

Land in Africa: Market Asset, or Secure Livelihood?

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Formalising and Securing Land Rights in Africa Overview paper

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Formalising and Securing Land Rights:
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1. Introduction

The last time African land practitioners and policy makers came together in UK to discuss issues of land and tenure reform, at a workshop sponsored by DFID at Sunningdale in 1999, there was an emerging consensus amongst participants that secure land rights are of fundamental importance to Africa's rural poor. They also agreed that the conventional process of formal land titling was not generally the way to secure rights (risking in fact undermining security); consequently alternative and more decentralised approaches were needed which gave proper recognition to legitimate customary rights.

The purpose of this paper is to provide a framework to revisit the arguments about how to provide land rights security in sub-Saharan Africa, to examine what has changed, and review new experience and evidence since we sought to summarise the "state of the art" of African land tenure in publishing the Sunningdale conference findings (Toulmin and Quan 2000).

At the time, our discussions were informed by the work of Bruce and Migot Adholla (1996), Platteau (1998), retrospective analysis of land titling in Kenya (various authors), the pioneering experience of the Land Boards in Botswana, and a number of case studies commissioned from conference participants from Uganda, Mozambique, Kenya, Niger and Côte d'Ivoire.

There was evidence in many cases that adequate security could be provided by customary tenure systems and that attempts to introduce freehold land titles could actually undermine the land rights security of poor and vulnerable groups. At the same time conventional titling programmes had proved so costly and time consuming that it would be impossible to achieve universal coverage, or replace customary rights in practice. Moreover there was little evidence that issue of land titles led to higher rates of agricultural investment and productivity. At the same time, however, customary rights were frequently becoming more insecure: on the whole, unrecognised by formal law; subject to uncertainty and conflicting claims exerted through formal land allocation by the state; and without documentation whereby rights could be protected or used as evidence to enable the land user to access credit and other services.

The conclusion was that it was necessary to grant formal recognition to established customary land rights so as to protect and secure them. This would require both legislative reforms to overcome the duality which existed between the formal, and informal or customary sectors, and the development of institutions for the management of land rights which could link with, build on or integrate customary systems of tenure and land management, and involve some form of localised recording and documentation of rights. In practice however, there was very little experience of doing this. Cutting-edge new land laws which granted formal status to customary rights, in Mozambique (1997) and Uganda (1998), appeared to offer a way forward, but implementation was not far advanced. Programmes in Niger and Côte d'Ivoire to document and register existing land rights with a view to eventual upgrading to title provide evidence of practical issues. They also demonstrate some of the major challenges to be faced, which include the relative rights of incomers versus

first settlers, and the roles of chiefs in relation to local government, and how best to design hybrid institutions involving the two, in new systems of land administration.

Since the Sunningdale meeting of 1999, experience with implementation has moved ahead in Uganda, Mozambique, Ethiopia, Benin, Côte d'Ivoire, and Burkina Faso. In a number of countries, land policies and laws have been passed which aim to integrate customary and formal land rights and tenure systems. The role of property rights and systems of documentation, in facilitating enterprise development and economic growth, has received new emphasis as a result of the work of Hernando de Soto (2002), now widely influential in government circles North and South. ICT systems for mapping and land information systems have become more widely available, bringing automated cadastral systems within closer reach. New projects have been designed to pilot decentralised land registration. In some cases, such as Ghana and South Africa, traditional authorities have re-asserted their roles as land rights managers and as land-owners. In other cases, where land holding is highly individualised, such as Rwanda and in Ethiopia's central highlands, governments are moving towards systems for low cost registration of individual household rights.

