

Principles for Formulating Land Policies: *A Policy Framework*



Land is not just a commodity. It is a factor of production, a capital asset and a source of identity. The interrelated social, cultural, economic, institutional and political factors involved in land make it an asset different from all others.

Yet, land policies in developing countries still bear the influence of colonial land distribution systems which then and now have tended to restrict local people's access to good land. On the other hand, subsequent State involvement in land issues has led to many cases of economic inefficiencies and social injustice. Unequal land distribution and unchecked market forces have, in some cases, led to land being taken from small farmers and growing rural poverty. The reinstatement of land rights is therefore an essential aspect of the policy and institutional reforms required to promote equitable and sustainable development.

Source

This article is repackaged from "EU Land Policy Guidelines: The Policy Framework". This paper draws substantially on recent strategy documents prepared by several EU member State agencies, as well as the World Bank's Policy Research Report (2002) and associated consultation documents, and policy documents from the International Land Coalition, International Fund for Agricultural Development and Food and Agriculture Organization.

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Land policy reform calls for a multidisciplinary approach to ensure that the needs of different stakeholder groups, in particular the poor and vulnerable, are effectively addressed. It is therefore imperative that all land policies deal with:

- **Poverty reduction.** Improving poor families' access to land and natural resources is key to broadening the economic opportunities available to them. Direct and secure access to land is an essential basis for survival and growth. Acknowledging that rural people need rights to control and manage their territory is a way to guarantee their access to resources which they have helped to maintain and preserve. Common property resources are particularly important to the incomes of poorer groups.
- **Identity, citizenship and social justice.** Democratic States need to guarantee the rights and assets of every citizen, especially the weakest and the poorest. There is a need to create and test innovative ways to ensure that the law is accessible to marginal and weaker groups. For example, access to land is an important issue for women, and in many Latin American countries, joint titling of land to spouses is now a legal requirement.

All land policy lies at the heart of a people's economic and social life, as the distribution of property rights has a tremendous impact on both their equity and productivity.

Land policy reform is essential to securing the broader objectives of social justice and economic development.

Oftentimes, these rights are not fully recognized, leading to social and political marginalization and land conflicts. Research shows that indigenous communities are among the poorest. Hence, to ensure the survival of these communities, promote equity and protect their immediate environment, mechanisms to secure indigenous peoples' (IPs') rights to their lands must be put in place. The case of minority groups illustrates how, in many countries, land rights are closely related to the fundamental rights of citizens.

Key Components of Land Distribution Efforts

- **Support for agricultural development.** Access to land is a necessary condition for encouraging investments and improvements on land. However, land titling is not always the best way to increase tenure security, nor does it automatically lead to greater investment and productivity. Reasonable crop prices, access to inputs, availability of credit, and the organization of markets and processing are important features of the agricultural sector.
- **Conflict resolution and post-conflict recovery.** Conflicts are likely to arise where resources are scarce and access to them is restricted. Hence, in order to forestall land-

related challenges and disputes, conflicting claims must be addressed before establishing a land registration program. For example, in countries that have experienced armed conflict, a fair and just handling of land tenure questions is often the central component of any reconstruction exercise, both to maintain the peace and to provide the conditions under which economic growth can be reestablished.



- **Improved governance.** Given the value of land, land administration provides fertile ground for corruption and political patronage. Thus, the design of rules, structures and procedures regarding land tenure must consider how best to minimize such risks. This should be done by establishing checks and balances, for example by opening up the process to public scrutiny and disseminating information more widely. An effective and responsive judiciary system that is accessible to poor and marginal people is also crucial.
- **Local government and decentralization.** Decentralization offers a valuable opportunity to shift more of the responsibility for land management to communities. It can also bring the resolution of disputes much closer to local stakeholders, and ensure that the management of land and the revenues from it are more closely scrutinized. However, decentralization may also have politically charged consequences, such as on land reform efforts. It can strengthen the hand of the local elite in decisions concerning the use of resources. Moreover, while decentralization could open up new ways to manage land and resources, it does not offer immediate answers to questions of accountability, or where power and decision-making should lie.
- **Taxation.** Trade liberalization has led to a substantial reduction of trade duties, thus making land increasingly attractive as a potential fiscal asset to meet fiscal targets. However, local land taxes would have to be accompanied by more effective and secure rights, and adequate provision of services by the local government if they are to be accepted by the communities. The government should also classify land according to quality and productivity, and tax it accordingly. The likely impact of such a tax on production strategies and levels of investment must also be considered.
- **Environmental management.** Land policy can help guard against environmental degradation and its social and economic costs. Clear and protected rights, effective rules defining access, and regulating the use of land and natural resources are essential to effective long-term management of land and resources. For instance, certain areas within a country may have to be set aside to conserve biological diversity, reduce risks of erosion and pro-

vide for common public spaces. Governments are now realizing the need for joint management with rural people of many protected areas.

