

Research Report 1

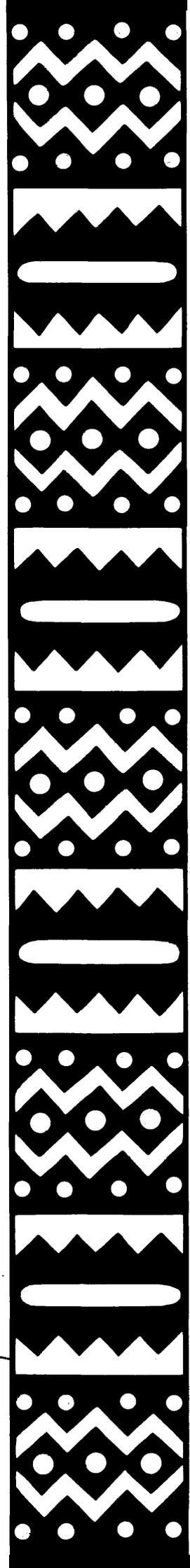
Can Land Registration Serve Poor and Marginalised Groups? Summary Report

**Nazneen Kanji,
Lorenzo Cotula,
Thea Hilhorst,
Camilla Toulmin
and Wray Witten**



Securing Land Rights in Africa

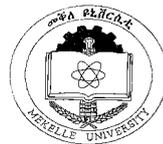




Research Report 1

Can Land Registration Serve Poor and Marginalised Groups? Summary Report

**Nazneen Kanji,
Lorenzo Cotula,
Thea Hilhorst,
Camilla Toulmin
and Wray Witten**



Securing Land Rights in Africa

RESEARCH REPORT 1 CAN LAND REGISTRATION SERVE POOR AND MARGINALISED GROUPS? SUMMARY REPORT

By Nazneen Kanji, Lorenzo Cotula, Thea Hilhorst, Camilla Toulmin and Wray Witten
November 2005

Copies of this publication can be obtained from:
SMI (Distribution Services) Ltd, P.O. Box 119, Stevenage, Hertfordshire SG1 4TP
Tel: +44 1438 748 111, Fax: +44 1438 748 844, orders@earthprint.co.uk

Printing: Russell Press, Nottingham, UK

Design: Smith+Bell

Cover pictures: Wray Witten, Denise Malauene, Lorenzo Cotula and FARM-Africa.

Printed on: Crossbow Offset 90gsm

This document is an output of a programme of work funded by the Central Research Department of the UK's Department for International Development. The views expressed, however, remain those of the principal authors. DFID can accept no responsibility for any information provided or views expressed.

TABLE OF CONTENTS

ACKNOWLEDGEMENTS	iv
ACRONYMS	iv
PREFACE	1
1. INTRODUCTION: WHY STUDY LAND REGISTRATION?	3
1.1 RESEARCH AIMS AND METHODS	5
1.2 KEY HYPOTHESES AND STARTING POINTS	5
2. LAND POLICY AND REGISTRATION IN THE FOCUS COUNTRIES	7
2.1 ETHIOPIA	7
2.2 GHANA	8
2.3 MOZAMBIQUE	9
2.4 REGISTRATION SYSTEMS IN THE THREE COUNTRIES	10
3. LAND REGISTRATION PROCESSES IN RURAL AREAS	11
3.1 SYSTEMATIC REGISTRATION	12
3.2 ON-REQUEST DEEDS REGISTRATION	13
3.3 ON-REQUEST TITLE REGISTRATION	13
4. LAND REGISTRATION PROCESSES IN PERI-URBAN AREAS	16
4.1 COMPETITION AND CONFLICT	16
4.2 REGISTRATION PROCESSES	17
4.3 LAND MARKETS	17
4.4 KEY ISSUES	18
5. GENDER AND LAND REGISTRATION	19
5.1 WOMEN'S RIGHTS AND REGISTRATION PROCESSES	19
5.2 WOMEN'S PARTICIPATION IN REGISTRATION PROCESSES	20
5.3 OUTCOMES OF REGISTRATION	21
6. DISPUTE RESOLUTION	22
7. THE SOCIO-ECONOMIC OUTCOMES OF LAND REGISTRATION	24
8. CONCLUSIONS AND POLICY IMPLICATIONS	26
9. REFERENCES	28
10. ANNEX: RESEARCH SITES	30

ACKNOWLEDGEMENTS

We thank our colleagues who produced the research reports on which this summary report is based and with whom we have enjoyed working for the past three years. We would also like to acknowledge the invaluable help we have received in producing the entire set of research reports: many thanks to Nicola Cullen and Judy Longbottom for extensive editorial assistance on the country papers, to Khanh Tran-Thanh for coordinating the production process and to Kamil Kanji for proof reading. Last but not least, thanks to DFID UK for funding the study.

ACRONYMS

CHRAJ	Commission for Human Rights and Administrative Justice
DUAT	Land use and benefit right
EPLAUA	Environmental Protection, Land Administration and Use Authorities
GIS	Geographical Information System
GPS	Global Positioning System
LAP	Land Administration Programme
MOARD	Ministry of Agriculture and Rural Development
NGO	Non-Governmental Organisation
SPGC	Provincial cadastral service

PREFACE

This research examines the current processes of land rights registration in Ethiopia, Ghana, and Mozambique and assesses their outcomes for poor and vulnerable groups. Land is becoming increasingly scarce in many parts of Africa, and mounting competition for this valuable resource is driving conflict between and within groups. Many governments have initiated a review of land legislation and established new structures for land rights administration. At the same time, there is considerable informal documentation of ownership and transactions in land taking place in many areas, as people seek to strengthen their claims over land and natural resources. Informal processes include the increased use of written contracts, witnessing of agreements, the emergence of new forms of rental and sharecropping arrangements, and local collective action, often around management of common property resources. However, such informal documents and processes are not usually legally binding.

While registration might, in theory, be expected to help poorer groups confirm their claims to land, in practice registration has often served to redistribute assets towards the wealthier and better informed. We are keen to ask the question – is this inevitable? Can provisions be made which explicitly address the need to level the playing field between poorer and better-off groups in relation to registering claims over land? In Ethiopia, land registration systems are being designed and pilot programmes carried out in several states. In Ghana, an ambitious Land Administration Programme has begun, which has chosen to do much of its work through Customary Land Secretariats. In Mozambique, the 1997 Land Law is being implemented, a law which has been recognised internationally as demonstrating a strong pro-poor approach. What lessons can be learnt, from these cases, to inform policy and practice for future interventions in the registration of land rights in Africa?

The study tests a set of interlinked hypotheses, which assert that:

- Land registration is not inherently anti-poor in its impacts;
- The distributional consequences of land registration will depend on the design of the process and governance of the institutions responsible for its management; and
- Land registration procedures can be elaborated to address systematically the risk of bias against poorer, more marginal groups by considering issues including location, registration fees, language used, and recognition of secondary rights.

While the hypotheses can be broadly accepted as valid, and the study did identify examples of “good practice”, there are also many lessons to be learnt about the design of registration systems if they are to protect effectively the rights of poorer groups. Work in all of the case study sites pointed to the critical role of institutional governance.

The results of this research project come at a particularly opportune time. In 2005, a “High Level Commission on Legal Empowerment of the Poor” is in the process of being set up with an independent secretariat jointly hosted by United Nations Development Programme (UNDP) and the UN Economic Commission for Europe (UNECE). It seeks to make property rights accessible to all, especially the poor and marginalised, and by so doing, contribute to poverty reduction and achieving the Millennium Development Goals (MDGs). Evidence suggests that formalising property rights through individual title can have negative consequences for poor groups and in particular, for women and those relying on secondary rights to land. It is therefore important to base recommendations on empirical findings from diverse settings to avoid “one size fit all” solutions.

This research project was coordinated by the International Institute for Environment and Development (IIED) working with:

- Mekelle University, Mekelle, Tigray, Ethiopia
- SOS Sahel, Addis Ababa, Ethiopia
- Institute of African Studies, University of Ghana, Legon, Accra, Ghana
- Land Studies Unit, University of Eduardo Mondlane, Maputo, Mozambique
- Royal Tropical Institute (KIT), Amsterdam

The project adopted an iterative approach using reference groups at the national level to advise the researchers as work proceeded, and to disseminate findings. A proactive strategy was adopted to feed findings into relevant debates at local, national, and international levels. This included a major conference, which brought African policy

makers, opinion leaders, and researchers together with international agencies and experts to discuss “Land in Africa” in November 2004¹.

The research has addressed three sets of questions:

Firstly, questions on the design and process of registration:

- What land and what land rights are being registered?
- How is land registered and by what institutions based at what level?
- What is the basis of registration and whose rules and procedures are being followed?
- How are boundaries demarcated and recorded and with what forms of technology?
- Where are land registers stored? In what language are they recorded? How accessible are they to the public?
- Have precautions been taken to ensure equitable access to the registration process, such as cost, language used, and place of registration? Has this made a difference in practice, in terms of who can register their rights?
- What happens to secondary rights because of registration?

Secondly, questions on the governance of registration processes:

- Which state and non-state actors are involved in registration processes?
- What political and legislative framework governs the actions of the actors involved in land registration? How is accountability to a broad constituency assured?
- How do these institutions deal with disputes? How transparent are these conflict resolution processes?
- How well do the different institutions involved in land registration coordinate their activities?
- How do formal processes of rights registration interact with “informal” processes for securing rights?

Thirdly, questions related to equity of outcomes:

- Who is seeking to register land rights, and why? Who are the winners and losers in the process?
- What happens to the claims of weaker groups in society?
- What happens to unregistered rights in practice?
- How are land rights of smallholders affected by the policy thrust to attract large, sometimes foreign, investors?
- How are land rights of more disadvantaged groups changing in peri-urban contexts where competition for high value land is intense?

Seven research reports have been produced under the common title “Securing Land Rights in Africa”.

Research Report 1: Can Land Registration Serve Poor and Marginalised Groups? Summary Report

Research Report 2: Land Registration in Tigray, Northern Ethiopia

by Mituku Haile, Wray Witten, Kinfe Abraha, Sintayo Fissaha, Adane Kebede, Getahun Kassa, and Getachew Reda

Research Report 3: Land Registration in Amhara Region, Ethiopia

by Berhanu Adenew and Fayera Abdi

Research Report 4: Land Registration and Women’s Land Rights in Amhara Region, Ethiopia

by Askale Teklu

Research Report 5: Land Registration in Eastern and Western Regions, Ghana

by Osman Alhassan and Takiyawa Manuh

Research Report 6: Land Registration in Nampula and Zambezia Provinces, Mozambique

by Arlindo Chilundo, Boaventura Cau, Marlino Mubai, Denise Malauene, and Vitor Muchanga

Research Report 7: Land Registration in Maputo and Matola Cities, Mozambique

by Denise Malauene, Arlindo Chilundo, Boaventura Cau, and Marlino Mubai

¹ See <http://www.iied.org/events/landinafrica.html> for further information.

1. INTRODUCTION: WHY STUDY LAND REGISTRATION?

Land is becoming increasingly scarce and sought after in many parts of Africa. Good quality arable land and common pool resources are becoming more valuable, due to greater market engagement, changes in production systems, population growth, migration, and environmental change. The impacts of globalisation tend to further strip land of its social and spiritual significance and turn it into a commodity to be bought and sold. Non-rural actors, such as urban dwellers, investors, and foreign companies, are also seeking to gain access to land for commercial and speculative purposes (Toulmin & Quan, 2000). Politicians at national and local level see control over land as a major mechanism to negotiate other forms of political allegiance.