In this paper we now review, briefly and in turn

- The context of demand for land rights security in Africa
- The arguments and evidence relating to conventional land titling and registration processes
- The lessons of experience from land rights registration in Niger and Côte d'Ivoire
- The broad range of responses of African nations to the challenge of formalising and securing customary rights (something which the panellists will illustrate with practical examples and recent experience)
- The key practical questions in designing appropriate systems for land registration, and the policy and research issues

2. The context of demand for secure land rights

Securing access to land and natural resources is a matter of increasing concern for many people in Africa (Rahmato 1999). Good quality arable land and common pool resources are becoming scarcer and more valuable, due to greater market engagement, population growth, migration, changes in production systems, and environmental change. Non-rural actors are also seeking to gain access to land for commercial and speculative purposes, such as urban dwellers, traders, government officials, and foreign companies. Politicians at national and local level increasingly see control over land as a major asset to negotiate other forms of political allegiance. The impacts of globalisation are likely further to strip land of social constraints and turn it into a commodity to be bought and sold (Amanor 1999).

At the same time, secure access to land remains central to rural livelihoods, social equity, sustainable use and conflict management in Africa (Quan 2001, Bevan & Pankhurst 1996). Claims over land generally differ according to social and economic status, such as age, wealth, gender, length of settlement, and links to systems of customary authority. Customary tenure systems have proved themselves remarkably adaptable to changing circumstances, including rising land scarcity, and commercialisation of agricultural production. They can provide means of access to

resources for groups with weaker traditional claims, such as women and young people, as well as migrants, pastoralists and other mobile groups. These secondary, or derived rights bring greater equity, and flexibility within land and resource management systems (Colin 1995). However, customary tenure systems provide no firm 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). Indeed, the notion of 'customary' chiefdom has become increasingly subject to contest by those who argue that many of the prerogatives claimed were a convenient invention during the colonial period (Olivier de Sardan 1984, Berry 1993).

Rural producers throughout Africa are seeking ways of strengthening their claims over land, using both customary and more formal means to establish their claims. This may take the form of planting of trees and making other visible investments (Platteau 2000, Coulibaly & Hilhorst 1994). It may equally follow a path towards more formal, 'modern' methods such as seeking to register holdings, and record transactions on paper, even where these carry no legal recognition (Edja 2001, Amanor 2001). So far as natural resources are concerned, village management plans and local byelaws, often drawn up with the help of projects, NGOs or government structures, are becoming widespread to secure common property rights (Hesse & Trench 2000, Hilhorst & Coulibaly 1998, GTZ 1999, Shitarek et al 2001).

3. Land registration and titling

Land registration is a system for documentation of land rights which can take various forms, from a centralised system of land titles, to a village-based register of claims to land. In practice, land registration has been generally associated with the process of issuing formal land titles. However other forms of land registration record existing rights to land, both statutory and customary, although these processes may confer lesser degrees of security.

Land registration systems can vary greatly in their level of sophistication and cost, the means by which they check the legitimacy of rights being claimed by the registering party, accessibility of the process to different rights-holders, and administrative responsibility for the procedures. Most registration systems combine both a plan or survey map of the land in question, with a written document specifying the name of the rights holder and the nature of the rights held. Design of the process for registering land rights has important implications for its effectiveness, in terms of distributional impacts, speed of operation, and costs of issue and maintenance.

Freehold titling

Freehold title provides secure, exclusive and freely transferable private property rights, guaranteed by the state, generally considered to be strongest form of tenure. There has been relatively little freehold titling of land in Africa outside of the former "white settler" economies of southern Africa. Outside, and even within urban areas, the coverage of formal land administration systems is extremely thin. In West and Central Africa, it is estimated that less than 5% of the land area is titled, this being largely in urban areas and where, for example, irrigation schemes have been

established. Until the 1990s, however, the conventional wisdom of both government and donors was that comprehensive land titling was desirable as a means of introducing unambiguous individual property rights in land on the model of developed countries, so as to replace the uncertainties of customary tenure and create a basis for development of a land market. There have been several programmes aimed at registering land rights, such as the Rural Land Plans (*Plan Foncier Rural*) in Benin and Côte d'Ivoire, and titling by the Land Commissions in Niger. Several lessons stem from these various experiences, such as the high level of demand from rural dwellers in areas covered by such pilot projects to get their land rights registered, the very slow and costly process for issue of title associated with current systems, and the uncertainty created by pilot schemes when the underlying legislation securing such rights is not in place.

