Report of the Commission for Africa*, Commission for Africa, London.



Pastoral herders must move their animals during the year, following seasonal changes in water and grazing cycles. Herders, who have historically relied on longstanding secondary rights of use to stubble, water and pasture resources, are finding their passage blocked, with crops planted in what were cattle tracks and the enclosure of common grazing land

smallholder agricultural sector to address global competition more effectively.

Migrant farmers, such as those in the cocoa belt of Côte d'Ivoire from neighbouring Burkina Faso and Mali, face particular challenges: sharecropping contracts have been central to the enormous growth in Ivorian cocoa and coffee over the last 40 years, yet, as land becomes scarcer, such agreements are increasingly called into question by landowners.

Pastoral herders must move their animals during the year, following seasonal changes in water and grazing cycles. Herders, who have historically relied on longstanding secondary rights of use to stubble, water and pasture resources, are finding their passage blocked, with crops planted in what were cattle tracks and the enclosure of common grazing land.

Although sub-Saharan Africa remains predominantly rural, its urban population has grown far more rapidly than its rural population and continues to do so. Africa's urban population increased nine-fold between 1950 and 2000, while its rural population increased by 265 per cent.⁽⁵⁾ Africa now has more than 300 million urban dwellers and two-fifths of its population in urban areas. Much of the growth in urban population has taken place in informal settlements where land is occupied illegally or land ownership is unclear. In many urban contexts, land titling is not only complex but also involves competing claims, which include politically powerful groups claiming ownership within informal settlements where large sections of the low-income population live. Rapid urban growth also produces a high demand for well-located sites, including those that are already densely occupied by illegal settlements. The rights of their inhabitants are frequently swept aside when more powerful interests want this land. Rapid urban growth is also having a major impact on peri-urban land values, with rising insecurity for those living on and working such land.

5. United Nations (2004), *World Urbanization Prospects: the 2003 Revision*, United Nations Population Division, Department of Economic and Social Affairs, ST/ESA/SER.A/237, New York, 323 pages.



Farmers near urban areas, where land values are rising very rapidly, face displacement from the conversion of agricultural to building land – whether from legally approved or illegal developments. Land speculation also disrupts farming and displaces farmers and agricultural labourers.

Many governments claim ownership of land, with customary-use rights recognized only when land is not sought by other more powerful interests. Governments can also expropriate land for public purposes and public works, such as road building, or the establishment of an industrial estate – usually with minimal compensation given for standing crops or for the value of buildings. In practice, compensation to the landowners or users is not only inadequate and late but also makes little or no provision for the value of the land itself. For example, recent estimates of unpaid compensation for land taken by the government in Ghana total many billions of cedis.⁽⁶⁾ Large land-holdings in government hands constitute a valuable asset for gift to political allies and foreign investors.

Poorer and less politically powerful groups are often dispossessed of the land on which they farm or, in urban areas, on which they have developed their homes. The recent mass evictions from informal markets and settlements in and around Zimbabwe's capital Harare and other urban centres have led to more than 200,000 people losing their homes and livelihoods. Although this eviction programme is larger and more extreme than in most other African nations, such programmes remain common in many African cities – usually legitimated by inaccurate stereotyping of the people who are evicted as 'migrants' who 'would be better off' if they returned to rural areas. But in reality, large numbers of those evicted are not recent migrants and none will be better off in rural areas. The consequences of these evictions are severe: property is destroyed, assets and access to essential services are lost and social networks are broken.⁽⁷⁾

Many governments claim ownership of land, with customary-use rights recognized only when land is not sought by other more powerful interests

6. US\$1 is equal to 9050 cedi (August 24 2005).

7. du Plessis, J (2005) "The growing problem of forced evictions and the crucial importance of community-based, locally appropriate alternatives", *Environment and Urbanization* Vol 17, No 1, pages 123–134.



Rights to land in Africa stem from many different sources, such as first settlement, conquest, allocation by government, long occupation or market transaction. In some cases these rights are transferable to heirs or can be sold; in others, consent must be sought from the underlying rights-holder

III. LAND RIGHTS IN AFRICA: MULTIPLE ORIGINS AND OVERLAPPING SYSTEMS

Rights to land in Africa stem from many different sources, such as first settlement, conquest, allocation by government, long occupation or market transaction. In some cases these rights are transferable to heirs or can be sold; in others, consent must be sought from the underlying rights-holder.

First settlement. Rights to rural land in many areas stem from the first settlers, who cleared the land and converted it from bush to field. Commonly, these rights pass down through the male or female line, so that current occupants can say: “this land belongs to me and my family because my great-great-great grandfather settled here and started farming”.

Conquest. In the pre-colonial period, the great West African empires of the Hausa, Mossi and Ashanti established control over extensive areas of land. Emperor Menelik’s conquest and settlement of southern Ethiopia in the nineteenth century also brought large tracts of land under feudal authority, to be allocated to loyal generals. Similarly, the colonial conquest enabled the British to acquire land in eastern and southern Africa for settlement by white farmers. However, land claims based on conquest are subject to contest when political circumstances change.

Allocation by local or national government.

Governments grant rights to land, such as plots for housing, distributed as part of an urban development scheme, for irrigation projects, or as grants of land to investors. Such administrative allocations are at risk from corrupt practices.