At the same time, land is a key asset for rural livelihoods and economic development across Africa. In much of the continent, land-based activities contribute a major share of Gross Domestic Product (GDP) and employment, and constitute the main livelihood basis for a large portion of the rural population. As land becomes scarcer, poorer and more vulnerable groups may see their claims weakened and lose access to land, leading to their increasing marginalisation and impoverishment (Barrows and Roth, 1989; IIED, 1999). Policies and programmes to increase land tenure security for local resource users are therefore crucial to improving rural livelihoods and promoting pro-poor growth as well as sustainable land use and peaceful coexistence (Quan, 2001; Bevan & Pankhurst, 1996).

Land tenure security refers to the degree of confidence held by people that they will not be arbitrarily deprived of the land rights enjoyed and/or of the economic benefits deriving from them. It includes both 'objective' elements (nature, content, clarity, duration and enforceability of the rights) and 'subjective' elements (landholders' perception of the security of their rights).

(Lavigne Delville, 2003; Place et al., 1994).

In much of rural Africa, land legislation is rarely implemented, and most resource users gain access to land through local systems of land tenure. While these systems are extremely diverse, they generally involve unwritten arrangements, providing access to land on the basis of kinship and status, and relying on "customary" authorities to manage land rights.

"Customary tenure" systems are evolving all the time, and have proved themselves remarkably adaptable to changing circumstances. However, they are becoming less and less effective in protecting the land rights of local resource users when faced with rival claims made by outsiders such as foreign investors – particularly in those countries where unwritten, customary tenure has no formal legal recognition. In many places, socio-economic change has also eroded customary systems, weakening the authority and the accountability of customary chiefs. Indeed, the notion of 'customary' chieftdom has become increasingly subject to contest by those who argue that many of the prerogatives claimed by chiefs today were invented during the colonial period, as a means of co-opting local leaders (Olivier de Sardan, 1984; Berry, 1993). As a result, many customary systems no longer guarantee that the rights of poorer groups will be assured – as can be seen in a number of countries where traditional chiefs have been amongst the first to sell rights over what their kin would consider to be family land (Woodhouse et al., 2000; Berry, 2001; Amanor, 1999).

In response to increased pressure on land, many people are seeking to strengthen their land claims, and have developed a range of mechanisms to document land rights and transactions. These include the increasing use of written contracts, formal witnessing of agreements, and the emergence of new forms of rental and sharecropping arrangements (Lund, 2000; Toulmin and Lavigne Delville, 2001). While such "informal" documentation usually has no legal value, it does increase land tenure security in the eyes of local resource users. However, its lack of legal backing makes it prone to contestation. And, like customary systems, it is not effective in securing local rights over land when it is being sought by powerful outsiders, such as urban elites and foreign investors.

Over the past few decades, a number of African countries have adopted policies and laws to secure the land rights

of the rural population. Registration of land rights is a tool commonly used to do this. While land registration systems vary considerably across and even within countries, they involve some form of documentation of interests in land, with a view to providing legal protection of those interests. Land “titling” is the strongest legal form that registration of land rights can take, with titles usually guaranteed by the state. It is the most expensive form of registration to carry out, requiring formal surveys and checking of all rival claims to the property. Lesser forms of registration are also possible, such as title deeds registration, and the documentation of secondary use rights and other claims to land and natural resources. These may not have the same state-backing but are cheaper to undertake and maintain, and be sufficient to protect rights at a local level.

Arguments in favour of land titling have been put forward for many years. They usually include the following perceived benefits:

- More efficient use of the land, because it increases tenure security and removes disincentives to invest in the longer term management and productivity of the land;
- Land titles enable the creation of a land market, allowing land to be transferred from less to more dynamic farmers and consolidated into larger holdings;
- Farmers can use the title as collateral with financial institutions, thereby improving access to credit and allowing investment in land improvements;
- Land registration provides government with information on landholders and landholdings, which can inform land use planning and provide the basis for a system of property taxes.

A recent World Bank report (Deininger, 2003) reiterates these arguments, while acknowledging that the World Bank’s almost exclusive prior focus on formal title had been a mistake. Deininger pays more attention to the legality and legitimacy of existing institutional arrangements and acknowledges that an emphasis on improving efficiency may fail to resolve equity issues, including the rights of historically disadvantaged groups such as women, herders and indigenous populations (2003:xiv). An additional argument made is that occupants of much land in Africa are effectively outside the rule of law, given that formal tenure covers less than 10 percent of the land (Deininger, 2003:xi). The report considers that a broader range of measures can achieve increased tenure security, including recognition of group rights, and emphasizes the need for standards of transparency, accountability and conflict resolution to strengthen local institutions responsible for land management.

As a result of the preceding arguments and with the support of a range of international institutions including the World Bank, many African governments have been reviewing land legislation and establishing new structures for land rights administration, often encouraging land titling or registration of rights (Toulmin and Quan, 2000; Palmer, 2000).

While formal registration might in theory be expected to help poorer groups confirm their claims to land, in practice, the record has been poor. Registration has often served to redistribute assets towards the wealthier and better informed (Bruce, 1986; Green, 1987; Migot-Adholla et al., 1994). Where there are significant costs to registration, in cash, time and transport, smallholders are particularly vulnerable to losing their rights over land (Platteau, 2000). Secondary rights and informal arrangements to access land and other resources, as used by women and other disadvantaged groups, tend not to be acknowledged in the registration process and, consequently are lost. There is little or no evidence that titling programmes have led to increased availability of credit for small poor rural farmers, who are not considered a good credit risk by formal financial institutions, whether or not their land is registered. This is because their plots of land are not readily ‘marketable’ in practice (Shipton, 1988; Daley, 2004 cited in Daley and Hoble, 2005).

Given past experience, resource poor and marginalised people have reason to fear initiatives towards the formalisation of rights. But, is this inevitable? Can provisions be made which explicitly address the need to level the playing field between poorer and better-off groups as it relates to registration of claims over land? What might these provisions include? How might the poor gain greater voice within local institutions and ensure their broader accountability? Can the rights of poor groups be strengthened by registration, and how can this objective be married to the desire by many African governments to attract large private investors?

These are the kinds of question that our research project has sought to address. The main research findings of our project are presented in a series of case study reports. This summary report provides a brief overview.

1.1 Research Aims and Methods

The aims of the project were to increase understanding of registration processes in three African countries: Ethiopia, Ghana and Mozambique; and to involve actors at different levels in discussing how the findings could be used to promote the development of pro-poor registration systems. In particular, our aim was to identify innovation in and lessons from registration systems, and feed back findings to local, national and international policy makers.

The focus countries were selected on the basis of recent and ongoing developments in land policy and administration, and representation of different cultural and socio-economic contexts, and of different legal traditions. The great diversity of the land registration systems in the three countries, and more generally of the respective land tenure policies, enabled us to compare different approaches. In all these countries, our work built upon IIED's previous research and networking activities within the communities of academics, practitioners and policy makers, which is also reflected in the composition of the research teams.

The three year project brought together a multi-disciplinary team of researchers, including sociologists, geographers, economists and lawyers. Literature reviews and interviews with key resource persons were complemented by extensive fieldwork in a series of selected sites in all three countries. Changes in the selected sites were tracked over the project period. While the main focus of the study is rural land registration, the particularly dynamic situation in peri-urban areas with high value land prompted the selection of a few additional sites in these areas. All the field sites are given in Annex 1 and more details on the field sites and on the fieldwork methodology are contained in the case study reports.

The project adopted an iterative approach, seeking to bridge research and practice. The in-country research teams set up reference or learning groups at the state or national level to input into the study and to disseminate findings. All the study teams, including the IIED team, used a wide range of opportunities to feed the research findings into relevant debates on land policy and administration at local, national, and international levels.

1.2 Key Hypotheses and Starting Points

Our research was based on testing a set of interlinked hypotheses which assert that:

- Land registration is not inherently anti-poor in its impacts;
- The distributional consequences of land registration will depend on the design of the process and governance of the institutions responsible for its management;
- Land registration procedures can be elaborated which systematically address the risk of bias against poorer, more marginal groups, by considering location, registration fees, language used, recognition of secondary rights, and so on.

Essentially, the questions for the study relate firstly, to the design and process of registration, secondly, to the governance of the land registration system, including dispute resolution mechanisms, and thirdly, to the equity of outcomes.

During this research, an important distinction had to be made between rights to land and their registration. Land rights include those concerning land access and use, such as the right to use a piece of land at a particular time, and the right to exclude others, as well as rights to transfer or encumber land and to determine future holders of defined interests in the land. Collectively, interests in a piece of land are often referred to as a "bundle of rights". Such rights may be held by individuals or groups (e.g. private property) or by the state (ownership, trusteeship, etc.). They may be based on national legislation, on customary law or on combinations of both. In much of rural Africa, customary and statutory land tenure systems coexist over the same territory – often resulting in overlapping rights, contradictory rules and competing authorities ("legal pluralism"). Land rights typically evolve over time, sometimes endogenously, sometimes due to external influences, often as a combination of factors. As a result, the types and allocations of interests in land are tremendously varied.

Registering rights to land is a distinct, though intertwined, activity. Registration is the system to document land rights, irrespective of their content. The same rights in land may be registered in different ways. Conversely, land registration may be applied to different types of land rights – from private property (e.g. Ghana) to use rights on

state-owned land (e.g. Mozambique, Ethiopia). The importance of the distinction between rights and registration lies in highlighting the separate effects of each.

The focus of this research is on the diverse models of land registration and on their socio-economic effects on different groups, particularly poor and marginalised people. Efforts were made to differentiate between groups who might be defined as poor on the basis of their income or material assets, as well as those who might be marginalised on the basis of other factors and identities, such as gender, age and migrant status. Poverty and marginalisation are likely to make people more vulnerable to exclusion from formal registration systems, unless specific measures are implemented.

Finally, it is important to emphasise that "land registration" encompasses a wide range of different systems for recording land rights and associated transactions. For instance, a distinction is usually drawn between title registration, which involves the registration of land rights and leads to "indefeasible" registered titles, and deeds registration, which records successive transfers of a piece of land. Such diversity may emerge not only between countries, but also even within the same country. For instance, in Ghana, title registration is applied in selected urban areas, whereas deeds registration is followed in the rest of the country. Registration may be systematic, covering specified areas or lands, as in Ethiopia, or upon request, as in Mozambique and Ghana. Land registration may recognize individuals, households (where registration may include only the name of the household head, both spouses or all members), groups and communities, or all of these. In reality, borderlines are usually blurred, and different "types" may coexist (for example, hybrids of title and deeds registration, programmes encompassing both individual and group registration). The socio-economic effects of different models of registration are likely to vary substantially.

2. LAND POLICY AND REGISTRATION IN THE FOCUS COUNTRIES

This section describes the land tenure policies in each of the three contexts and discusses the systems of land registration which were the focus of the studies. The country research reports provide a fuller picture and only key elements are presented here.

The registration systems in the three countries are very different. In Ethiopia and Mozambique, variants of the land title registration model are followed. In Ghana, land title registration and deeds registration are used. In Ethiopia, a federal state, the form and process of land registration differs between different regional states. Therefore, land registration in Tigray and Amhara are treated separately here. Important differences also exist in the rights structure underlying the registration process. In Ethiopia and Mozambique, all land is owned by the state. Registration concerns therefore user rights on state-owned land. In Ghana, on the other hand, land is mainly in private hands – whether of individuals or groups (families, *skins* and *stools*²). Registered right holders are also very different – from households in Ethiopia, to "local communities" that can have thousands of members in Mozambique.