Arguments in favour of registering title to land have been put forward for many years. They normally involve reference to the following perceived benefits (Quan 2000, Deininger 2001):

- more efficient use of the land, because any disincentive to invest in the longer term management and productivity of the land will be removed once title has been granted,
- land is likely to be transferred from less to more dynamic farmers and consolidated into larger holdings,
- land titling should greatly reduce transaction costs and thereby encourage increased land transactions and the development of land markets
- farmers with title will be better able to raise loans to invest in the improvement of their land, since they can use the title as collateral with financial institutions, and
- titling provides governments with information on landholdings from which a system of property taxes may subsequently be developed.

Replacement customary tenure in Africa by systems of private property rights based on individual land titles was once regarded as an essential platform for capitalist economic growth. However a number of fundamental obstacles exist in African systems of landholding.

Firstly, many African nations have nationalised land and land rights are ultimately vested in the state. Secondly, whether or not land rights are formally vested in the state, in practice they are widely derived from historical occupation of designated areas by specific peoples and kin groups. These principles create restrictions on the transferability of land, in particular its permanent alienation outside the customary group, and therefore in the development of freehold land markets. Thirdly, African land holding in practice is frequently characterised by complex, overlapping sets of individual and collective rights, including secondary or derived rights created through customary transactions and inheritance. This creates restrictions on the extent to which land rights can be individualised in practice, without undermining certain rights which have been socially established as legitimate. These problems are reflected in a range of practical difficulties experienced by land titling and registration programmes, discussed below.

As a result of his experience, and better understanding of the durability and adaptability of customary tenure systems, many African countries have sought to put

in place formalised customary rights, through issuing customary titles or certificates. Where people are granted secure, inheritable and transferable (even given certain restrictions on permanent transfer outside the group) rights of occupancy and use in perpetuity, backed by formal documentation, these rights are to most intents and purposes equivalent to freehold title. Nevertheless, the formal registration of customary land rights, according to how it is pursued, may face many of the same difficulties of conventional titling processes.

Land registration programmes in practice

Most land registration programmes in Africa to date have been designed to support programmes of land titling. However, the evidence from research would suggest that many of these hoped-for benefits do not accrue automatically from land registration and titling, and, in some circumstances, the impacts may be the converse of those anticipated (Platteau 2000). Only in certain circumstances does the formal registration of land rights seem to make sense – such as where customary systems have become extinct, where major tensions exist between different groups which cannot be handled by local institutions for dispute management, in re-settlement or newly settled areas, and in areas of high value land, such as urban and peri-urban areas where competition for land is fierce (Bruce & Migot-Adholla 1994, IIED 1999). While land registration is often proposed as a means to reduce disputes, the introduction of central registration systems seems if anything to exacerbate disputes, by introducing added areas of uncertainty (Atwood 1990, Chauveau et al 1998, Lund 1998). Thus, for example, elite groups in the knowledge of impending registration may seek to assert claims over lands which were not theirs under customary law. The mass of people without access to education, information and contacts may find the land they thought was theirs has been registered by someone else. Where there are significant costs to registration, in cash, time and transport, smallholders are particularly vulnerable to losing their rights over land (Platteau 2000). Moreover, registration tends to penalise holders of secondary land rights, such as women and herders, as these rights often do not appear in the land register and are thus expropriated.

Registration may not be enough to improve farmers' access to credit since high transaction and other costs hinder credit supply in rural areas. Small farmers are generally not considered a good credit risk by formal financial institutions whether or not their land is titled, since their plots are not readily marketable in practice (Shipton 1988), and an unpredictable, fluctuating environment makes farmers risk-averse and hence reluctant to apply for loans.

Finally, where monetary and other costs for registering land transactions are high, land transfers tend not to be recorded and the register becomes rapidly outdated, thus limiting the potentially positive effects of registration (Shipton 1988; Atwood 1990; Migot-Adholla *et al.*, 1994; Lund 1998 and 2001; Firmin-Sellers & Firmin 1999; Platteau 2000). As for incentives to invest, tenure security is largely dependent on the right-holder's own perception. Where farmers consider their rights under customary law as sufficiently secure, registration may not result in higher investment.