Long occupation and use. Investment of effort in the land may generate the basis for a claim. Such rights associated with “land to the tiller” policies⁽⁸⁾ may contradict other rights, particularly those based on first settlement. Tensions can arise between those who claim first settlement

8. Referred to as *la mise en valeur* in francophone systems.

rights and those claiming rights through long occupation as tenants, as in areas where there are substantial numbers of incoming migrant farmers, such as cash-crop areas of Burkina Faso, Ghana, and Côte d'Ivoire. For example the Ashanti of Ghana say "long occupation can never ripen into ownership", and the Bambara of Mali say that "a log may stay a long time in the water, but it never turns into a crocodile".⁽⁹⁾

Market transaction. Some observers claim that land is not bought and sold in customary African systems. However, in most parts of the continent, some forms of land transaction have a long history, even though they may not involve cash payments.⁽¹⁰⁾ In many urban areas, land allocation systems by customary land rights holders have become monetized.⁽¹¹⁾ A broad range of varied contracts allowing access to land is found in southern Benin, from the sale of full ownership rights, mortgage of land, rental and sharecropping agreements, to temporary rights giving access for a season's cropping.⁽¹²⁾ Similarly, in Sahelian Mali, Fulani cattle owners negotiate access to water and grazing in exchange for leaving their animals on the farmers' fields at night, thereby manuring the soil.⁽¹³⁾ But contracts are increasingly contested, because of rapid changes in land values, differing attitudes of new generations following the death of those originally making the contract, and political shifts which have altered the balance of power between different groups.

Rights to land often involve a series of overlapping claims, dependent on customary use, season and negotiation. For instance, cultivation rights to a millet field in Mali may be held by one household, with women from the wider family having rights to glean after harvest, and neighbours then



In Sahelian Mali, Fulani cattle owners negotiate access to water and grazing in exchange for leaving their animals on the farmers' fields at night, thereby manuring the soil

9. *Jiri kuru be men ji la – a te ke bama ye.*

10. Lavigne Delville, P (2004), "When farmers use 'pieces of paper' to record their land transactions in francophone rural Africa: insights into the dynamics of institutional innovation" in Benjaminsen, T and C Lund (editors), *Securing Land Rights in Africa*, Frank Cass, London, pages 89–108.

11. UNCHS (Habitat) (1996), *An Urbanizing World: Global Report on Human Settlements, 1996*, Oxford University Press, Oxford and New York; Yapi-Diahou, Alphonse (1995), "The informal housing sector of the metropolis of Abidjan, Ivory Coast", *Environment and Urbanization* Vol 7, No 2, pages 11–29.

12. For further detail, see Edja, H (2000), *Land Rights under Pressure: Access to Resources in Southern Benin*, IIED/ Groupe de Recherche et d'Echanges Technologiques, London and Paris.

13. Toulmin, C (1992), *Cattle, Women, and Wells: Managing Household Survival in the Sahel*, Clarendon Press, Oxford.



In the West African region as a whole, only 2 to 3 per cent of land is held by written title, this being largely confined to a few major cities and development areas, such as irrigation schemes

allowed to let their animals graze on the remaining stubble. Rights to dig a well on the field are held by the broader lineage of which the household is part, whereas rights to fruit from the tamarind trees that shade the plot are held by those who have pruned them on a regular basis. Where such a field has been let out to a tenant, however, rights are usually restricted to the cultivation and harvesting of crops. A tenant will not be allowed to dig for water, plant trees or make other significant investments in the land.⁽¹⁴⁾ Moreover, tenants are often not able to pass the plot they have rented to their heirs.

Insecure rights to land stem from many sources, and affect different people and regions in diverse ways. The rapid pace of change is bringing new risks to formerly stable systems of property rights, since changing values bring a transformation in the authority claimed by different structures, whether family heads, customary chiefs or local government. In many areas, this uncertainty stems in part from the high proportion of land for which no written paper exists, to document the rights held, or the terms on which these rights can be exercised.

In the West African region as a whole, only 2 to 3 per cent of land is held by written title, this being largely confined to a few major cities and development areas, such as irrigation schemes. In Burundi, it is estimated that less than 1 per cent of land is registered. In East and Southern Africa, much higher levels of registration exist, given the longstanding occupation of land by large commercial farmers. However, even the existence of paper title is not a sufficient condition for tenure security, as experience in Zimbabwe in recent years has demonstrated.

Women rarely have full rights to land but must negotiate as secondary claimants through a male relative – father, brother, husband or son. On the death of a spouse, women usually cannot inherit the matrimonial home, a matter of

14. Such overlapping rights are not uncommon in many high-income nations. For instance, different access rights may be evident for the same area of moorland for those who are walking, fishing, picking mushrooms or shooting birds and deer. Even those with full land-ownership rights may not claim water and mineral rights below the soil.

growing concern given high death rates from AIDS in much of the continent. Women's rights are often affirmed unequivocally in constitutions, but customary law in which they do not have equal rights usually prevails on the ground.

IV. LAND MANAGEMENT

Governments across the continent are revising their land tenure legislation, reforming institutions for the administration of rights and experimenting with ways to register individual and collective rights to land and natural resources. Such new policy measures are of particular significance in countries seeking to re-establish peaceful relations between competing groups following civil war, such as Rwanda and Mozambique. With the recent issuing of the World Bank's policy research report on land⁽¹⁵⁾ and the publication in 2004 of the Guidelines of the European Union Task Force on Land Tenure,⁽¹⁶⁾ the donor community has also moved land issues higher on its agenda.

The choice of structures to manage the issue of land rights and resolve land conflicts will have consequences for different groups of people, with some winning and others losing. As the report of the Commission for Africa rightly notes,⁽¹⁷⁾ Africa's private sector is largely composed of family farms, and small and medium-sized enterprises. Consequently, if investment and growth are to be promoted, design of land administration must consider carefully the needs of such smallholder farmers, traders and entrepreneurs.

There are various ways to register rights to land, from short-term certificates of occupancy to more formal registers and titling procedures. Rights can be secured at different levels, such as by the individual or family, or collectively by a village or clan. But the state has a fundamental role in managing or



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15. Deininger, K (2003), *Land Policies for Growth and Poverty Reduction*, World Bank and Oxford University Press, Oxford.

16. EU Task Force on Land Tenure (2004), *EU Land Policy Guidelines: Guidelines for Support to Land Policy Design and Land Policy Reform Processes in Developing Countries*, European Union, Brussels.

17. Commission for Africa 2005, op. cit.



Given the range of diverse contexts and settings, there are strong arguments for developing locally appropriate initiatives and actions, rather than a single standard blueprint “solution”

facilitating the process of checking and validating claims, either handling it centrally, or devolving it to local institutions. Given the range of diverse contexts and settings, there are strong arguments for developing locally appropriate initiatives and actions, rather than a single standard blueprint “solution”.