2.1 Ethiopia

Major challenges to land policy in Ethiopia are the growing population, the small size of land holdings in many areas and, as a result of these two factors, the rising number of landless people, on one hand, and the need to create an enabling environment for agricultural investment on the other hand. The question of land is a major theme in socio-economic and political discussion today and was an issue during the national elections of 2005. Opinions differ on issues related to ownership and providing tenure security. The party in power is in favour of maintaining state ownership over land. They argue that privatisation will trigger massive land sales by poor rural people, who then migrate to urban areas, further aggravating the urban crisis and deepening poverty. Some opposition parties argue that Ethiopia's persistent poverty, food insecurity and underdevelopment is caused by an inappropriate land tenure system and therefore lobby for privatisation of land, freehold ownership and land markets.

Important events impacting on land policy are the overthrow of the imperial feudal regime by the Derg in 1974, and the subsequent civil war that led to the overthrow of the Derg in 1991. Before 1975, particularly in the Southern parts of the country, land was concentrated in the hands of absentee feudal landlords, tenure was highly insecure and arbitrary evictions were a serious threat. The Derg introduced a programme of land reform, nationalizing all land and extinguishing most existing rights to interests in land (particularly in the highlands), together with the systems for securing those rights. In addition, the Derg prohibited the renting out of land, and other transactions (sales, mortgages, sharecropping and hiring in labour) were severely restricted. Nationalization was followed by redistribution of land through local governments, Peasant Associations in areas under the Derg and local councils under the soon-to-emerge revolutionary forces. Farmers had user rights only and eligibility was contingent upon permanent presence in the community.

The last massive land distribution in Tigray took place in 1989 and in part of Amhara in 1996, but farmers continue to fear new land redistribution (which is also the only hope for landless people to access land in their home areas). This worry about possible future land redistribution was found to be one of the major sources of tenure insecurity in rural Ethiopia (EEA/EEPRI, 2002).

Following the fall of the Derg, the new federal government drafted a constitution, which was enacted in 1995. In it land *per se* remains public property, and sales and exchanges remain prohibited or restricted. But use of the land was liberalised, by allowing renting in and out of both land and labour, and inheritance rights were strengthened. The constitution also assigned legislative power over land to the federal level of government and reserved imple-

² The *stool* is the seat of the chief of an indigenous state or head of a family and represents the authority of the chief. A *skin* in Northern Ghana is the equivalent of a *stool* in Southern Ghana.

mentation to the States. Meanwhile, the Regional States of Tigray, Amhara and Oromia embarked on drafting specific state legislation for management of land, adopted in 1996 (Oromia and Amhara) and 1997 (Tigray). By delegating its legislative authority to the States in 1997, federal government legitimised most of the Amhara and Oromia state proclamation provisions, and the actions (such as land redistributions) that had already been taken in accordance with them.

There is no mandated federal government institution responsible for land policy. The Ministry of Agriculture and Rural Development (MOARD) has been given the responsibility to coordinate land issues. At the State level, land administration has recently been delegated to Environmental Protection, Land Administration and Use Authorities (EPLAUA), though previously it was within the Bureaus of Agriculture. In rural areas, the management of land issues is delegated to local administrations. New structures for land administration have now been set up at the *woreda* (district) and *kebele* level. The *kebele* administrators had previously registered community members who held land, noting names and area in terms of local measures, as the basis for taxation.

In Tigray land registration and certification began in 1996 and the first round was completed in 1998. Updating the registration system is slowly beginning. The Amhara region started land registration in 2003 and Oromia and other states followed suit. Amhara runs both a pilot in 4 communities with GIS based land registration and has started a so-called 'traditional' system which is comparable to the approach followed in Tigray with some improvements. In both States, making land available for investors is also a policy goal. In Amhara, improving conservation and use of land and natural resources is another explicit objective of the registration process.

Finally, the change in the land tenure system in the past three decades has affected women differently from men. Though the 1974 revolution had empowered women in many different ways, following the land reform of the Derg women could only access land through their husbands. Contrary to this, the new constitution provides for equal access to land for unmarried women. This was implemented during the last land redistribution in Tigray and Amhara resulting in an improvement in some women's access to and control over land.

2.2 Ghana

The context in which land registration takes place in Ghana is characterised by high demographic growth and increased pressure on land (particularly in peri-urban areas); by the coexistence of statutory and customary law and institutions, and hybrids thereof; by increased agricultural diversification, which in some areas involves a shift from "traditional" to "new" crops (e.g. from cocoa to pineapple), and from small-scale farming to commercial plantations; and by an ongoing policy debate on the Land Administration Programme (LAP), a government programme to implement the 1999 National Land Policy, which is supported by the World Bank and other donors and is aimed at strengthening land administration institutions.

Registration is based on land title registration in selected urban and peri-urban areas (Accra, Tema and parts of Kumasi), and on deeds registration in the rest of the country. Very few land rights have actually been registered, despite deeds registration having been in place since 1883, and title registration since 1986. The reasons for this include the very complex, slow and cumbersome procedures, and the weak institutional capacity of competent government agencies. Moreover, corruption and mismanagement (for example, double registration) are common.

Besides statutory registration procedures, some customary land secretariats (e.g. the Asantahene's and Gbawe) have put in place informal systems to document land rights. These usually involve keeping records of the land allocations made by customary authorities, and in some cases quite sophisticated systems of land surveying. These procedures are usually carried out much faster than formal registration. Because of this, the LAP includes a component to increase the effectiveness and accountability of customary land secretariats, and to mainstream them into the formal land administration system.

While the LAP is an ambitious attempt to reform the land administration system, some argue that it should pay much greater attention to protecting the rights of vulnerable groups, such as women, youth and migrants, and that it should more explicitly address equity in access and control over land (see, for example, the 2004 women's manifesto on women's rights to land). The LAP's support to customary land secretariats has also attracted criticism, since

in many cases chiefs are among the key actors fostering land disputes, for instance through multiple allocations of the same land to tenant farmers and through sales of land.

2.3. Mozambique

In Mozambique, the Land Law of 1997 seeks to guarantee access to and security of land tenure for smallholder farmers *and* provide an enabling environment for national and foreign investors. It upholds the constitutional principle that land is the property of the State, while recognizing the rights acquired traditionally through occupation and inheritance. The 1997 land law was the result of extensive consultations with civil society and it is praised internationally for having sought to protect smallholder rights. Any citizen who has occupied land for more than 10 years has land use and benefit rights. Local communities³ can be collective holders of land rights and can apply for land titles: “Land Use and Benefit Rights” (DUATs), issued by provincial cadastral services, following a process which includes participatory delimitation of community lands and negotiation with neighbouring communities on the management of shared natural resources. Such registration has been supported by NGOs and about 200 communities have registered their land since 1998.

Individuals and firms, national and foreign, may apply to the government for renewable 50 year DUATs and the process to be followed includes consultation with community representatives occupying the land in question. In order to encourage investment, the notion of ‘open’ rather than ‘closed’ borders for community land was adopted. Traditional and local authorities are given a formal role in the processes of land concessions to individuals and firms as well as in community land delimitation. Some 6649 DUATs were issued between 1997 and May 2005. The legal requirement for community consultation prior to land concessions is regarded by some as a hindrance to national and foreign private investment (Rosário and Tanner, 2002:6). Others see both the registration of community lands and the consultation procedures prior to land concessions as important instruments for strengthening the security of land tenure for smallholders and as the land policy envisaged, allowing for “partnerships” between investors and smallholders in development projects (Norfolk and Liversage, 2002).

Interpretations of the land law of 1997 and of its regulations are still evolving. Rural land regulations are in force while urban land regulations have still not been approved. In October 2002, the time allocated to process investor applications for DUATs was set at 90 days, which includes time for community consultations to determine the availability of the land in question. The aim of such consultations is to find out whether the requested land is in use and the kind of compensation or benefits the occupiers can levy from the applicant. Provincial Cadastral Services (SPGC) are responsible for carrying out these community consultations, which have often been criticised as inadequate, in terms of how community representatives are chosen, the information given to the wider community, the agreements which are reached and the benefits (cash, employment), if any, distributed.

Land debates can be seen as a proxy for development debates in Mozambique (Hanlon, 2002) as they are linked to debates about credit and investment, smallholder or large-scale commercial agriculture, government’s role in development and issues relating to smallholder protection and power. As such, the registration of rights under the law is still highly problematic as it does bring into direct conflict the interests of different groups including smallholders, urban elites and foreign investors. In addition, the lack of a functioning legal dispute resolution system works against serious investors as well as smallholder farmers.

A national land strategy is to be prepared (2005-09). One of the concerns it will address is that land registration needs to be better linked with local development. A multi-donor fund for a community land and natural resource support programme, which includes land registration, is being established, which should support such linkages. Finally, the national land registry is being computerised to improve land management.

³ The New Lands Act (Act 19/97 of 1st October) defines the local community “as [a] grouping of families and individuals, living in a territorial district of a status equivalent to a ‘locality’ or lesser, which seeks to safeguard their common interests by means of the developing of dwelling areas, agricultural areas, whether cultivated or in fallow, forests, places of socio-cultural importance, landscapes, water springs and expansion areas.” [Article 1(1)].

2.4 Registration Systems in the Three Countries

Table 1 summarises the basic characteristics of the registration systems analysed in the four case studies, in the three focus countries.

Table 1: Basic characteristics of the registration systems in the three countries

	Ethiopia (Amhara)	Ethiopia (Tigray)	Ghana	Mozambique
Land ownership	State	State	Private and public	State
Registration system being analysed	GIS-based title registration system (pilot); low-tech 'traditional' title registration system	Title registration	Land title registration (selected urban areas) and deeds registration elsewhere	Community land registration (rural) Individual and collective land registration (urban)
Type of land covered	All rural land	Cultivated land (rural)	All	All
Rights being registered	User rights	User rights	All interests in land (including ownership)	User rights
Basis of rights	Latest formal land redistribution (1996)	Latest formal land redistribution (1989)	Statutory and customary law	10 year occupancy; customary land tenure
Registered right holder	Household – single or joint titling (spouses); local government and communities for common lands	Single Household head (cultivated land); local government for common lands	All individual and collective legal entities	All individual and collective legal entities; "Communities"
Stage of implementation	Pilot evaluated (2005); traditional started in 2003; first certificates issues in 2005	Most certificates issued by 1998; updating has started	Deeds registration since colonial times; title registration since 1986; LAP since 2003	Ongoing since 1998

Table 1 illustrates the diversity of systems that exist in the three countries: the type of land covered by the system, the basis of rights, whose rights are being registered and the technology used vary significantly in each of the case study countries. Given this diversity, and the different policy contexts, it is clear from the start that there are strong arguments for developing locally appropriate registration systems, rather than blueprint solutions to increase security of tenure.

3. LAND REGISTRATION PROCESSES IN RURAL AREAS

This section reviews the land registration processes applicable to rural areas in the three countries, highlighting their respective strengths and weaknesses. In Mozambique, our focus is on community land registration and in Ethiopia, on household land registration programmes. As for Ghana, this section focuses on deeds registration – the system applicable to rural areas. The aim here is to identify key features of the registration process that may affect the ability of poor and marginalised groups to make use of it (see Table 2).