On the other hand, research has shown that farmers' perceived tenure security may be increased through means simpler than full-fledged titling procedures. For instance, in Cameroon, where land can be registered under the 1974 Land Ordinance, very few

non-urban plots have been registered. Many farmers initiated the registration procedure but abandoned it after the preliminary boundary demarcation phase. While demarcation in itself had no legal value, in the eyes of village communities it did increase tenure security, as it was extremely unlikely that other villagers would contest land rights that had received this initial form of official recognition (Firmin-Sellers & Sellers 1999).

As a result of the recent research pointing out the shortcomings of titling, institutions like the World Bank, previously a vocal advocate of land titling, are now more cautious and recognise that this may not be appropriate in many circumstances (Deininger 2003, Quan, 2000).

Even strong advocates of registering claims to land recognise the need to base the formalisation of rights on community-based procedures which are considered legitimate by local people (de Soto, 2000). Hence, much recent work has examined actual practice in rights registration and the emergence of the many forms by which people seek to strengthen their claims over land, even where these are not formally recognised by government as constituting a legal title to land (Lund 2000, Lavigne & Mathieu 1999, Lavigne et al, 2002).

Titling of land in Ghana

The Land Title Registration Law of 1986 provides for the registration of all interests in land – under customary law and common law. It also provides that land held by stools, skins, and families should be registered in the name of the corporate group. However, the registration scheme has, as yet, only been implemented in the urban centres of Accra, Tema and parts of Kumasi. The Land Registry is noted as having only been able to issue less than half the number of applications made to it in 2000. After more than a decade since its introduction, its impact has been negligible. Its failure has been attributed to several design and implementation defects, which include inadequate funding and human resources, the uncoordinated nature of the process, and the registering of individual interests in areas where there remains dispute at higher levels. Interests are also being registered, without the knowledge of other claimants, since insufficient time is taken to publicise these processes widely.

As a result of these difficulties Ghana is now experimenting with a new approach under the World Bank and multi-donor supported Land Administration Programme (LAP). This aims to modernise and consolidate Ghana's land institutions and to develop the role of Customary Land Secretariats in land administration at the local level, acting as land custodians in rural and peri-urban areas.

Sources: Kasanga & Kotey, 2001, MLF Ghana 2003.

4. Registering land rights in Niger and Côte d'Ivoire.

Registration of land rights is being implemented in several West and Central African countries at both individual and community levels. Two countries have been chosen for discussion here because of their relatively well-documented approach. In each case, the establishment of a register of individual plots has been seen as a means by

which to provide greater security to land users, reduce conflict and, thereby, to encourage further investment in management and improvement of the land in question. A register also allows the state to identify more clearly where land is potentially available for other uses and provides a means by which it can be acquired and transferred.

The cases of Côte d'Ivoire and Niger show a somewhat different approach to registering land rights. In both cases, a map and register of the relevant area are drawn up to identify the site of the holding, the rights holders and the nature of rights held by different claimants. But in the case of Côte d'Ivoire, the rights registered by the PFR do not constitute a claim to ownership, and must be transformed within three years of registration to become a fully legal title of property¹. In Niger, the certificate granted by the Land Commissions constitutes a title of 'ownership'. While both countries adopted a pilot approach to test out the tools and approach, as the basis for an eventual nation-wide programme, in Côte d'Ivoire the PFR followed a systematic coverage of all rights-holders village by village. By contrast, in Niger, registration is done at the request of the land user. Nevertheless, a number of similar issues and lessons have emerged in Côte d'Ivoire and Niger, which are outlined below.

Generating insecurity. Rather than increasing security, the process of registering customary rights may generate increased uncertainty, and stir up dormant conflicts (Stamm, 2000). While reports of the PFR process in operation speak of an absence of open dispute when land is being registered, it is likely that outstanding conflicts will have been sorted out prior to the team's arrival (Okoin, 1999; Chauveau et al 1998). The implementation of the PFR in Côte d'Ivoire, in combination with the new law of 1998, seems to have opened up considerable uncertainty regarding the rights of migrant populations, since non-Ivorian people no longer have the right to be land holders. The land issue has been at the heart of political tensions between incomers and local people, fuelling the current conflict, and evidenced by many incidents where local farmers have seized lands which migrant settlers had developed under perennial crops. The registration process can also provide the means by which some people, or groups, can get their rights re-interpreted in ways which allow them to exclude others.