Where tenure practices are evolving rapidly, writing things down is increasingly seen as an essential tool in managing relationships, even by rural people themselves. Faced with the risks of legal insecurity, small farmers try to amass documents, without always being clear what they are for, and often hoping that they will have the right one when it is required.⁽¹⁸⁾

In South Africa, the Association for Rural Advancement (AFRA) has been working with communities in Kwa Zulu Natal to develop legal, affordable and accessible records of household land rights, both to strengthen the communal system and to give households more security over their holdings.⁽¹⁹⁾ The absence of written evidence makes it very difficult for individuals to assert their rights to land, and has resulted in numerous requests for registration.

a. Multiple structures

Rights to land depend on different systems of authority for their validation. These include community councils, patrilineal hierarchy, local government, traditional leadership, irrigation authority, city council and land agency. Different forms of power are exercised by each, and may rely on a combination of physical force, legal judgment, spiritual values and moral authority. However, this multiplicity of structures brings contradictions and insecurity regarding whose rights count, whose will be supported in the event of contest, and which decision-making structures are paramount. It has led to what has been termed “institution shopping”, whereby people seeking a judgement will try different options, to see which institution

18. Lavigne Delville 2004, op. cit.

19. Hornby, Donna (2004), *Securing Tenure at Ekuthuleni*, online at www.wits.ac.za/informalsettlements/Donna%20Hornby.pdf, accessed July 2005.

is more likely to rule in their favour.⁽²⁰⁾ In a situation of rising competition for land, and with the establishment of new systems of local government, there is room for considerable uncertainty, negotiation and opportunistic behaviour.

b. How are rights secured?

Securing property rights requires a combination of two forms of validation, at both local and state levels. At the local level, rights are secure if neighbours and others in the vicinity recognize a particular claim as being legitimate, according to their knowledge and set of values. However, these rights have no formal legal validity unless they also pass a second form of validation, i.e. recognition by the state. In practice, the lack of state recognition may not matter if land is not under particular pressure, and if local systems work reasonably well. But where land values are rising and there are significant outside interests, then clarity is needed on the status of local land rights.

In the case of Burkina Faso, for example, the government claims ownership of all land, putting the vast majority of the rural population in a situation of de facto illegality.⁽²¹⁾ But, in practice, the government recognizes that it must rely on traditional leaders for day-to-day management of land rights. At the same time, local government officials are increasingly brought into disputes surrounding land, and asked to provide judgement. Typically, these disputes pit incoming farmers against traditional land-rights holders. In some cases, the decision of the préfet supports traditional leaders; in others, they find in favour of incomers.

Thus, in the long-settled cotton lands of western Burkina Faso, land sales are now supported by three different documents, depending on circumstances:

- “Sales” backed by a local receipt (*petit papier*), drawn up between the vendor and purchaser, but which has no



In a situation of rising competition for land, and with the establishment of new systems of local government, there is room for considerable uncertainty, negotiation and opportunistic behaviour

20. Lund, C (2003), “Questioning some assumptions about land tenure” in Benjaminsen, T A and C Lund (editors), *Politics, Property and Production in the West African Sahel*, Nordic African Institute, Uppsala, pages 144–162; Benda-Beckmann, K van (1991), “Forum shopping and shopping forums: dispute settlement in a Minangkabau village, West Sumatra”, *Journal of Legal Pluralism* Vol 19, pages 117–159.

21. Mathieu, P et al (2003), *Making Land Transactions More Secure in the West of Burkina Faso*, Drylands Issue Paper 117, IIED, London.



In all nations, procedures are needed to allow land to be acquired and allocated for public purpose. The degree and form of intervention must be balanced against the costs imposed on those owning, using or seeking land

formal rubber-stamp from the local government officer; these documents typically mention the names of the parties, area and location of the plot, the rights granted, the sum involved in the transaction, identity of witnesses, signatures of parties and witnesses and date.

- “Sales” supported by a deed (*papier*), registered by government, and having the certification of the local *préfet*.
- Grants of land supported by a *Procès Verbale de Palabre*, involving the written minutes of a discussion between the transacting parties in the presence of a government official; this more formal deed of sale is sought by members of the urban elite, who want assured ownership rights to the land they are acquiring.⁽²²⁾

c. The role of government

Governments have a legitimate role in regulating and administering land rights, due to their significance to the economy, people’s livelihoods and employment, and the stability of the nation. In all nations, procedures are needed to allow land to be acquired and allocated for public purpose. The degree and form of intervention must be balanced against the costs imposed on those owning, using or seeking land. Additionally, the design of such interventions and procedures needs to minimize the risks of corruption.

Governments have been reluctant to transfer full property rights to their citizens. In Tanzania, the president holds all rights to land “in the name of the citizens”, to be held in trust for them. Long-term use rights are held by rural and urban dwellers, which can be registered and titled, and subsequently traded. In Senegal, Mali and Burkina Faso, the government claims ownership of most land as state domain, and attributes use rights to customary occupants, as long as the land is not needed for some other purpose. Similarly, the government of Ethiopia claims ultimate ownership of all

22. *Ibid.*



land, with long-term use rights held by citizens. These use rights can be traded, so that, for instance, a widow with land but very limited household labour can lease her land to a neighbour to farm for a specified number of years.

By contrast, 80 per cent of land in Ghana is in private hands, principally through the trusteeship of customary chiefs, who are charged with managing these lands for the benefit of their peoples, with the remainder owned by the state.⁽²³⁾ Yet there remains a long-standing struggle between government and customary chiefs over how land is actually used, given the patronage associated with managing this asset, and the revenues gained from tenants. Since colonial times, power has shifted back and forth between government and chiefs. After Independence in 1957, Nkrumah's government used its power to acquire certain lands, by vesting them in the hands of government, as a means of bringing recalcitrant chiefs into line, and providing land for the development of cities and ports. The current government, by contrast, recognizes the strength of the customary chiefs and is more inclined to accommodate their interests in land, since their support at election time is critical.