Table 2: Key features of land registration

	Ethiopia (Amhara)	Ethiopia (Tigray)	Ghana	Mozambique
<i>Registered right holder</i>	Joint titling household (cultivated land); local government and communities for common land	Household head	All individual and collective legal entities	All individual and collective legal entities; “communities”
<i>Systematic/request</i>	Systematic	Initially systematic, updating on request	On request	On request
<i>Boundaries documented</i>	Yes in pilot; by local area names and neighbours names in traditional system	Only by local area names and neighbours names	Yes	Yes
<i>Technology</i>	Very simple (“traditional”) GPS-GIS (pilot)	Very simple	Ranging from traditional to formal surveys	Ranging from simple to formal surveys
<i>Language</i>	Local (State)	Local (State)	Official	Official
<i>Fees</i>	Very low	Very low, for certificate only	Costly	Individual: costly; communities; relatively low (but always externally supported)
<i>Community consultation before registration</i>	Yes	Yes	No	Yes
<i>Feedback mechanisms/ monitoring system</i>	Evaluation done for pilot; planned for traditional system	No ongoing system, after registration was completed	Existing but inefficient; planned in LAP	No
<i>Level of implementing authority</i>	<i>Kebele</i> * overseen by <i>Woreda</i>	<i>Tabia</i> *	Regional level (but part of process at national level)	Provincial (but authorisation required at national level, depending on land size)
<i>Level of storage of the Register</i>	<i>Woreda</i>	<i>Tabia</i>	Regional level	Provincial or national
<i>Length of registration process</i>	Pilot 2 years; “Traditional” 4-6 months	Several weeks	Very long; at least 5-6 months for ‘well-connected’, often several years	Provisional title to be issued within 90 days, but variable. Definitive title within 2 years (foreign applicant) or 5 years (national)

* *tabia* and *kebele* are comparable levels of the lowest (sub-district) level of local government, followed by *woreda* (district) level.

3.1 Systematic Registration

As Table 2 illustrates, the land registration features and processes in the three focus countries are very different. In Ethiopia, the process differs somewhat in Tigray and in Amhara. In both cases, land registration has been a systematic, rather than demand-driven process. In Tigray, the process has been handled by the *tabia*, the lowest level of local government. High school graduates were trained as “land registration technicians”, and “traditional” land allocators elected by the local community who were involved in the original land redistribution process are called to witness what land belongs to whom when there are border disputes. A local consultation process takes place before registration. Fees tend to be very low, the technology is very simple and the language used is accessible to most rural land users. As a result, the process is transparent and accessible and overseen by the local government. By 1998, approximately 80% (government estimate) of the arable land had been registered – a remarkable achievement. A similar system is also being followed in Amhara since 2003. At the end of 2004, about 30% of farming household plots were registered. Here, a local community committee was set up to do the actual registration work, going from plot to plot, with some level of training and oversight from local government officials. However, in Amhara, besides this “traditional” system, another registration system is being piloted with support from the Swedish government. The latter system makes use of more sophisticated technology, which enables the collection of more information (e.g. exact plot size and location).

In Tigray, registration is by household and involves the listing on one certificate of all plots used by a household – rather than issuing a certificate per plot. This recording format creates problems for registering land transactions. Another shortcoming of the simple technology used by the system is that it does not document with any degree of precision the size, boundaries and location of the plots. This means that land registration does not help solve border disputes – despite these being relatively common (see section 6). Overall, the Tigray system seems to have been perceived as a one-off issuing of certificates to improve local perceptions of tenure security, that is, to mark the end of land redistribution. No provisions were implemented that allow for regular updating, to reflect transactions in rights, or for registration of secondary interests in land. These constraints suggest that there may be a trade-off between accessibility (which may require the use of simple technology that can be operated at the local level) and the extent to which the registration system can provide precise and up-to-date information on land rights.

Some problems are being addressed now, at least partly as the result of our research. A regional authority has been set up to follow up on the land registration process. The intention is to register the 20% of households whose land was not registered the last time and the hillside plots that were given to young people will also be registered. The authority has reprinted the old forms and further input is needed to design a continuous registration process, allowing for individual household names on the register, with continuous updating to include new children, heirs, divorce etc.

Despite these challenges, the Tigray system has made important achievements, and provides some important basic principles for a pro-poor registration system. As the case study report makes clear, the relative success of the Tigray system is partly explained by the fact that such a system builds on strong local institutions that emerged in a particular socio-political and historical context. The latest land distribution seems to have been perceived as fair, which is an important contribution to the relatively smooth registration process. Moreover, communities in Tigray demonstrate trust in the quality of governance by established rural local government, though less so in urban and transition areas.

In Amhara, where the dominant “traditional” approach to rights registration is very close to the Tigray system, some of these limitations are being addressed in improvements to the initial system. For instance, registration now takes place in the name of both spouses rather than of the (male) household head. Demarcation of boundaries, and re-dressing encroachments where this has happened, are also part of the “traditional” registration process – although boundaries are not registered on the certificate. The certificate does list the names of neighbouring landholders and an estimation of the area. The registration process in Amhara, however, seems to be more contested than in Tigray, as the land redistribution of 1996, which provides the benchmark, is perceived as unfair by some groups (political opponents, and possibly also some poor groups). And, there is less trust in the government administration, as ‘bureaucrats’ are widely perceived to have manipulated land redistribution to serve personal or political ends.

The Amhara pilot scheme is using GPS and GIS technology to determine location and boundaries of each plot, thus overcoming the information limitations of the Tigray and “traditional” Amhara systems. However, this is very demanding in human and financial resources. One option being discussed is to limit the use of this more sophisticated system to high-value land and to boundaries between common grazing land and cultivated plots, and between local governments (*kebeles* at sub-district level).

3.2 On-Request Deeds Registration

In Ghana, the situation is very different. Deeds registration has been in place since colonial times, and is currently regulated by the Land Registry Act 1962. This enables parties to land transactions to register the “deed” that embodies the transaction. Should a dispute over a piece of land arise, the first of two registered deeds concerning the same plot would normally prevail.

However, this registration process has actually affected very little rural land. In the Western Region, our fieldwork revealed a general lack of awareness of the registration process among the majority of cash and food crop farmers. The language used in the registration process is English, which is the official language but is not widely spoken in many rural areas. Registration fees tend to be high, and the process is long and cumbersome. In order to register a transaction, farmers would need to go to the regional capital, which entails substantial transport and transaction costs. Use of deeds registration is also constrained by widespread border disputes, not only between land users but also between landholding groups (*stools*). This creates a situation of uncertainty over who has rights over what, which prevents the formalisation of land transactions.

As a result, while farmers in both Western and Eastern Regions increasingly make use of written documents to secure their transactions, very few bother to register those documents with the deeds registry. In the Western Region, for instance, the annual registration of deeds has increased from 38 in 1988 to 104 in 2004, with a peak of 233 in 2003. But these figures are still very low when compared to the extent of land transactions in the region. In the Eastern Region, the number of deeds registered each year is higher, with an increase from 122 in 1988 to 484 in 2004, and with peaks of 1196 in 2002 and of 942 in 2003. This reflects the fast-growing use of land transactions, linked to the spread of new high-value cash crops such as pineapple.

On the other hand, deeds registration is commonly used by companies acquiring interests in land. In the Western Region, registered deeds mainly concern mining and timber concessions and leases to agribusiness companies. Law requires no consultation of local resource users before such deeds are registered. In the Eastern Region, medium- and large-scale pineapple companies regularly register their deeds. For agribusiness, mining and timber companies, the registration process is not costly, and can be achieved relatively speedily, and provides greater legal security. And, government agencies assist companies in registering their deeds.

In other words, while the deeds registration system seems to cater for the needs of medium to large-scale companies, it does not respond to the needs of small holders. They must resort to other mechanisms in order to secure their land claims in a context of growing land scarcity and mushrooming land disputes. These mechanisms include written receipts and contracts prepared by schoolteachers, extension officers, family heads and others. In some cases, standard receipts from receipt books purchased in stationery stores are used. Some contracts are signed by witnesses and by figures like court clerks. In some areas, customary chiefs have developed quite sophisticated systems to document land transactions – the “customary land secretariats”. These systems usually record land allocations made by the chief, and are meant to enable chiefs better to administer their lands. It is these systems that the LAP seeks to strengthen and mainstream into the formal land administration system. However, in some cases tenure security is undermined by border disputes concerning stool lands, the area administered by the chief. Records kept by the chief are of little help in these cases. In addition, in many cases chiefs are among those fostering tenure insecurity (see section 2.2).

3.3 On-Request Title Registration

In Mozambique, the process to register community lands is very different to both the Ethiopian and the Ghanaian models – both in the law and in the way it is implemented (for instance, in relation to the extent of NGO involvement in land registration). Land registration takes place on request, with land rights being protected by the Land

Act 1997 irrespective of registration. Registration fees are relatively low, but are usually beyond the means of small-holder farmers and are paid with the support of NGOs and donor agencies. The period of 90 days for registration may seem long, but consultations that involve large communities and their neighbours take time. The main authority in the land registration system is located in provincial capitals, rather than at district, locality or village levels. The Provincial Cadastral Service (SPGC) is responsible for certification, and there are only a few districts in which the cadastral service has been set up.

NGOs have been the most active type of organisation in promoting community land registration (Kanji et al., 2002). NGOs disseminate information on the land law, provide financial and logistical support to communities and carry out the participatory diagnosis and mapping of land and natural resources, which is then ratified by SPGC. Various other institutions are involved in the registration process: the district administrations, the district directorates of agriculture, the local government authorities (at locality level and below) and the traditional authorities. In all the communities studied, these authorities worked with elected local land committees. As for language, while the registration process is in Portuguese, the official language, NGOs facilitators of community land registration help overcome this barrier. In our field sites, interventions made in Portuguese were always translated into the local language so that the majority could understand the process. The documents prepared and signed during registration (such as minutes of meetings and the reports from the participatory rural diagnosis) are written in Portuguese. However, community leaders said that the main documents were read out loud and translated for the participants. In other words, the work of NGOs helps make the land registration process in Mozambique relatively accessible to rural communities, but is dependent on continued funding for NGOs to pursue land registration activities.

In addition, while the process is relatively accessible to communities as a whole, it does not address the land tenure security needs of individual community members. The size of a community varies from less than a 1000 to over 10,000 people and a community may occupy a large area of land (In Zambezia province the two communities studied had 13,000 hectares and 74,000 hectares respectively). Including community members in the process is therefore not simple. In the four rural communities studied, the local leaders and people living near the places where meetings were held followed the registration process the most closely. In more distant locations within the same communities some interviewees did not know that their land had been registered.

On the other hand, accessibility of the process for individual registration is very low (distant institutions, use of the official language, lack of information, slow and bureaucratic processes) and costs are prohibitive for low-income groups. The research found that land transactions are often recorded in written documents and signed by witnesses to strengthen land claims but the formal registration procedure is not followed. This applies to "purchase" and rental agreements, particularly frequent in areas where land is scarce. Such informal transactions take place with small private operators from outside the community as well as within communities. In the latter case, it is often linked to the ability to work land, which may create or exacerbate vulnerability within communities.

Individual registration processes are mainly used by individual and corporate 'investors'. Over 6000 such applications for land registration were approved between 1997 and 2005, representing an area of about 1.428 million hectares. Apart from the adequacy of community consultation processes, the other issue which has raised concern is whether the rules for using and developing the land within specified periods are being followed. In principle, those who do not use the land in accordance with the application should have land retrieved or reduced in size. In practice, however, there is a lot of land that is registered to individuals and companies which is not being developed. Government promised in 2001 to combat speculation in land but nothing was done (Hanlon, 2002:33). In 2005, the newly elected government has promised to do the same, especially in Maputo province where there is a huge demand for land.

Community land registration has sometimes served to defend community interests, particularly when there are existing land conflicts. However, registration has not always resolved such conflicts, as will be discussed in section 6. In the absence of land conflicts, communities do not see land registration as a necessary priority, and in law, they have the same rights even if the land is not registered. Community land registration promoted by NGOs has sometimes raised false expectations of outsider investment, firstly, that investment will definitely follow and that the community will see immediate, tangible gains from such investment. The current shift, to link registration to rural development initiatives, is important, so that land registration is seen as a means to an end, rather than an end in itself.