Simplification of complex rights. Programmes aimed at providing written title to land have been widely criticised for their damaging impacts on many groups, due to the simplification of rights which may occur through such titling activities, and the very skewed abilities of different groups to take advantage of such opportunities. Typically, those who benefit are those with contacts in the right places, a high level of education, and income to buy titles. The rights to a piece of land are frequently complex, depending greatly on the nature of the relationship between the land owner and user, and subject to re-negotiation over time, as conditions change and new opportunities develop. Yet the process of registration demands that rights be simplified in ways which then mean that they lose many of their most important elements, as well as their ability to evolve over time.

¹ It was originally intended that land users would be given a piece of paper with their plot marked, providing confirmation of their occupation as tenant, or landowner. However, this option was dropped early on, due to worries from indigenous land owners that tenants might take these pieces of paper as guaranteeing firm rights to the land. Subsequent legislation in Côte d'Ivoire has side-lined the PFR approach.

Time pressures within a long term process. Clarifying the relations by which people gain access to land and other resources is, as noted for Niger, a very long term process (Yacouba, 1999). It takes a considerable amount of time to investigate the complex overlapping claims of different individuals and groups, particularly in areas which have accommodated a significant number of migrants. It also takes time to establish the legitimacy of new institutions with the different parties concerned, so that people understand how they work and are willing to abide by the decisions made. Programmes to register rights are often under pressure to work speedily to ensure they can meet targets, leading to hasty treatment of inevitably complex issues.

The financial implications of registration. The establishment and maintenance of land registers require money. Estimates from Niger suggest an annual cost for running a Land Commission of around 40 million CFA francs (equivalent to US\$ 64,000), with the rough cost per plot of land at approximately 1,000 CFA francs (US\$1.60) (Yacouba 1999). For the PFR in Côte d'Ivoire, the overall cost of the project to the end of 1998 was estimated at 3,447 million CFA Francs (equivalent to US\$ 5.5 million), an average cost of 4,700 CFA Francs per hectare (Okoin, 1999). Although much less expensive than establishing a full-scale cadastral survey, these sums are considerable. Funds to cover the registration process could be raised by charging the land rights holder, but this risks exclusion of poorer farmers from the process. Alternatively, countries must gain funding from western donors. This may lead the country to accept a programme which fits the views of the donor, rather than being entirely appropriate to their needs, and which may also requiring loans which must ultimately be repaid.

The ambivalent role of customary chiefs. In Niger, there is continued reliance on the administration of justice by the customary authorities (mainly canton and village chiefs), to whom land disputes are brought for reconciliation. Since the State only pays them a minimal salary, the latter have a vested interest in arbitration of conflicts and the imposition of fines, even to the point where they may actively provoke disputes (Yacouba, 1999). Previous attempts at progressive land legislation failed due to the opposition of customary chiefs, who held around 60% of the seats in the National Assembly. This latest attempt is proving more successful because the association of traditional chiefs has been involved in all stages of the process, while the new law provides that chiefs be members of the Land Commissions as of right. However, since the Land Commissions are very slow in issuing titles, traditional chiefs are filling the administrative vacuum and providing their own documents and authentication of land transactions, for a fee².

5. Responses to the challenges of securing customary rights

Since the mid 1990s African nations have been developing a range of responses to the challenges of formalising and securing customary land rights. These approaches are not mutually exclusive and can be combined in different ways, with different elements having more prominence in different cases. Main approaches and examples are summarised here:

² While customary chiefs provide a particular focus for concern, given the strong powers they are often able to retain, local government administrators may also be tempted by the financial benefits to be reaped from acting as intermediary between groups in dispute.