- **Land use planning.** Agricultural expansion or rapid urban growth can cause many land-related problems. The consequences of unplanned land use are most apparent in peri-urban areas and in regions that receive a lot of migrants or refugees. Changes in population and patterns of land use need to be regulated in some way to minimize the adverse impact of poorly-sited buildings, the loss of green spaces, and the allocation of land for infrastructure development and service provision. Thus, land policy needs to be coherent with land use planning at the local, regional and national levels. Government planners should engage and negotiate with local land users regarding their plans.

For each of the components described earlier, there is a broad set of options. Due to this diversity, there can be no blueprint approach to land reform. The objectives, the political choices they reflect, and the legal and institutional options chosen are highly dependent on the specific economic, social and political context and its historical background, the institutional framework, the main issues to be dealt with, the type of agriculture, and relations between government and the people. Effective implementation of these options depends on the institutional capacity of the public, private and community-based organizations involved.

Central Issues to the Design of Land Policy

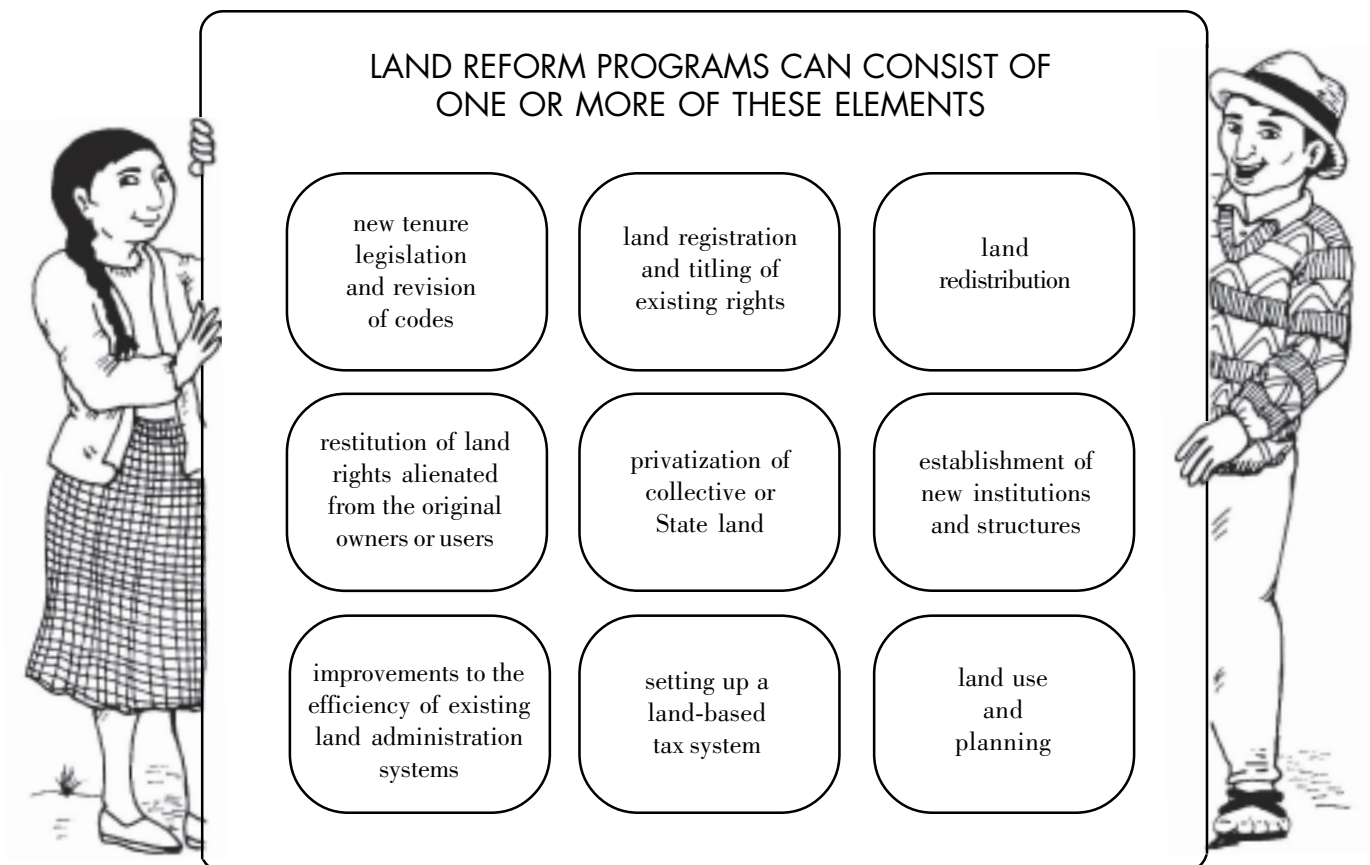
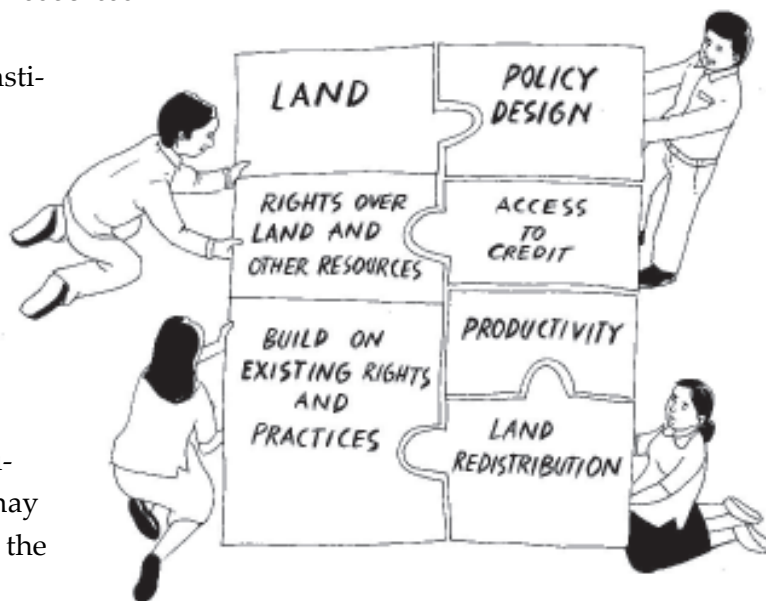