As this overview of rural registration processes makes clear, there is enormous diversity in context, laws and regulations as well as institutions responsible for land administration in the four case studies. In both Ghana and Mozambique, individual request-based land registration is inaccessible to poor and marginalised groups. However, rural land registration in Mozambique does allow rural communities to strengthen their rights in relation to outside interests in the land they occupy. In the systematic registration processes in Ethiopia, low-cost, low-technology and locally managed options are much more inclusive. However, the degree of engagement and acceptance of registration, by poor and marginalised groups, depends on how fair the prior redistribution of land is perceived to be, and the level of trust they have in local government structures.

4. LAND REGISTRATION PROCESSES IN PERI-URBAN AREAS

In many cases, the registration process applicable to urban and peri-urban areas differs to the one applicable to rural areas. In Ghana, for instance, while in most of the country the deeds registration system applies, land title registration was introduced in selected urban areas – Accra, Tema and parts of Kumasi – in 1986 (Land Title Registration Law). In Mozambique, the registration of community lands essentially concerns rural areas; in peri-urban areas individual land registration is much more common. Land relations in peri-urban areas are also usually different to those dominant in rural areas. Everything else being equal, the proximity to towns makes land more valuable, as it fosters land demand for residential purposes or for the cultivation of crops to be sold in the nearby urban markets. Given these specificities, our research project, while focusing on land registration in rural areas, has tackled issues concerning land registration in peri-urban areas. Relevant field sites included peri-urban areas of Maputo and Matola in Mozambique, Accra in Ghana and Mekelle in Ethiopia.

Peri-urban areas are variously defined, depending on the discipline, focus and level of intervention, and there is no single spatial definition of peri-urban across the world (Mbiba and Huchzermeyer, 2002). Peri-urban areas are usually viewed as a geographical zone of cities and towns. The peri-urban is sometimes equated with spontaneous, unplanned development as cities expand. The limits of peri-urban areas are not fixed, but continuously re-defined as a result of urbanisation and the ensuing expansion of urban areas. In our study, one peri-urban site outside Mekelle in Tigray was previously regulated as rural land but was then redefined as urban, with negative consequences for the security of tenure of smallholder farmers (see below). For the purpose of this study, peri-urban areas include lands that are located in the proximity of towns and the value of which is rapidly increasing as a result of such proximity and of the socio-economic transformation that such proximity entails.

4.1 Competition and Conflict

Field studies in Africa show that competition for land is particularly acute in peri-urban areas. In many places, peri-urban land use is changing rapidly from agriculture to housing and other services (Cotula and Toulmin, 2004; Tibaijuka, 2004). Within agriculture, there are shifts from subsistence food crops, to intensified and commercialised food production for growing urban populations and in some cases, for export. Where customary land rights are applied, these tend to be more individualised in peri-urban areas than in rural areas. As competition for land increases and as new actors, such as urban elites and foreign investors, enter the land arena, access to and effects of registration processes has important effects for the livelihoods of low-income groups, where their location is also essential for the provision of goods and services to urban populations.

In Ethiopia, transferring land from rural to urban governance has been the source of an increasing number of land conflicts. Urban administrators can ask the regional state to expand the boundaries of the municipality, which implies that rural land at the periphery of the city is taken from farmers and rented to urban dwellers and investors. Some experts of the bureau of agriculture and of EPLAUA have started to oppose the requests of municipalities for expanding boundaries, on the grounds that it induces poverty by taking away productive assets from farmers while the insecurity generated by the threat of eviction affects agricultural production in peri-urban areas.

The urban land administration system, however, is further from and less accessible to poorer groups than the rural system, and also more costly. One of the 10 research sites in Tigray is peri-urban. At the start of the research it was still governed by rural regulations, but since then two kinds of urbanisation have occurred: the Mekelle municipality decided to include some areas into urban Mekelle and some still-rural land was transferred through several different pathways to investors (government and private) to build on the land. In both cases, land has been taken from people who had been granted land certificates under the rural land registration regime, and allocated to investors. What then becomes important is compensation to the previous residents. The legal framework guiding expropriation procedures and compensation is not yet well developed and often is not followed in practice. Many farmers have not been compensated at all though they have lost their livelihoods; some who have not been compensated have complained through courts or administrative proceedings, sometimes successfully but sometimes not; and some of those who have been compensated have lost their compensation. However, farmers and

urban citizens often also collude in efforts to profit from urbanisation, with farmers receiving direct remuneration for land where the “buyers” build “moon houses” (structures built overnight) to augment their claims on the land.

In Ghana, our peri-urban field sites (Oyarifa and Gbawe) are located in Greater Accra, where land title registration applies. This provides for the registration of all interests in land, whether based on statutory or customary law. Conflicting claims are solved by the Land Title Adjudication Committee, the decisions of which can be appealed to the High Court and from there up to the Supreme Court (Kasanga and Kotey, 2001). However, the adjudication committee has not functioned effectively in the few years. The implementation of this legislation has been riddled with difficulties. The scheme has been inadequately funded and resourced, and lacks the necessary qualified personnel and equipment (Kasanga and Kotey, 2001). No effective coordination has been established between the Land Registry administering the land title registration system, and the Lands Commission administering the deeds registration system (Kasanga and Kotey, 2001). As a consequence, many of the titles issued have subsequently been taken to the courts, on grounds of having been wrongly issued.

4.2 Registration Processes

In Ghana, the process to register land is very long and cumbersome, and it is not uncommon for it to take several years. In many cases, registration of household plots is stalled by longstanding disputes over the “allodial” title of the land-holding group (stool or family), from which households derive their land rights. The registration system has failed to address the widespread land tenure insecurity generated by chaotic land markets, multiple land sales and fraud.

Besides being effectively inaccessible to most people, the land title registration process also seems not to provide greater tenure security in the eyes of local users. These tend to feel more secure once they have “developed” the land – i.e. built a house or otherwise put the land to use. This is in line with “customary” rules and widespread local practice. It is also partly explained by legislation applicable to selected urban and peri-urban areas – such as the Land Development (Protection of Purchasers) Act 1960, which protects the land rights of urban developers that have constructed a building beyond a specified height. This legislation originally sought to ensure that lack of tenure security would not hinder the development of urban lands. However, it creates an incentive for developers quickly to build concrete structures beyond the specified height, and then wait to find the money to complete the building. This may partly explain the building “skeletons” that can be seen in the peri-urban areas of Accra – and of many other African cities.

In Mozambique, specific regulations to govern peri-urban and urban land registration were proposed and debated in 1999, but have still not been passed. The regulations for the Land Law of 1997, issued in 1998, are applicable to “the zones not covered by the areas under the jurisdiction of the Municipalities that have Municipal Survey Services ...”(Article 2). There is growing demand for land in peri-urban areas in the adjacent cities of Maputo and Matola, due to migration from the rural areas, (especially during the period of armed conflict that ended in 1992), population increase, urban expansion and changing land use.

Urban land is allocated in four ways (Negrao, 2004): the State, customary systems, simple occupation, and by the land market. Allocation of land by the State is more frequent in the areas subject to urban expansion or to respond to emergency situations, such as land for the victims of the 2000 floods. In these cases, the municipality identifies and registers the land, allocating residential plots to households and registering the plots in the name of the household head (see section 5 on gender issues). Simple occupation is frequent in peri-urban areas and in the green belts of towns, together with the customary system of land allocation. On the other hand, the land market is important in peri-urban areas and in the green belts of the large urban centres, as is the case of the cities of Maputo and Matola, where the study sites were located. The State recognizes two types of transfer of DUATs among the users: transfer by inheritance (no. 1 of article 16, Law of 19/97); and by sale of the infrastructures and improvements existing on the plot (no. 2 of article 16, Law of 19/97).

4.3 Land Markets

The research in peri-urban areas of Maputo and Matola confirmed the findings of other studies (Negrao, 2004), that there are active informal land markets in peri-urban areas, with high levels of speculation and informal price levels for the acquisition of land (although land belongs to the state). High-income individuals pay local residents

for land, build a flimsy structure and then sell it later for a much higher price (see Research Report 7). Elites and business people are keen to register land, as it 'legalises' the land purchases and increases security of tenure, irrespective of how the land was acquired. There are intermediaries who specialise in dealing with the entire process of registration, at a cost of about US\$250.

In recognition of the conflicts over peri-urban land and as an interim measure to expedite applications to register land rights, the municipal council of Maputo passed a by-law on land use rights in July 2003. It explains some aspects of how the law applies to urban areas and endorses some regulations which apply to rural land, for example, a 90-day period for dealing with applications to register land. In order to deal with the problem of "double" allocations of plots, at least three members of the community have to be consulted prior to allocation. In theory, the holder of the registration certificate (provisional title) can use it to acquire loans from credit institutions.

The Maputo and Matola study found that registration was not accessible to low-income groups because of lack of information and high costs, many of which are illegal – for example, paying municipal officers to process applications and providing transport for technicians to demarcate land. Many low-income respondents felt that land registration 'belonged to the private sector', illustrating the distance they perceive from formal and bureaucratic registration processes.

The same study identified cases of low-income households who had lost their land to people from outside the community who claimed to have "bought" the land and had certificates to prove it. Although there are local dispute resolution commissions, these usually involve the same local leaders who are consulted before certificates are granted.

Box 1: Conflicts over title in peri-urban Maputo

In Zimpeto, located in the Infulene Valley in peri-urban Maputo, 50 smallholder farmers who belonged to an association lost the land they had tilled for over 10 years, and to which they had user rights. The area they worked, 100x150m, was 'sold' by an intermediary, who claimed to represent the farmers. The present 'owner' turned up with a provisional title for the land and claims that he paid Mt.120 million (about US\$5000) to a committee that represented the peasants who were farming there. Members of the association were evicted and they did not have the resources to take the case to court.

Box 1 does not represent an isolated case, and the research report cites other cases, some of which have been documented elsewhere (see Research Report 7). On the other hand, there are also cases where land registration has been pursued successfully by farmer associations, which they perceive to have strengthened their tenure security. However, high levels of organisation and persistence are necessary to negotiate the registration system.

4.4 Key Issues

In all the case studies in peri-urban areas, registration systems have been much less accessible to low-income groups and have tended to encourage a transfer of rights to elites and investors. As in rural areas, a critical factor seems to be the way in which institutions function and whose interests they represent. Research in Dar-es-Salaam, Tanzania has shown that in newly urbanising areas, modified versions of traditional social institutions facilitate quite smooth processes of conversion of agricultural land for urban uses (Kombe and Kreibich, 2000; Rakodi and Leduka, 2004). However, the research also shows that, as areas consolidate and the density of development increases, the rules and relationships governing transactions and regulating disputes become increasingly strained.

There is an urgent need to design registration systems which are more accessible to low-income groups, so that registration can contribute to more equitable tenure security in these areas of rapid change. In addition, further attention needs to be paid to compensation procedures which can be enforced. One way forward, particularly in informal settlements, where households share a common interest in securing land for housing, farming and other livelihood sources, is collective rights registration. There are also examples in different parts of the world, where urban poor groups have negotiated more secure tenure through rights of occupancy and adverse possession (Tibaijuka, 2004), through the collective acquisition of land (sometimes the land they occupy and sometimes alternative land) as in specific initiatives in Thailand, Zambia and Kenya (Payne, 2002; Rakodi and Leduka, 2004).

5. GENDER AND LAND REGISTRATION

Most women face insecure and limited land rights. Women gain access to land usually through secondary rights, being daughter, wife, sister or mother of a man able to assert primary rights to land through patrilineal land ownership systems. There are of course exceptions where inheritance is matrilineal, for example, in Nampula province in northern Mozambique. Here, the research showed that when men move to the wife's village, women tend to have independent rights to land and it is the husband who loses access to land in the case of divorce. However, the research was not designed to show how widespread matrilineal practice is – there are counter-trends which have been observed in Africa whereby patrilineal norms have affected earlier customary practice in ways which have weakened women's relative advantage as transmitters of lineage membership and property rights (WLSA, 2001 cited in Walker, 2002).