Legal protection of legitimate customary rights: One option is for the law to protect customary rights which are considered socially legitimate, independently of any specific registration or documentation process. This has been done under South Africa's Constitution and in Mozambique's 1997 Land Law; other countries such as Rwanda and Malawi have developed land policies which imply the need for similar legislation. Although formal registration of rights is not required, some sort of quasi-judicial system is needed to resolve land disputes. Informal, alternative systems based on systems of customary justice tend to be more appropriate, in that vulnerable groups whose rights may be most in need of protection have limited access to the formal courts. Mozambique has introduced a system of land tribunals in which oral evidence, such as the verbal testimony of neighbours and elders, is acceptable alongside documentary evidence. There are powerful arguments for why land rights for the poor are better secured through investing in systems for dispute resolution and access to justice, rather than by technical procedures to register land rights

Community or corporate land demarcation A number of countries have made provision for corporate land holding by local communities represented either by traditional authority institutions (e.g. in Ghana), newly created legal bodies such as communal property or land associations, or trusts (South Africa and Uganda), a village assembly (Tanzania) or, as in Mozambique simply the "local community" broadly and flexibly defined. A first step is usually to demarcate and map the boundaries of the lands pertaining to these groups. The collective rights of the group in question can be subsequently entered into a land register, conferring a degree of formal protection of the rights of members, which would take much longer to document on an individual basis. A final step might be issue of some form of title to the corporate body, or alternatively detailed inventory of specific rights held by members in a decentralised land registry. The management of household and individual land rights is then a matter for the group, which might be handled under established customary arrangements or under procedures established by legislation, or in the constitution of the corporate group. In Ghana's LAP and the implementation plans drawn up for Malawi's land policy, the demarcation of traditional authority land management areas is viewed as a necessary first step in an incremental process of developing local land administration systems and constructing a comprehensive national cadastre, which might eventually include rights to individual plots.

Devolution of responsibility to collective bodies or traditional authorities Community or corporate land demarcation is usually associated with the devolution of responsibility for land administration to a village, local community or traditional authority structure. This relieves central land administration institutions of responsibility for registering land rights at local level, something which they do not generally have capacity or expertise to do. Ghana is planning to introduce Customary Land Secretariats, operating under the aegis of the traditional authority, as the lowest tier of land administration, backed and supported by the formal land administration system. In other cases, as planned in Malawi and in a recent initiative in Niger, a system of village land commissions has been introduced in which traditional chiefs are represented together with members elected by the community. These bodies are responsible for considering requests for land, publicising them, locally, if necessary providing adjudication of disputed claims, maintaining a village land register, and witnessing the various types of local transactions such as rentals, loans, pledges, gifts

and mortgages. This type of approach seems to be reasonably simple, low cost, and accessible to all community members (Lund 2000b). It can provide a basis whereby people can upgrade to certificates of title through the formal land registration system, for instance to enable access to credit, or if permitted by community rules, to transact in land with outsiders. The local registration process in Niger is linked to the formal land registration process through higher level land commissions. The general procedures for local land registration systems like this need to be set by national land policy and legislation, which confer authority on the elected body, although it is also sensible to pilot local approaches before prescribing detailed regulations.

Land registration by local government A related approach is the development of decentralised land registries by local government, usually at District level. This is more likely to be appropriate in cases such as Rwanda and Ethiopia's central highlands where land holding is already highly individualised and where although tenure is subject to customary rules and practice, traditional authority figures are largely absent. Tigray provides an example of land use registration at the lowest level of local government, the *tabia*. Another variant of this approach is to create District Land Boards, as in Botswana, linked to the machinery of local government, on which government officials, traditional authorities and community stakeholders are represented. These Boards have overall responsibility for land allocation and management, maintaining a land register and issuing certificates of title or of customary rights. There are considerable costs in setting up district land registries or land boards, and in practice they will need support from village level systems. Uganda's 1998 land act created a complex hierarchy of land board and lower level bodies intended to register customary rights. This proved very difficult to resource, and created a temporary vacuum during which rights were insecure until the system became operational. In Rwanda's case there is some urgency to provide a system to improve tenure security and provide documentation for credit purposes, in response to diminishing productivity, and to address land fragmentation, increasing informal transactions and land disputes, as a result of severe population pressure. Proposals developed in Rwanda envisage a system whereby high resolution photo maps, derived from aerial photography, are used as the basis for land rights documentation and land use planning at the lowest levels of local government. Locally documented rights would subsequently be registered at district level as resources and capacity become available.