In South Africa, the protection of private property rights is enshrined in the constitution. Yet land ownership remains a hot political issue, due to the very unequal pattern of land rights inherited from the former white apartheid regime. More than 85 per cent of farmland is still in the hands of white commercial farmers.⁽²⁴⁾ A process is now underway to transfer ownership gradually, by various means, to meet the target of placing 30 per cent of farmland in the hands of black farmers by 2014.⁽²⁵⁾ Progress has not been as fast as might be hoped, and a nervous eye is often cast over the border towards Zimbabwe. Some parts of the commercial farming sector, such as the sugar industry, have launched

There remains a long-standing struggle in Ghana between government and customary chiefs over how land is actually used, given the patronage associated with managing this asset, and the revenues gained from tenants

23. Kasanga, K and N A Kotey (2001), *Land Management in Ghana: Building on Tradition and Modernity*, IIED, London.
24. Ng'ong'ola, C (2004), "Constitutional protection of property and contemporary land problems in southern Africa" in Saruchera, M (editor), *Securing Land and Resource Rights in Africa: Pan-African Perspectives*, PLASS, South Africa, pages 60-74.

25. Ministry for Agriculture and Land Affairs (nd), *Land Redistribution for Agricultural Development*, South Africa, online at <http://land.pwv.gov.za/redistribution/lrad.htm>, accessed July 2005.



It is widely asserted that a good investment climate benefits rich and poor alike – but will it be of particular value to small-scale producers and entrepreneurs, who make up the bulk of local economic activity?

plans to transfer 30 per cent of land under sugar from white farmers to smaller-scale black-held holdings by 2014.⁽²⁶⁾

V. CREATING A FAVOURABLE CLIMATE FOR INVESTMENT

Ensuring a favourable climate for investors is vital to generate higher and more sustainable levels of economic growth.⁽²⁷⁾ It is widely asserted that a good investment climate benefits rich and poor alike – but will it be of particular value to small-scale producers and entrepreneurs, who make up the bulk of local economic activity?⁽²⁸⁾ Small-scale entrepreneurs will typically have poorer access to the institutions and processes that can secure their land (and other) rights. Support for local investors should ultimately encourage outside investment as well, since foreign direct investment will be more attracted by good evidence of existing strong domestic activity.

African governments have usually been far more interested in attracting foreign direct investment, through measures such as advantageous tax regimes, than in promoting local enterprise, or preventing capital outflow. Such investment is seen as bringing in new technology, training opportunities, access to markets and competitive advantage. Yet, more than 90 per cent of incomes in Africa stem from a range of small-scale domestic entrepreneurs.

A recent survey showed that 57 per cent of firms in Ethiopia, and 25 per cent in Kenya and Tanzania, reported access to land as their main obstacle.⁽²⁹⁾ Both large and small investors need assured rights to the land and property in which they invest; full ownership is not always necessary, however, as tenancy, sharecropping and leases are often what investors need. While the law in many African countries does not allow for foreign ownership of land, foreign investors are often given leases of up to 99

26. Inkezo Land Company (nd), *An Introduction*, online at <http://www.inkezo.co.za>, accessed July 2005.

27. World Bank (2005), *World Development Report: a Better Investment Climate for Everyone*. World Bank, Washington DC.

28. Commission for Africa 2005, *op. cit.*

29. World Bank (2005), *Doing Business 2005: Removing Obstacles to Growth*, Oxford University Press, Oxford.

Table 2.1: Time and cost to register property

Number of days	Region	Percentage of property value
34	OECD high income	4.8
51	East Asia and Pacific	4.2
54	Middle East and North Africa	6.8
56	South Asia	6.1
62	Latin America and the Caribbean	5.6
133	Eastern Europe and Central Asia	3.2
116	Sub-Saharan Africa	14.4

Table 2.2: Time and costs for property transfers: selected African countries

Number of days	Country	Percentage of property value
335	Angola	11.0
107	Burkina Faso	16.2
340	Côte d'Ivoire	10.2
382	Ghana	4.1
274	Nigeria	27.2
114	Senegal	34.0
69	Botswana	5.0
39	Kenya	4.0
20	South Africa	11.3
48	Uganda	5.5

SOURCE: World Bank (2005), *Doing Business 2005: Removing Obstacles to Growth*, Oxford University Press, Oxford.

years. Table 2.1 highlights the difficulties and costs (in relation to property value) in registering property in sub-Saharan Africa, in comparison with other parts of the world. Although the difficulties in getting property transfers are extreme in some African countries, others have shorter, less costly and more efficient procedures (Table 2.2).

However, building a favourable climate for investment involves many factors other than access to land, including access to markets, price expectations and size of market. For



In Ghana, registering a land purchase involves multiple visits to five different government offices to obtain the appropriate pieces of paper, confirming that a survey has been undertaken, valuation of the property carried out, tax paid on the property transfer, and a check made on the absence of rival claims to the land concerned

some investors, inability to access capital on reasonable terms may be the tightest constraint on investment, whereas for others uncertainty relating to contracts is more critical. Institutional factors are often as important as economic aspects. Various surveys have exposed the damaging impact on potential investors of the inefficiency of government bureaucracies, difficulties in accessing credit, corruption and policy instability.⁽³⁰⁾

VI. SECURING RIGHTS IN PRACTICE

There are various methods that people use to secure their land and property rights, depending on the funds which individuals can mobilize, and on their recourse to state institutions to back their claims.

a. The problem of bureaucracy

As noted above, many countries in sub-Saharan Africa have long and difficult bureaucratic procedures, which slow property transactions and encourage corruption.⁽³¹⁾ In Ghana, registering a land purchase involves multiple visits to five different government offices to obtain the appropriate pieces of paper, confirming that a survey has been undertaken, valuation of the property carried out, tax paid on the property transfer, and a check made on the absence of rival claims to the land concerned. For many people, the process takes so long, and costs so much, that it is effectively inaccessible. Even those with excellent contacts in government and the judiciary report that the process can take more than 18 months. Many give up before completing the process, given the number of agencies to visit and a land registry with only partial records. In a few areas, local chiefs have established their own land registries, in an attempt to create order within their own locality. Such a locally based approach now provides the basis for Ghana's current Land Administration Project, which also aims to unify the different land sector agencies into a single

30. World Economic Forum (2004), *The Africa Competitiveness Report 2004*, World Economic Forum, Geneva.

31. de Soto, H (2000), *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*, Bantam Press, London; World Bank (2005), *Doing Business 2005*, op. cit.

administration and establish a one-stop shop at the district government level.