In general, women's prevalent 'secondary' rights are under increasing pressure as competition over land increases and land becomes imbued with concepts of individual rather than lineage ownership, under the control of men. Discriminatory family and inheritance law and practice often further weaken women's land rights, when they cannot inherit the matrimonial home on the death of their husbands (Hilhorst, 2000). As Walker (2002:18) points out, security of marriage becomes a major requirement for security of tenure and many studies point out that marriage as an institution and family structures are becoming increasingly unstable. The rising incidence of HIV/AIDS exacerbates the problem and has put increasing numbers of widows and children at risk of dispossession of their houses and land by dead husbands' kin. Interestingly, it was reported by some government officials in Amhara that because of joint registration and women's right to half of the land following divorce, marriages have become more stable.

Some researchers have argued that in the development of private property regimes of any kind, women in Africa tend to lose the rights they once had (Lastarria-Cornhiel, 1997). This is because women suffer systematic disadvantages in market- and state- backed systems of property, because their opportunities to buy land are more limited than men's, because local level authorities practice gender discrimination preventing women from claiming rights that are in theory backed by law or because their secondary rights tend to get lost following individualised land registration.

The issue of women's land rights has also highlighted the drawbacks of depending too heavily on customary institutions, since women as a group tend to have fewer independent rights than men and their interests are not well represented in these institutions (Whitehead and Tsikata, 2002). In assessing the potential for reforming and building upon customary systems of land tenure, attention has to be paid to power relations and their implications for social groups, particularly, but not only, women who are not well positioned and represented in local level power structures. There are also clear differences between women, based on age, marital and social status, which affect their rights to individual and common land.

5.1 Women's Rights and Registration Processes

Legal provision for women's rights is improving, and formal law, particularly constitutional provisions, tend to treat women more favourably than customary law. There are increasing numbers of cases in Africa where women have appealed to courts to uphold their rights to land (e.g. the Pastory case in Tanzania, 1990; the Bhe case in South Africa, 2004; and the Samaké case in Mali, 2002⁴). In this context, land registration processes, if appropriately designed, can contribute to improve the land tenure security of women, by providing them with documented land rights. However, in the past, many land registration programmes ended up eroding women's land rights, because women's secondary rights were often not recorded in the register. And, the same registration process may affect men and women differently, due to gender differentiation in language skills, access to information, contacts and resources, time availability and, more generally, to socio-cultural factors.

In Ethiopia, both federal and regional state land policy intends to guarantee women's access to land and strengthen women's rights in marriage and inheritance. This was implemented during the latest round of land redistribution

⁴ *Ephrahim v Pastory and Another*, High Court, 1990 LRC (Const); *Bhe v Magistrate, Khayelitsha and Others*, Constitutional Court, 15 October 2004, CCT49/03; *Samaké v Samaké*, Tribunal of Ouéléssébougou, 26 December 2002.

Box 2: The effect of registration on women in Kenya

In Kenya, land tenure reform to register customary rights and convert them into freehold was adopted by the colonial authority and continued by the post-independence government (Swynnerton Plan of 1954; Registered Land Act of 1963; Land Adjudication Act of 1968). The reform intervened in a context where customary law was evolving towards increasing individualisation, with an erosion of women's customary land rights. In this context, the implementation of the land registration programme, carried out in a period in which gender was not in the development agenda, accelerated the individualisation process and further curtailed women's land rights. Firstly, land adjudication committees were male-dominated; in Luoland, for instance, all adjudication committee members were male (Shipton, 1988). Moreover, although all land rights, including under customary law, had to be recorded during adjudication, adjudication committees lacked skills and time to do so. Registration was usually made to male household heads, thereby undermining women's unregistered secondary rights. Furthermore, in some areas consolidation of fragmented landholdings under the land tenure reform curtailed the relatively independent managerial control that women exercised over the dispersed family plots they cultivated (Fleuret, 1988).

Source: Cotula, 2002.

where in both Tigray and Amhara unmarried girls (18 years old and over) were entitled to a plot of land. However, while in the Tigray system registration is in the name of a single household head, male if present, creating certain opportunities for mischief, in Amhara both spouses should be named on their newer version of certificates. At the end of 2004, when registration work was finalised in close to one-third of all *kebeles* in Amhara, 38.6 per cent of the plots were registered under joint title, 28.9 per cent was under female holding, and 32.5 per cent was registered to men. Given the high percentage of land registered to men, and some specific instances noted in the research, it is probable that many married women have been denied joint titling. Finally, since large-scale land redistributions are very unlikely, the evolution of female landholdings in Amhara and Tigray will be influenced to a large extent by decisions around inheritance practices (the number of eligible persons is restricted by law to prevent further land fragmentation).

5.2 Women's Participation in Registration Processes

The practice of land registration in Amhara showed the risk to women when policy intentions to protect women's right are not supported during implementation. Most local land administration committees contacted during the study were only composed of men. Both local leaders and government officials had not promoted women's participation in local land administration committees because they perceived the work involved (going from plot to plot) as too difficult for women. Few women participated in meetings held on the registration process. The reason given by some was lack of information while other women argued that dealing with administration is a task of men, or that women should not attend this type of public meeting. There are variations within Ethiopia: In Tigray, for example, women always attend mass meetings and the local governments in which the land registration is embedded were usually able and motivated to prevent mistreatment of women even when opportunities arose due to system failures.

However, our research showed that in the *kebeles* in Amhara where women were part of committees, they were active in protecting women's rights. Sources of risk in both States are divorce cases, where husbands may refuse to allocate half of the land to the ex-wife, as stipulated by law; joint titling where husbands try to avoid that the name of the wife being listed too; boundary issues and land being sharecropped over a long period by ex-husbands or male family members. Women who are most at risk are economically poor women and women who lack family support and other social links. Recently, the desk officers in Amhara have realised the implications of the lack of women's participation and have instructed the community to include at least two women in the *kebele* Land Use and Administration Committee.

The absence of women's participation in the land right registration process in Amhara is an indication of the absence of gendered implementation guidelines. In Mozambique, rural land registration guidelines stipulate that women and men in communities should be consulted, both in the community land delimitation process and

when individuals apply to register land. The study found that women tended to be in a minority in committees, which are formed to represent communities. However, in-depth work on the causes and consequences of women's lack of participation was not carried out. Nevertheless, there is little doubt that affirmative action is required to ensure that women are represented in land administration bodies and land dispute resolution mechanisms.

5.3 Outcomes of Registration

In peri-urban and urban areas in Mozambique, where land markets are strong, there is considerable differentiation between women according to class and income. Better-off urban women were found to be “purchasing” and registering land (as individuals), in urban as well as rural areas. However, land markets still remain inaccessible to most urban women for lack of financial resources. On the other hand, where local land authorities allocated and registered plots for households in one peri-urban area (in Matole Gare), household allocation did not include female children as they were expected to leave home and get married. In Tigray, on the other hand, there were cases of local authorities informally protecting women's land rights when they marry and leave the village, allowing them rights to land in their natal homes until they received land in their husband's village, as part of the household. Similarly, in Murrua, in Zambezia province in Mozambique, the study uncovered cases of women who continued to use their husband's family's land after they had been widowed. In other words, local attitudes to women gaining rights in land independently of their membership of and obligations to male-headed households are very important. These local attitudes include those of women themselves. As the Mozambique study in peri-urban areas (see Research Report 7) points out: “Many married women never feel they own the plots they have been occupying for many years, not even when they become widows, and they always refer to a male person (usually the eldest son) as the owner of the plot. This may harm them, particularly if their husbands die while their children are still minors, since the usurpations of land that have not been formally registered, belonging to people who know little, is now normal practice in several study sites.”

It is important that women have secure land tenure, in terms of women's human rights and in terms of development gains more generally. The details in the design of land registration procedures are important to support women's rights in land. The research identified systematic efforts to provide land certificates that register both spouses' names (Amhara, Ethiopia), and where women farmers' associations in peri-urban areas have registered collective rights to land (Mozambique). However, governance issues are critical – the way in which local institutions function and their ability to represent vulnerable groups can reinforce or contradict registration systems which are designed with gender equality in mind or even interpret the system more equitably than design. Efforts to promote gender equality in land registration systems imply investment in inclusive planning processes, capacity building of officials, public education and supportive dispute resolution mechanisms.

6. DISPUTE RESOLUTION

By clarifying who has right over what, land registration programmes should help reduce land disputes. However, ill-conceived reform programmes can exacerbate disputes, at least in the short term. Indeed, latent disputes can flare up when local actors realise that registration will bring about the final adjudication of land rights. And, local elites can manipulate the process to grab land before registration (so as to be well placed when implementation starts) or to register common lands in their own names – thereby fostering disputes. In discussing the ability of land registration to help reduce land disputes, registration processes cannot be considered in isolation – they must be placed in a broader context, both in terms of social and political relations (nature of the main types of land disputes in the area, etc.) and in relation to the legal system (dispute settlement institutions, etc.).

In Ethiopia, both the Tigray and the Amhara “traditional” registration systems do not entail the recording of plot boundaries in the register – though in the Amhara pilot plots are physically demarcated upon registration (see section 3). Therefore, land registration is of little help in solving boundary disputes, – which are relatively common in both Tigray and Amhara. This is a major shortcoming of this land registration model. In Amhara, the pilot using modern technology has registered all boundaries, using GPS. These certificates can therefore be used for boundary disputes – though this system is resource-intensive and time consuming (see above). A cost-benefit analysis is therefore required of the technologies available to identify plots and boundaries clearly enough to serve as a basis for boundary dispute resolution.

Conflict resolution is handled by administrative and judicial mechanisms. For some cases there is no clear demarcation of jurisdiction between the two dispute resolution systems. At the *tabia* and *kebele* level, the (male-only) social courts have lay judges with little or no legal training but who are elected by local community to resolve minor disputes and who rely on traditional witnesses for evidence of boundaries. As these traditional witnesses age, the importance of written evidence is becoming more apparent to all.

In Amhara, informal transactions or sub-divisions of land that took place during the last decade, but was illegal according to law, are not acknowledged and may become a source of conflict in the future. Another key issue is that women who claim their rights tend to be regarded as troublemakers and are not received well by authorities. Often women also have very limited access to formal laws and courts which are costly and time consuming, thus many women whose rights are threatened appeal to informal arbitration by elders to redress the situation. Here, they often are under pressure to accept fewer benefits than to which they are formally entitled. Affirmative action to empower women and involve them in the social court system is as important as reinforcing women’s right to land in policy.

An important source of conflict and even fraud in Ethiopia is the existence of different systems of registration of rights, which may even vary across states. Sources of friction and fractures are found at the borders of urban and rural, common and private, smallholder and investor land. Disputes arising from shifting municipal boundaries and ensuing transitions from rural to urban registration regimes are unlikely to be solved unless clearer standards and better coordination is established between these different regimes. The challenge is to do so without losing the accessibility and relative transparency of the rural land registration system.

In many parts of Ghana, land disputes are mushrooming as a result of unclear boundaries between customary chiefdoms, multiple land sales, fragmentation of traditional family structures, etc. Ghanaian courts have a huge backlog of pending disputes, a substantial share of which concerns land rights. In Western Region, the Commission for Human Rights and Administrative Justice (CHRAJ) originally established to tackle human rights violations and citizen-state disputes, has been effective in protecting women’s land rights. This is due to the greater economic and geographic accessibility of the CHRAJ dispute settlement procedures compared to the court system, as well as to its more flexible process. However, the CHRAJ has no power to issue binding judgements – rather, it essentially facilitates amicable settlement between the parties. In any case, given the very limited reach of land registration in Ghana, this seems to have contributed very little to reducing land disputes and to the work of dispute settlement institutions.