6. Practical, policy and research issues

Many Africans, rich and poor, are seeking to document their rights to land as a means of making their tenure more secure through various informal procedures. This implies a clear interest and need for registering of land claims in many areas. However, formal titling programmes have run into considerable problems, due to cost, slow delivery, over-simplification of complex rights, and non-accessibility to poorer groups. Given the emergence of informal registration activities, governments need to consider how best to build on and legitimise this evolution in local practice. Titling programmes might do well to follow a phased approach, and start by focusing on priority areas. Design of a titling programme can experiment with a range of different models. Locally based systems have many advantages in terms of their accessibility, low cost and easier maintenance in comparison with centralised cadastral systems.

If land registration programmes are to meet their objectives and serve to make more secure the rights of poor and rich alike, attention needs to be paid to the design of the registration or titling programme. Key characteristics of a system designed to serve the poor include accessibility, cost, location, procedure for checking the legitimacy of the claims asserted by those seeking registration, language and use of local terms to describe the rights being recorded. These characteristics are best guaranteed through the strengthening of institutions at the level of a village or group of villages. If these bodies are to work effectively, they require careful design and support, through training of those involved to ensure a transparent process is followed. This will require the definition of clear principles by government to guide their activities, and monitoring to make sure such local bodies behave in an accountable manner.

A great deal of experimentation in land rights documentation and management is underway in Africa through government programmes and as a result of spontaneous initiative at local level. There are many lessons to be learnt but monitoring, research, and systems for development of good practice are under resourced.

Key issues for research and monitoring are:

- How the design of land registration processes and governance of the institutions responsible for its management affect the distribution of land rights and assets:
- How land registration procedures can be developed which systematically address the risk of bias against poorer, more marginal groups, by considering location, technology, registration fees, language used, recognition of secondary rights, etc.
- What types of mechanisms for formalising customary rights and securing land rights in general are appropriate for different social groups, contexts and circumstances?
- Given the potentially high and recurrent costs of extensive land registration, how can it be made cost effective, in terms of the investments made and the outcomes in terms of livelihood opportunities, economic development and reduced social conflict?

There are a host of subsidiary issues for monitoring and investigation in seeking to understand and good practice in securing land rights. These include:

- How is land being registered, and by institutions based at what level?
- Where this is being done at village level, on the basis of which rules and procedures, and drawn up by whom? What variation in land administration practice is found between villages?
- When land is being registered, how are boundaries being demarcated on the ground and recording rights, with what forms of technology (paper, maps, aerial photos, GPS...)?
- Where are these forms of registration stored, in what language and how accessible are they to the general public? Is local terminology used to describe the arrangements which people have agreed?
- How do formal processes of rights registration interact with informal processes for securing rights (social relations, paper contracts...)?

- How do local land institutions deal with disputes? What political and legislative framework governs their actions? How is accountability to a broad constituency assured?
- Who is seeking to register their land rights, and why? Are some groups more eager than others?
- Which groups are the winners and losers in this process? What happens to the claims of weaker groups in society? What means do they have to make their voices heard, locally and at higher levels? Do they have means to protect themselves against unjustified claims on their assets?
- What happens to secondary rights as a result of registration? Are they recognised and in what terms?
- In what way can collective rights, such as access to grazing land, wetlands or water bodies be secured and protected? Do legal texts, and documentation systems allow for the registration of collective rights? How should the registering of collective and individual rights be sequenced?
- Have special precautions been taken to ensure equitable access to the registration process, such as cost, language used, place of registration? Has this made a difference in terms of access in practice?
- How accessible are land registration processes to women? Is land registered in joint names of spouses, and can women register land in their own right?
- Are the land rights and interests of minors and vulnerable family members protected especially in the context of HIV/AIDS?

References

To be added.