Recognizing that long delays discourage investors, the Mozambique government has established a new, shorter procedure for agreement between a local community and an outside investor seeking a land concession. The time period for this has now been cut to 90 days, with new rules aiming to ease access to land for foreign investors. But there is also concern that such a short period does not allow for adequate consultation with local people in advance of a land grant, and justified fears that government officials will reach agreement with local elites with no account taken of the local population's interests.

Many assume that individual titling of full ownership rights represents the best option. However, lesser forms of rights, such as rights of occupancy and use, are possible and may provide adequate security.⁽³²⁾ Rights can be registered by individuals, jointly by spouses, by the family as a whole, or by a community in the case of common property resources such as woodland, grazing and wetlands. In the latter case, management responsibility can be given fully or shared with government. Management and rule making are carried out by a body within which different interests are represented.

b. What does experience tell us?

Evidence from other parts of the world appears to show that land titling can have major impacts on investment and productivity. For example, Feder presents data from Thailand, Indonesia, and Brazil, which show a 30–80 per cent increase in land values following titling. Investment levels show an increase of 40–115 per cent in Brazil, Thailand, and Honduras, with access to credit multiplying by 200–350 per cent in Brazil and Thailand.⁽³³⁾ De Soto's work in Lima, Peru also shows the value of titling the land and housing assets of poor people, as a means of securing



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32. Quan, J and C Toulmin (2004). "Formalizing and securing land rights in Africa: overview", paper presented at the Land in Africa Conference, 8–9 November, London.

33. Feder, G (2002), "The intricacies of land markets", paper presented to the Conference of the International Federation of Surveyors, April 19–26, Washington.



New research suggests no unequivocal link between titling, investment and access to credit, either in Lima or in Thailand. These new findings cast doubt on the central role of titling in generating economic growth and a fair distribution of wealth

their rights and supporting subsequent economic growth and development. However, new research suggests no unequivocal link between titling, investment and access to credit, either in Lima⁽³⁴⁾ or in Thailand.⁽³⁵⁾ These new findings cast doubt on the central role of titling in generating economic growth and a fair distribution of wealth.

Arguments in favour of registering title to land have been put forward for many years. They normally include the following perceived benefits:

1. Land registration stimulates more efficient land use, by increasing tenure security and providing incentives to invest in the longer-term management and productivity of the land.
2. Land registration reduces transaction costs and enables the creation of a land market, allowing land transfers from less to more dynamic farmers and its consolidation into larger holdings. In urban areas, it enables a formal market for land and housing that helps to increase supply and reduce prices.
3. Land registration provides farmers with a title that can be offered as collateral to banks, improving farmers' access to credit, and allowing them to invest in land improvements. In urban areas, land registration also allows owners to use land as collateral for loans and safeguards their investment in housing.
4. Land registration provides governments with information on land-holders and size of plots, i.e. the foundation for a property tax system.

However, the evidence from research in sub-Saharan Africa shows that many of the benefits assumed to stem from land titling are not automatic, and, in some circumstances, titling

34. Buckley, R and J Kalarickal (2004), "Shelter strategies for the urban poor: idiosyncratic and successful, but hardly mysterious", World Bank Policy Research Working Paper 3427, World Bank, Washington DC; Calderon, J (2004), "The formalisation of property in Peru 2001–2002: the case of Lima", *Habitat International* Vol 28, pages 289–300.

35. Leonard, R and Ayuthaya, K (2003), "Taking land from the poor, giving to the rich", *Watershed – People's Forum on Ecology* Vol 8, No 2, pages 14–25.



may have the opposite impacts from those expected. Land titles seem to make most sense: in situations where customary systems have ceased to have legitimacy; where major tensions exist between different groups and which cannot be handled by local institutions for dispute management; in re-settlement areas; and where competition for land is fierce, such as high-value urban or peri-urban areas.⁽³⁶⁾

While land registration is often proposed as a means of resolving disputes, the introduction of central registration systems may actually exacerbate them. Elite groups may seek to assert claims over land which was not theirs under customary law, leaving local people to find that the land they thought was theirs has been registered to someone else. The high costs for registration, in money, time, and transport, make smallholders particularly vulnerable to this.

Registration also penalizes holders of secondary land rights – especially women and herders – as these rights often do not appear in the register, and are more easily dismissed. Registration alone may not be enough to improve access to credit. For farmers, the high transaction and other costs in rural areas hinder credit supply, and an unpredictable and fluctuating environment makes farmers risk-averse and reluctant to apply for loans. For urban dwellers, banks and other credit institutions will usually want proof of income or capacity to pay before providing a loan. Finally, where registering land transactions is expensive, transfers tend not to be recorded, with the result that the register becomes rapidly outdated, limiting its potentially positive effects.⁽³⁷⁾

Tenure security is largely dependent on the rights holder's own perception of risk. Where farmers consider their rights under customary law sufficiently secure, registration may

Registration alone may not be enough to improve access to credit. For farmers, the high transaction and other costs in rural areas hinder credit supply, and an unpredictable and fluctuating environment makes farmers risk-averse and reluctant to apply for loans

36. IIED (1999), *Land Tenure and Resource Access in West Africa: Issues and Opportunities for the Next Twenty Five Years*, IIED, London

37. Atwood, D A (1990), "Land registration in Africa: the impact on agricultural production", *World Development* Vol 18, No 5, pages 659–971; Mighot-Adholla, S, and J Bruce (1994), "Introduction: are indigenous African tenure systems insecure?" in Bruce, J and S E Migot-Adholla (editors), *Searching for Land Tenure Security in Africa*, Kendall-Hunt, Iowa, pages 1–13; Lund, C (1998), *Law, Power and Politics in Niger – Land Struggles and the Rural Code*, LIT Verlag, Hamburg; Firmin-Sellers, K and P Sellers (1999), "Expected failures and unexpected successes of land titling in Africa", *World Development* Vol 27, No 7, pages 1115–1128; Platteau, J P (2000), "Does Africa need land reform?" in Toulmin, C and J Quan (editors), *Evolving Land Rights, Policy and Tenure in Africa*, DFID/IIED/NRI, London, pages 51–73.



