

WORKING GROUP 1

FORMALISING AND SECURING LAND RIGHTS

The group responded to an overview paper and three case studies.

- The overview reviewed the arguments and evidence in relation to land titling and registration, and the variety of evolving approaches in Africa (legislative protection of customary rights, with accessible justice systems; community land demarcation and corporate titling; land rights management by devolution of land administration of village level bodies; and devolution of land administration to local government or to semi-autonomous land boards. Key issues are
- Tigray in Ethiopia illustrates that it is possible to deliver low cost registration to provide security to reduce the uncertainties created by radical egalitarian land distribution, and accommodate an evolving land market, although the wider benefits for agricultural productivity and dispute resolution are not clear
- Mozambique has developed a workable approach to village level land demarcation to secure community rights against outside claimants, and is now seeking to reduce costs and increase the scale of this form of land registration
- Benin's Plan Foncier Rural has demonstrated practical lessons of a registration process to secure the diverse range of primary and secondary rights in land, while devolving management of land rights to village level land commissions. PFR is widely applicable but needs to be adapted to local circumstances and complemented by other methods to deal with conflicts.

Points of consensus

- Evolving African approaches have much to offer and represent a more appropriate way forward than conventional title registration, and need to develop into effective African systems of land tenure and administration, securing legitimate customary rights.
- Maintaining diversity in forms of tenure and methods of registration is important and systems should be adopted to national and local circumstances
- However Africa's developing alternative approaches face similar pitfalls to title registration especially where they seek to award exclusive rights whether on an individual or collective basis
- Generally, investment in institutions and processes for management of land rights and resolution of disputes and conflicts is a high priority and likely to be more practical and effective than trying to achieve comprehensive administrative confirmation of complex and changing sets of rights

- There are lessons from all three of the examples discussed which illustrate that alternative low cost approaches to land registration are feasible and can be further developed despite their limitations. Land registration systems need to be kept simple, validated by beneficiary communities, and refined and adapted according to experience and local circumstances. Further experimentation, development and supportive research is needed.
- **Gaps concerns and priorities for further development**
- There are considerable lessons from the PFR approach adopted in Benin, and elsewhere in Francophone West Africa, although it needs to be refined, adapted to local circumstances and complemented by other approaches. Although PFR as a model is not universally applicable, and comprehensive inventories of secondary / derived rights are not practical, some combination of locally based rights registration, devolved land administration by village level institutions and negotiated agreements between groups is likely to provide a way forward.
- There is potential in corporate / community land demarcation, as in Mozambique, but caution is needed where there are inter-group conflicts, and overlapping sets of rights, as in South Africa. African tenure systems are often “nested” with different rights held by individuals, families, kin groups and wider communities at different levels – land administration needs to be flexible enough to accommodate this rather than awarding exclusive sets of rights to specific groups.
- Cost-effectiveness is a concern: Greater cost and effort in land registration can be justified where land values are higher. It is not clear that land registration is always needed – as opposed to protecting existing right and enabling sound local systems to function. There is insufficient evidence of the cost – benefits of evolving alternative approaches to land registration in terms of agricultural productivity, and how these compare with other investments e.g. in basic irrigation or eater harvesting technologies, and longer term monitoring and research is required.
- Reducing land related social conflict provides a powerful argument for securing land rights, and for investing in land registration, but the process needs to be conducted fairly and transparently, and linked to appropriate systems of dispute resolution in order to avoid generating disputes and grievances.
- Although not all rural people will be able to succeed as farmers or have access to land for thriving farm enterprise, rights to land for common property utilisation, shelter, supplementary food production and cultural and spiritual purposes remain important for a large majority. Accordingly, land registration systems need to be inclusive,

but also to provide exit routes out of agriculture (and linked to alternative opportunities) by being updateable and enabling people to realise the value of their assets, and register land transfers.

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