In Mozambique, the study found few land conflicts at community level although there were some boundary disputes between households. There were also some conflicts between neighbouring communities, particularly when

it came to the use of forest and other natural resources, which sometimes prompted community land registration. However, there were many more conflicts when individuals and companies sought to register land for private enterprises. A key factor, which has already been discussed, is the inadequacy of the compulsory community consultations carried out during the individual registration process. The study noted that negotiations involving SPGC and NGOs had resolved some disputes, while others remained unresolved. No cases had been taken to court and the lack of a functioning system for legal redress is a major problem.

The different levels of authorization required for large tracts of land (over 50,000 hectares) and different government institutions involved have also created conflicts, for example in the case of forestry concessions to timber companies. The study documented an ongoing conflict in Zambezia province, where the rights and responsibilities of the community, which has registered its land, and the timber company, are very unclear. The Forestry and Wildlife Regulations passed in 2002 (the Law was passed in 1999) permit the local community access to forest resources for consumption and stipulate that 20% of the tax which the company pays should revert to the communities where the resources are extracted. However, at the time of the research, no such benefit had accrued to the community and their appeals to provincial level authorities had not resulted in any action. The lack of mechanisms to monitor land registration processes and resolve disputes remains a serious problem.

The case studies point to the need to strengthen institutions for dispute resolution, at local (government and village or neighbourhood committees) and more central levels. This should be part of wider reforms to make structures more accountable both upwards to central government and downwards to the people they are meant to be serving. Democratising access to justice in land matters is important, if people are to have confidence in the rule of law and the competence of the state.

7. THE SOCIO-ECONOMIC OUTCOMES OF LAND REGISTRATION

Land registration is not an end in itself, but a means to an end – improving livelihoods and promoting sustainable rural development. In assessing the socio-economic outcomes of land registration, attention must be paid to two areas: outcomes relating to increases in agricultural investment and productivity; and outcomes for equity and the distribution of wealth.

The first concerns the longstanding assertion that once farmers feel more "secure" on their land, they are more likely to be willing to invest in it; and that once they obtain documents that they can use as collateral, they are more likely to have access to credit. Our research has only marginally touched upon these aspects. For instance, we found that in Ghana, land users really feel "secure" on their land only once they have "developed" it, *irrespective* of registration. And in Amhara, only 9 % of farmers stated that they expected to feel more secure on their land after registration, for reasons associated with prior land redistribution and their low level of trust in governmental institutions. In Tigray, however, there is some evidence that where traditional witnesses have died, the use-right certificates have become more valued in land markets (both leases and loans). In Mozambique, some communities have felt more secure after registration, particularly farmers in peri-urban areas or in rural areas where there were conflicts with outside investors. However, the research in the case study sites did not identify any instances where registration documents were actually used as collateral to obtain credit. It seems that registration alone is unlikely to improve access to credit for smallholder farmers and low-income groups.

On the other hand, our research generated more findings on outcomes regarding the distribution of benefits, and on who is succeeding in registering land and why. In Ethiopia, rural land registration has not had major distributional consequences in Tigray or Amhara. The process was systematic and in principle all those who hold land have succeeded in getting it registered. The registration process may also result in the confirmation of exclusion for some given that the latest large-scale land distribution was not perceived as fair, as in parts of Amhara. In addition, the poorest groups in these rural societies, the landless—particularly the youth, may perceive land registration as preventing them from ever accessing land, reinforcing their sense of exclusion.

In Amhara, as a result of poor governance and lack of oversight, people who do not work the land themselves, such as women who have to sharecrop, elderly and ill people may not have succeeded in registering their plots of land. Moreover, women involved in disputes over land following divorce or as part of an inheritance are also at risk. Joint titling is regarded as a public confirmation of women's rights, but may not change women's claims to land following death of a husband or divorce.

In Ghana, land title registration in peri-urban Accra is mainly undertaken by urban elites – civil servants, businessmen, politicians etc. – as well as by Ghanaians living abroad. In Maputo and Matola cities in Mozambique, the situation is very similar. Deeds registration in Western and Eastern Regions in Ghana is mostly undertaken by medium to large-scale companies operating in the mining, forestry and agribusiness sectors, as described earlier. In Mozambique, individual land registration is used by individuals and companies operating in similar sectors to Ghana (with the addition of tourism). This research confirms other studies which point to inadequate community consultations and poor monitoring of the use and development of the land which is successfully registered, which suggests a transfer of rights away from smallholders.

In Mozambique, community land registration does conceal intra-community vulnerabilities. The clearest example is in the one rural site where there was land scarcity (Murrua), where people were sometimes forced to 'sell' land informally for financial need and young people did not have enough land, either because they inherited too little or because they did not have the means to buy land. Nor does registration avoid intra-community conflict over resources. However, perceptions of community registration are shifting, and increasingly seen as a means for communities to organise themselves through land and natural resource committees and engage in development projects, with or without external investment. Depending on the structure and accountability mechanisms of these local development committees, more inclusive and sustainable processes of development may be promoted.

The Mozambique and Ghana case studies raise concerns in both rural and urban areas that farming communities and low-income households may be losing access to land (and to forest and other resources in rural areas), through registration processes which favour applicants who are well-connected and relatively wealthy. In all three countries, there is concern that increases in individual registration of land will lead to the “privatisation” of common lands which are important to vulnerable groups.

8. CONCLUSIONS AND POLICY IMPLICATIONS

The diversity of land registration systems and processes in the three country case studies illustrates the importance of avoiding a 'one size fits all' solution in countries with very different historical, political, economic and social trajectories. It is clear that those current systems which provide individual land title on-demand favour high-income groups and investors. By contrast, considerable innovation with pro-poor registration systems exists in Ethiopia (systematic household registration) and Mozambique (community land registration), which offer lessons to other countries seeking to protect land rights for the poor majority.

This study has identified certain key features in the design of land registration systems which address the risk of bias against poor and marginalised groups. Systematic land registration in Tigray and in the 'traditional' system in Amhara is very decentralised, uses local languages, costs are low (partly because boundaries are not recorded) and records are stored at a local level. However, there are trade-offs in terms of utility of the certificate, as we saw in the case of boundary disputes in Tigray. Collective rights registration, as in the case of Mozambique, provides access for large 'communities' to register their land rights, and can increase security for smallholder farmers when negotiating with outsiders seeking land and resources.

To increase tenure security, land registration systems need to be *phased* and *tailored* to local priorities and circumstances, keeping systems as simple and locally-based as possible, with potential to add and modify on the basis of experience and necessity. Formal registration may not always be necessary, for example in areas where there are no conflicts, such as with some community land in Nampula or in some parts of Ghana, where informal documents may do the job for the time being. Within formal systems, there may be a need to choose priority areas for attention, such as where land values are rising rapidly. In areas of lower competition, it may be better to rely on less complex procedures, which build on current practice, such as simple contracts which are formally witnessed at local level.

Caution is needed in moving to use of costly, high technology options for land registration as they may create barriers to access for poor groups. The costs of such technology may only make it a feasible option for areas of high value land or where precise clarification of boundaries is needed to avoid conflicts. However, rapidly developing technology and lower costs may provide opportunities for more cost-effective land survey and registration in the near future. Examples from Karnataka State, in India, suggest computerisation of land records, combined with open access through the Internet, can greatly improve the transparency and accountability of the local land administration system. Current levels of Internet access in rural Africa make this an unlikely option at present.

Institutions are increasingly recognised as being key to development, providing the rules, norms and governance systems for economy and society to work. Institutions are strongly rooted in the social, political and cultural landscape from which they grow and models cannot easily be transplanted from one setting to another. The governance and accountability of institutions involved in land administration are important, as we saw in the Tigray case, where problems could be solved at local level because the registration system was created within an effective system of local government. By contrast, the Amhara study shows that engagement with and acceptance of registration by some groups was negatively affected by their perceptions that the prior redistribution of land had been unfair to them, and their lower level of trust in local government structures.

Transparency is crucial to an effective and equitable system of registering land and property rights, hence processes of consultation and access to information are important. This includes local participation in establishing boundaries and resolving conflicts, as well as easily accessible land registry records. Mechanisms to increase accountability can be put in place, such as the community consultation procedures for land registration by investors in Mozambique, though local and provincial institutions will have to be strengthened for these consultation procedures to work more effectively. Monitoring systems are important to identify problems and improve all aspects of the land registration system, but were not yet in place in any of our case studies.

However, factors outside the land registration process will also be important in determining the effectiveness of land registration in practice, such as the widespread existence of 'illegal' land markets in peri-urban Maputo or the

lack of legal dispute resolution mechanisms. Dispute resolution mechanisms need to be accessible to smallholders and low-income groups, and are often best built on socially embedded mechanisms, which are familiar to local people. Recognising and strengthening local forums for dispute resolution is a constructive way forward, when combined with oversight from higher levels.

Peri-urban areas are particularly dynamic regions, in terms of land use changes and land transactions, given rapid rates of urban growth. Such dynamism has been accompanied by the emergence of informal and more formal mechanisms to try and secure such transactions. In peri-urban Maputo, farmers are being displaced by businessmen who have acquired titles to this land, without the farmers' knowledge. In Ethiopia and Ghana, land expropriation and compensation procedures are ill defined highly variable, and often not being followed. Where investors do provide compensation, local government (Ethiopia) and chiefs (Ghana) sometimes do not pass on compensation funds to those displaced.

Urban and rural land registration require different regulations and approaches, as argued for the case study sites in Mozambique, but this difference may become a source of insecurity over time, as the frontier shifts between city and farmland. The expansion of urban Mekelle, Tigray, provides an example where boundaries are being re-drawn resulting in confusion. Here, registration certificates seem to make little difference to security of tenure or to issues of compensation.

In the process of land registration, secondary rights may not be registered and women often lose out, as a result. In places where women have equal rights to land, and where land registration does allow for them to record their rights, they may gain greater tenure security, as in Amhara. In Mozambique, higher-income urban women are able to register land as individuals. In some cases, women value the security provided by registration certificates more highly than men, for example, female-headed households in Tigray. Efforts to promote gender equality in land registration systems requires investment in developing inclusive planning processes, capacity building of officials, public education and supportive dispute resolution mechanisms. Both local and more distant levels of oversight are essential to ensure such steps are achieved in practice.

This study has shown that land registration is not inherently anti-poor in its impacts and that the distributional consequences of land registration depend on the design of the registration process and of the institutions responsible for its management. Land registration systems can be set up so as to address the risk of bias against poorer and marginalised groups by considering issues of language, cost and accessibility and by recording secondary rights. Attention also needs to be paid to establishing effective accountability mechanisms for the institutions implementing land registration programmes, as well as for oversight and dispute settlement institutions.

Our work demonstrates the limitations of those approaches that assume that the "legal empowerment of the poor" may be promoted simply by providing land titles. In reality, different models of land registration exist, local contexts vary substantially, and overlapping rights on the same piece of land may coexist. Therefore, the real issue is not embracing readily available blueprint solutions based on Western models, but rather learning how to design land registration systems that secure the land rights of poorer and more marginalised groups in specific geographic and historical contexts. In addition, whether land titles or other registration documents improve land tenure security of local land users depends on the existence of strong local institutions that are able to uphold and defend the rights embodied in those documents. Building the capacity of local land institutions over time is therefore a key challenge. This study shows that there is considerable experience from which to learn.