In Cameroon, where land can be registered under the 1974 Land Ordinance, very few non-urban plots have been registered. Many farmers have initiated the procedure and abandoned it after the boundary demarcation phase

not result in higher investments, and research shows that there are simpler means of assuring farmers of security. For instance, in Cameroon, where land can be registered under the 1974 Land Ordinance, very few non-urban plots have been registered. Many farmers have initiated the procedure and abandoned it after the boundary demarcation phase. While demarcation, *per se*, has no force of law, village communities saw it as increasing tenure security, since other villagers were unlikely to contest land rights that had received that level of official recognition.⁽³⁸⁾

As a result of the recent research exposing the shortcomings of land titling, institutions such as the World Bank, previously a vocal advocate, are now more cautious and recognize that land titling may not be appropriate in many circumstances.⁽³⁹⁾

In Ghana, the Land Title Registration Law of 1986 provides for the registration of all interests in land, under customary law and common law. It also provides that land held by stools, skins⁽⁴⁰⁾ and families should be registered in the name of the corporate group. However, titling has been initiated in only the urban centres of Accra, Tema, and parts of Kumasi, and, by 2000, the Registry had been able to process fewer than half the applications made to it. Its impact over nearly two decades has been negligible. Failure has been attributed to design and implementation defects, such as inadequate funding and human resources, the uncoordinated process, registration of individual interests when there remains dispute at higher levels, and registration without the knowledge of other claimants, since insufficient care is taken to publicize these processes. Consequently, 30,000 disputed titles were in the courts in 2000.⁽⁴¹⁾

There have been several programmes aimed at registering land rights, such as the Rural Land Plans (Plan Foncier Rural – PFR) in Benin and Côte d’Ivoire, and titling by the Land Commissions in Niger. These demonstrate the high level of

38. Firmin-Sellers and Sellers 1999, *op. cit.*

39. Deininger 2003, *op. cit.*

40. Stools and skins refer to the customary land trustees in the south and north of Ghana.

41. Kasanga and Kotey 2001, *op. cit.*



demand from rural dwellers in areas covered by such a project to get their land rights registered. But the issuing of title is currently very slow. Other problems include increased insecurity stirred up by the registration of rights, the difficulties of registering complex and overlapping rights, and time pressures that push staff to achieve targets at the expense of accuracy.

The costs of establishing and maintaining an up-to-date register are also considerable. Estimates from Niger suggest an annual cost for running a Land Commission of around 40 million CFA francs per district (equivalent to US\$ 74,000), with the rough cost per plot of land at approximately 1,000 CFA francs (US\$ 1.85). Some plot-holders consider this is money well spent if it confers firm rights, and avoids further conflict with neighbours and kin.⁽⁴²⁾ In Côte d'Ivoire, costs averaged 4,700 CFA francs per hectare, the figure being lower in savannah areas and higher in the forest region, due to the larger holding sizes and easier survey work in the former.⁽⁴³⁾

The cost of the registration process can be covered by charging the land-rights holder but this risks preventing poorer farmers from registering their land. Alternatively, Western donors can provide the funding, but this may lead a country to accept a programme that suits the donor but is not necessarily appropriate for the country's needs. Funding from loans by development banks must ultimately be repaid. Niger, for example, has been more than 90 per cent reliant on funds from outside donors to establish the 11 pilot Land Commissions, and will need further major support to enable it to gain nationwide coverage. Registers also require maintenance and updating, or they quickly lose their value as a record. Thus, it is necessary to fund not only the capital costs of establishing such registration systems but also the costs of maintenance.

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42. Yacouba, M (1999), "Niger's experience in decentralized management of natural resources", paper presented at Conference on Land Rights and Sustainable Development in Sub-Saharan Africa: Lessons and Ways Forward in Land Tenure Policy, 16–19 February, Sunningdale, United Kingdom.

43. Okoin, J R M (1999), "Cote d'Ivoire's rural land use plan: an innovative approach towards an appropriate rural land tenure code", paper presented at the Conference on Land Rights and Sustainable Development in Sub-Saharan Africa: Lessons and Ways Forward in Land Tenure Policy, 16–19 February, Sunningdale, United Kingdom.



Certification of land-use rights in Tigray gives farmers greater confidence in the security of their claim, encourages investment in soil conservation, tree planting and improvements to soil fertility

c. Locally driven intermediate tenure

A recent initiative in Niger, building on the Land Commission structure (Commissions Foncières) shows a possible way forward and demonstrates the promise of decentralized, community-based systems for conferring rights over land. In the Mirriah region, 74 Village Land Commissions (Commissions Foncières de Base, COFOB) have been established with NGO support, with authority to handle the great demand for registration of land rights that cannot be satisfied at the higher level – due to insufficient capacity to survey, map and establish titles. In each village, a committee was established with five members (including one woman) which was responsible for receiving requests for registration, publicizing them and, where no contest is forthcoming, inscribing this claim in the village land register. The process is simple, inexpensive and accessible to all. Registration at community level ensures the legitimacy of the claim, before it can be officially registered. Village committee members are trained to ensure that they can manage the various tasks involved, and update the register, which includes other transactions such as rentals, mortgages and gifts.⁽⁴⁴⁾

In Ethiopia, several registration processes are underway. In Tigray, this is being done at the lowest level of government, the *tabia*, comprising one or several villages.⁽⁴⁵⁾ For each household, several plots of cultivated land held by the household are recorded in the local language on a pre-printed page in a record book located at the *tabia* office. Each page lists each parcel of land, the approximate size of the plot, the type of land and the names of the neighbouring land-holders. Certificates are then prepared and delivered to the land-holder. This certification of land-use rights gives farmers greater confidence in the security of their claim, encourages investment in soil conservation, tree planting and improvements to soil fertility.