REFERENCES

- Adell, G. (1999) Theories and models of the peri-urban interface: A changing conceptual landscape. Paper produced for the research project on Strategic Environmental Planning and Management for the Peri-urban interface, Development Planning Unit, University College London, London.
- Amanor, K.S. (1999) Global restructuring and land rights in Ghana. Research report no. 108, Scandinavian African Institute, Uppsala.
- Atwood, D. (1990) Land registration in Africa: the impact on agricultural production *World Development* 18:5: 659-671.
- Barrows, R. and Roth, M. (1989) Land tenure and investment in African agriculture: theory and evidence. Land Tenure Center Paper no. 136, University of Wisconsin Press, Madison.
- Berry, S. (1993) *No Condition is Permanent*. Madison: University of Wisconsin Press.
- Berry, A. (2001) When Do Agricultural Exports Help the Rural Poor? A Political Economy Approach. *Oxford Development Studies*, 29(2):125-44.
- Bevan, P. & Pankhurst, A. (1996) (eds) *Ethiopian Village Studies*. CSAE/Dept of Rural Sociology, University of Addis Ababa.
- Bruce, J.W. (1986) Land tenure issues in project design and strategies for agricultural development in sub-Saharan Africa. Land Tenure Center Paper no. 128, University of Wisconsin Press, Madison.
- Cotula, L. (2002) Gender and Law: Women's Rights in Agriculture, Legislative Study 76, FAO: Rome.
- Cotula, L. and Toulmin, C. (eds) (2004) *Till to Tiller: International Migration, Remittances and Land Rights in West Africa*, Issue Paper No. 132, IIED: London.
- Cotula, L., Toulmin, C. and Hesse, C. (2004) *Land Tenure and Administration in Africa: Lessons of Experience and Emerging Issues*. IIED: London.
- Daley, E. and Hobley, M. (2005) *Land: Changing Contexts, Changing Relationships, Changing Rights*. Draft paper for DFID.
- Deininger, K. (2003) *Land Policies for Growth and Poverty Reduction*, World Bank and Oxford University Press, Washington.
- EEA/EEPRI. (2002) *Land Tenure and Agricultural Development in Ethiopia*. Research report. Addis Ababa.
- Fleuret, A. (1988) Some Consequences of Tenure and Agrarian Reform in Taita, Kenya, in R.E. Downs and S.P. Reyna (eds), *Land and Society in Contemporary Africa*, Hanover and London, University Press of New England: 136-158.
- Green, J. K. (1987) *Evaluating the Impact of Consolidation of Holdings, Individualisation of Tenure, and Registration of Title: Lessons from Kenya*. Land Tenure Center Paper no. 129, University of Wisconsin Press, Madison.
- Hanlon, J. (2002) *The Land Debate in Mozambique: Will Foreign Investors, the Urban Elite, Advanced Peasants or Family Farmers Drive Rural Development?* Research paper commissioned by Oxfam GB, Regional Management Centre for South Africa.
- Hilhorst, T. (2000) *Women's Land Rights: Current Developments in Sub-Saharan Africa* in Toulmin, C. and Quan, J. (eds) *Evolving Land Rights, Policy and Tenure in Africa*, IIED/NRI, London.
- IIED (1999) *Land Tenure and Resource Access in West Africa: Issues and Opportunities for the next 25 years*. IIED: London.
- Kanji, N., Braga, C. and Mitullah, W. (2002) *Promoting Land Rights in Africa: How do NGOs make a difference?* IIED: London.
- Kasanga, K. R. and Kotey, N. A. (2001) *Land Management in Ghana: Building on Tradition and Modernity*. Land Tenure and Resource Access Series, IIED: London.
- Kombe, W. J. and V. Kreibich (2000) *Informal Land Management in Tanzania*. SPRING Research Series No. 29. University of Dortmund, Dortmund.
- Lastarria-Cornhiel, S. (1997) *Impact of Privatisation on Gender and Property Rights in Africa* in *World Development*: 25:8.
- Lavigne Delville, P. (2003) *Options de Sécurisation Foncière en Milieu Rural*, Concept Paper presented at the Praia+9 Forum, organised by CILSS and held in Bamako on 17-21 November 2003.
- Lund, C. (2000) *Seeking Certainty and Aggravating Ambiguity: On Property, Paper and Authority in Niger*. Paper presented at the November 2005 workshop on Institutions and Uncertainty, IDS.
- Maxwell, D., Odame, L. W., Lamptey, G. M., Zakariah, S. and Armar-Klemesu, M. (1998) *Farming in the Shadow of the City: Changes in Land Rights and Livelihoods in Peri-Urban Accra*. Cities Feeding People Report 23, IRDC: Ottawa.
- Mbiba, B. and Huchzermeyer, M. (2002) *Contentious Development: Peri-Urban Studies in Sub-Saharan Africa*. *Progress in Development Studies*, 2,2: 113 – 131.
- Migot-Adholla, S.E., Place, F. and Oluoch-Kosura, W. (1994) *Security of Tenure and Land Productivity in Kenya*, in Bruce, J. and Migot-Adholla, S.E. (eds) *Searching for Land Tenure Security in Africa*, Kendall-Hunt, Iowa.
- Molen, P. and Lemmen, C. (2004) *Land Administration in Post-Conflict Areas*. 3rd FIG Regional Conference Jakarta, Indonesia, October 2004.
- Negrao, J. (2004) *Land Allocation Efficiency: Market, State and Others in Mozambique*. Paper presented at the Land in Africa Conference, November 8-9, London.

- Norfolk, S. and Liversage, H. (2002) Land Reform and Poverty Alleviation in Mozambique. Paper for the Southern African Regional Poverty Network, Human Sciences Research Council.
- Olivier de Sardan, J. P. (1984) *Les Sociétés Songhay-Zarma* (Niger, Mali), Chefs, Guerriers, Esclaves, Paysans. Karthala, Paris.
- Palmer, R. (2000) Land Policy in Africa : Lessons from Recent Policy and Implementation Processes. In Toulmin and Quan (eds) *Evolving Land Rights, Policy and Tenure in Africa*, IIED: London.
- Payne, G. (ed). (2002) *Land Rights and Innovation: Improving Land Tenure Security for the Urban Poor*. ITDG: Rugby.
- Place, F., Roth, F. and Hazell, P. (1994) Land Tenure Security and Agricultural Performance in Africa: Overview of the Methodology, in Bruce, J. and Migot-Adholla, S. (eds), *Searching for Land Security in Africa*, Kendal/Hunt: Iowa.
- Platteau, J. P. (2000) Does Africa Need Land Reform? in Toulmin, C. and Quan, J. (eds) *Evolving land rights, policy and tenure in Africa*, IIED: London.
- Rakodi, C. and Leduka, C.L. (2004) *Informal Land Delivery Processes and Access to Land for the Poor: A Comparative Study of Six African Cities*. Policy Brief 6, International Development Department, School of Public Policy, Birmingham University, UK.
- do Rosário, C.A. and Tanner, E.C. (2002) *Como Fazer do Direito de Uso e Aproveitamento de Terras um Instrumento Dinâmico para o Desenvolvimento de Moçambique*. Maputo. Unpublished paper.
- Shipton, P. (1988) The Kenyan Land Reform: Misunderstandings in the Public Creation of Private Property' in Downs, R.E. and Reyna, S.P. (eds) *Land and Society in Contemporary Africa*, University Press of New England, Hanover & London: 91:135.
- Simpson, S.R. (1976) *Land Law and Registration*. Cambridge University Press: Cambridge.
- Tanner, C. (2002) Law-Making in an African Context: The 1997 Mozambique Land Law. FAO Legal Papers Online, March 2002.
- Tibaijuka, A. (2004) Security of Tenure in Urban Africa: Where Are We, and Where Do We Go From Here? In Quan, J., Tan, S.F. and Toulmin, C. (eds) *Land in Africa: Market Asset or Secure Livelihood?* IIED, NRI and RAS, UK.
- Toulmin, C. and Quan, J. (2000) *Evolving Land Rights, Policy and Tenure in Africa*. IIED/NRI: London.
- Toulmin, C. and Lavigne Delville, P. (2001) *Negotiating Access to Land in West Africa. Derived Rights: Diversity and Dynamics*. Provisional findings from a research project: Contribution to the World Bank electronic consultation on land policy and administration, April 2001.
- Toulmin, C. (2005) *Securing Land and Property Rights in Africa: Improving the Investment Climate*. In Lopez-Claros, A., Porter, M.E. and Schwab, K. *Global Competitiveness Report 2005-2006*. World Economic Forum, Palgrave Macmillan, Basingstoke, UK.
- Quan, J. (2001) *Lessons Learnt in Land Policy and Land Administration*. Peer review paper on land administration, Submission to World Bank electronic conference March 2001, DFID.
- Walker, C. (2002) *Land Reform in Southern and Eastern Africa: Key Issues for the Strengthening Women's Access to and Rights in Land*. Report on a desktop study commissioned by the Food and Agricultural Organisation (FAO), March 2002.
- Whitehead, A. and Tsikata, D. (2002) *Policy Discourses on Women's Land Rights in Sub-Saharan Africa: The Implications of the Return to the Customary*. University of Sussex, Brighton.
- Woodhouse, P., Bernstein, H. and Hulme, D. (2000) *African Enclosures? The Social Dynamics of Wetlands in Drylands*. James Currey: Oxford.

ANNEX: RESEARCH SITES

Amhara State, Ethiopia

Zone	Woreda
West Gojam	Bahir Dar Zuria
South Gonder	Fogera
North Wollo	Meket
East Gojam	Gozamen

Tigray State, Ethiopia

Zone	Woreda	Tabia
Mekelle	Mekelle/Quiha	Ela'la
Central	Ahferom	Mishig
Eastern	Atsbi-Wenberta	Felegeweiny & Haik-Meshal
Southern	Seharti Samre	Adi-Aka'ala
Southern	Hintalo Wejerat	Hawatsu
Southern	Ofla	Higumberda
Southern	Raya - Chercher	Mehoni & Worabaye
Afar State (not Tigray)	Aba'ala	Hidmo
Western	Kafta Humera	Adi-goshu, Deguagm kushet
Western	Kafta Humera	Adi-goshu, Mayweiny kushet

Ghana

Region	District
Western	Amenfi
Eastern	Akuapem South
Greater Accra	Gwabe Oyerifa

Mozambique

Province	District/City	Locality/ 'Community'
Nampula	Meconta district	Koma Koma Nipuro
Zambezia	Nicoadala district	Murrua Nhafuba
Maputo	Maputo city	Magoanine C Zimpeto
Maputo	Matola city	Matola Gare Cobe

Can Land Registration Serve Poor and Marginalised Groups? Summary Report draws on case studies in Ethiopia, Ghana and Mozambique. This research has shown that land registration is not inherently anti-poor in its impacts and that the distributional consequences of land registration depend on the design of the process and on the institutions responsible for its management. Land registration systems can be designed so as to address the risk of bias against poorer and marginalised groups. To protect and secure the land rights of these groups, attention needs to be paid to registration processes with regard to language used, registration fees, geographical accessibility; to recognising and recording “secondary” land rights; to establishing effective accountability and oversight mechanisms for the institutions implementing registration programmes; as well as to inclusive dispute settlement institutions. The study shows the need to avoid “one-size-fits-all” solutions and documents considerable experience from which to learn.

This report forms part of a series of seven papers based on a research programme entitled “Securing Land Rights in Africa: Can land registration serve the poor?”, led by IIED and funded by the Central Research Department of the UK’s Department for International Development.

ISBN: 1 84369 574 X



**Natural Resources Group
International Institute for Environment and Development
3 Endsleigh street
London WC1H 0DD
United Kingdom
Tel: +44 20 7388 2117
Fax: +44 20 7388 2826
<http://www.iied.org/>**