44. Lund, C (2000), "Rapport d'évaluation des activités des commissions foncières de base (COFOB) du projet d'application de la législation foncière et de la gestion durable des ressources naturelles. Mirriah: Niger", University of Roskilde, Denmark.

45. Haile, M and Kassa, G (2004), "Formalising and securing land rights: diverse approaches from Africa. The case from Northern Ethiopia", paper presented at the Land in Africa Conference, 8-9 November, London.



In the Amhara region of Ethiopia, the government is piloting two registration processes. In the traditional approach, farmers are trained to do the land measurement and complete registration documents. The land is measured and the boundaries of plots are identified. The information is then entered into an official form with a stamp, and a photo of the farmer and his wife are attached. By using this simple, inexpensive system, it is expected that 50 per cent of land in 106 woredas (districts) will be registered by 2006. The second approach uses a modern, donor-funded cadastral survey⁽⁴⁶⁾ as the basis for registration and certification. Although too expensive to scale up to the regional level, this approach may be a useful model for the design of registration systems in urban and peri-urban areas, where land has greater monetary value.

An example of a local land-titling process in urban areas is provided by Nairobi in Kenya. More than half of Nairobi's population live in informal settlements on land where ownership is unclear or contested. In many informal settlements, there are large potential conflicts between those who claim ownership of the land and those who actually live there – who pay rent to the landowner or the 'structure owner'. However, local savings groups, formed mostly by women and their federation have been undertaking household enumerations in informal settlements, and seeking to broker agreements between landowners, structure owners and tenants in regard to land titling. In one settlement on the outskirts of Nairobi, Huruma, agreement has been reached among all the inhabitants of a site layout in which everyone gets title and where there is provision for improved infrastructure and services.⁽⁴⁷⁾

d. Conserving the commons

While titling programmes have focused on farmland, common property resources, such as grazing, woodlands,

Local savings groups in Nairobi, formed mostly by women and their federation have been undertaking household enumerations in informal settlements, and seeking to broker agreements between landowners, structure owners and tenants in regard to land titling

46. Showing and recording property boundaries.

47. Weru, Jane (2004), "Community federations and city upgrading: the work of Pamoja Trust and Muungano in Kenya", *Environment and Urbanization* Vol 16, No1, pages 47–62.



Ways should be found to reduce risks of conflict between herders, neighbouring crop farmers and other land users. This may involve rights of passage for animals along agreed pathways, access to water and compensation for crop damage

ponds and fisheries, are vital for many groups, including mobile, pastoral herders, who produce much of Africa's meat and milk. There are growing pressures on these resources, and a trend toward privatization and enclosure. In many cases the breakdown or absence of access rules has led to a free-for-all, bringing degradation and unsustainable levels of use. Legal regimes often fail to protect collective rights. Instead an *ad hoc* series of by-laws provides some protection, but requires broader formalization.

Mobility is key for these people, who must move freely across both national and sub-regional borders. There are calls for the pastoral herders to "modernize" and "settle down", but abandoning their way of life would jeopardize a sustainable pattern that has survived a harsh environment for millennia. Instead, ways should be found to reduce risks of conflict between herders, neighbouring crop farmers and other land users. This may involve rights of passage for animals along agreed pathways, access to water and compensation for crop damage, as outlined in new legislation such as the Charte Pastorale of Mali and Guinea.⁽⁴⁸⁾

Promising examples of common property management include local agreements (conventions locales) for resource management in the West African Sahel, hillside enclosures in Ethiopia and community land registration in Mozambique.⁽⁴⁹⁾ Management of the commons works well when local people are assured secure legal rights over the common resources on which they depend, and can gain the technical support to manage these resources in an equitable and sustainable manner.

e. Options for securing rights to land and property

Given the steep costs of adjudication, and of maintaining a

48. Touré, O (2004), *The Impact of Pastoral Legislation on Equitable and Sustainable Natural Resource Management in Guinea*, Drylands Issue Paper 126, IIED, London.

49. Banzhaf, M, B Drabo and H Grell (2000), *From Conflict to Consensus: Towards Joint Management of Natural Resources by Pastoralists and Agro-pastoralists in the Zone of Kishi Beiga, Burkina Faso*, Securing the Commons 3, IIED, London; Gesellschaft für Technische Zusammenarbeit (GTZ) (2000), "Codes locaux pour une gestion durable des ressources naturelles: recueil des expériences de la Coopération technique allemande en Afrique francophone", GTZ, Eschborn; Toulmin, C, I Cotula and C Hesse (2004), "Pastoral common sense: lessons from recent development in policy, law and practice for the management of grazing lands", *Forests, Trees and Livelihoods* Vol 14, pages 243–262; Vogt, G and K Vogt (2000), Hannu Biyu Ke Tchuda Juna (2004) *Strength in Unity: Shared Management of Common Property Resources. A Case Study from Takiéta, Niger*, Securing the Commons 2, IIED, London.



land register, other options to secure rights must be considered in places where land is less valuable, and where titling and registration may be much less important than working to strengthen local institutions with responsibility for managing land rights and related disputes. The recent shift towards decentralized government has helped to bring land-rights management closer to the field. Methods of securing local rights seem to work best when based on tenure systems already known to the community concerned. The costs and techniques of land administration must also correspond to the value of land. New technologies, such as Global Positioning Systems (GPS), computerization of records, and Geographic Information Systems can help at some levels. For example, the large forest lands held by Ghana's customary chiefs could be mapped much more quickly and accurately using GPS, once agreement on the boundaries has been reached. But technology is no substitute for a locally legitimate process to adjudicate disputed claims. The knowledge of local neighbours is essential for clarifying rights and agreeing on boundaries before they are entered into a formal registry.

De Soto's approach to land titling, now being taken up by several African governments and donor agencies, is generating concern because it is being parachuted in from outside, rather than building on the substantial body of existing experience. Others object to de Soto's treatment of "the poor" as an undifferentiated group, rather than recognizing the diverse rights and claims of poor people, young and old, male and female, local, migrant and immigrant. There are thus legitimate concerns that the approach being recommended does not recognize the complex and overlapping nature of property rights, the high risk for secondary-rights holders of individual property title, and the vital importance of common property resources to many rural dwellers. This chapter has also suggested that full titling is not needed to support security and investment in many farms.

Technology is no substitute for a locally legitimate process to adjudicate disputed claims. The knowledge of local neighbours is essential for clarifying rights and agreeing on boundaries before they are entered into a formal registry



Rooted as they are in the social, political and cultural landscape from which they grow, institutions take many different forms and cannot be simply transplanted from one setting to another

VII. DESIGN OF SYSTEMS TO SECURE LAND AND PROPERTY RIGHTS

Institutions are recognized as holding the key to economic development, by establishing the rules, norms and governance systems within which resource flows take place.⁽⁵⁰⁾ Rooted as they are in the social, political and cultural landscape from which they grow, institutions take many different forms and cannot be simply transplanted from one setting to another.

Establishing an effective register of land and property rights will take many decades in much of Africa, given current low levels of documentation. Setting up a single unified system may make sense as a long-term goal, but meanwhile it may be better to establish locally tailored procedures that can be upgraded over time. Priority areas need to be identified where systematic registration can be undertaken. In areas of lower concern, reliance on less formal procedures is the best option, such as encouraging the use of simple contracts that can be validated by a village- or district-level official.

VIII. CONCLUSIONS

The issue of land titling in sub-Saharan Africa raises major challenges. Such titling needs both to enable the region's farmers to invest, expand production and compete in world markets, and also to enable its rapidly growing urban population to get secure tenure for their homes. It has to secure land-use rights for the poorest groups and work within the rapid economic and institutional change underway in most rural and urban contexts.

Given that formal land-titling programmes have proved to be slow, expensive and often biased in favour of richer groups, simpler methods to secure land and property rights are urgently needed. These must also be tailored to each particular local context. Some recommended elements

50. North, D (1990), *Institutions, Institutional Change and Economic Performance*, Cambridge University Press, Cambridge; Ostrom, E (1990), *Governing the Commons: the Evolution of Institutions for Collective Action*, Cambridge University Press, Cambridge; Easterly, W (2004), "Can foreign aid make countries more competitive?" in *The Global Competitiveness Report 2004–2005*, World Economic Forum, Geneva.

Table 2.3: Key choices in the design of institutions for land administration

Attribute	Options and implications
Location	Central: closely coordinated with government, policy, and legislature, accessible to foreign investors and residents in central city. Local: accessible to rural populations, monitored for accountability and efficiency.
Language	Local language ensures access to records and avoids mis-translation of rights but prevents establishment of a common national system.
Access to information	Restricted access is easier to manage but increases the risk of poor governance; open access allows verification of land claims by neighbours and media, and public scrutiny reduces corrupt allocations.
Cost	Registration and maintenance through fees charged to applicants, purchasers, and sellers; steep fees prevent access by poor groups, and risk patchy maintenance of the register.
Record-keeping system	Manual records are accessible at only a single location, unless copied systematically; computerized records allow multiple access but are not accessible for most rural users and poor urban dwellers.
Adjudication process	Time required for checking rights claimed with neighbours' and family members' testimony, and publicity process accessible to local people; reliance on government gazette for publicizing claims disadvantages non-literate and poor people.
Systematic or on-demand registration	Systematic registration – simultaneous adjudication of all claims – is more efficient and less open to fraud than on-demand titling.
Collective/individual	Recognition of land rights held by collective groups is required, as well as those of individuals and households.

include: strengthening local institutions for rights administration and just dispute resolution; identifying secondary rights and securing access for tenants, women, migrants and herders; using a phased approach that focuses first on priority areas such as where rapid commercialization threatens poorer groups' access to land and where commons need conserving or protecting; introducing simple written contracts with agreed basic terms; and establishing property registers to serve as a base for property taxes that can provide the revenue for services.

Innovative systems are needed in urban areas to enable a negotiated solution in squatter settlements and other informal or illegal land developments that avoid forced



High-flown political statements in support of women's rights must be backed by women's representation on land committees, local government staff that know and use new legislation regarding women's rights, legal clinics and community leaders who take women's rights seriously

evictions. Revised planning and land-use procedures can increase the supply and reduce the cost of land for housing, reducing the need for poorer households to squat, and increasing the proportion of urban households with basic services.

In much of the region, women are particularly vulnerable to dispossession, because they lack power and rights of inheritance. The rising incidence of HIV/AIDS often exposes them to an even greater risk of being dispossessed, when their male partner dies, since the rights of the dead man's kin usually prevail over those of the widow. In addition to equitable policies and laws, practical measures to promote gender inclusion at all levels are needed. High-flown political statements in support of women's rights must be backed by women's representation on land committees, local government staff that know and use new legislation regarding women's rights, legal clinics and community leaders who take women's rights seriously.⁽⁵¹⁾

The High Level Commission on the Legal Empowerment of the Poor seeks to secure land rights and access to justice for the poor in Africa. What is needed is a careful, tailored approach, capitalizing on the wealth of experience of African professionals across the continent, recognizing the diversity and overlapping nature of land rights, and having full regard for the importance of collective property. Such an approach would secure rights for poor and rich alike, and promote a better climate for long-term investment and prosperity.

51. International Food Policy Research Institute – IFPRI (2005), *Women: Still the Key to Food and Nutrition Security*, IFPRI, Washington DC.