Table 1: Overview of Land Policy Reform Processes in Different Regions

REGION	MAJOR ISSUES AND TRENDS	ACTION REQUIRED
Asia	<ul style="list-style-type: none"> Continued duality of customary and statutory systems. Relatively little land subject to title. Population pressure, declining holding size, growing landlessness. Strong centralized systems of land administration. Lengthy bureaucratic procedures and backlog of land disputes. 	<ul style="list-style-type: none"> Recognize farmers' rights. Introduce simpler decentralized systems of land administration. Redistribute land in some countries. Strengthen women's land rights under both customary and formal systems. Develop rental markets for the poor. Reflect land policy in Poverty Reduction Programs.
Africa	<ul style="list-style-type: none"> Strong legacy of colonial administration, structure and legislation. Very low percentage of land subject to title. Legal pluralism with many conflicting and overlapping laws and systems for land administration, establishing land claims and conflict resolution. Common property resources key to poorer groups. Major disparity within the continent: <ul style="list-style-type: none"> East and South Africa characterized by large-scale alienation of land by colonial powers, commercial farmers, and national parks. West Africa, where there is very limited white settlement, continued strength of customary powers overlaid by sequence of legal, political and institutional changes. North Africa, where a legacy of strong central government control has meant few incentives for local management. 	<ul style="list-style-type: none"> Redistribute land where great inequities remain. Gradually formalize local land rights through decentralized land administration and more accountable processes. Build bridges between customary and statutory rights to provide greater security to the former. Address implications of high HIV/AIDS on land issues. Strengthen alternative sources of credit. Establish and protect rights to common property. Support negotiation between State and people to enable consensus regarding new rules. Strengthen women's land rights in both local/customary and formal systems. Reflect land policy in Poverty Reduction Strategy Papers.
Latin America	<ul style="list-style-type: none"> Large inequities in land distribution, despite long-standing land reform programs. High number of landless. Large number of squatters and others with informal holdings, no legal status. Major areas in which indigenous peoples claim rights. Shift from deeds to title registration, but widespread failure to keep register up-to-date. 	<ul style="list-style-type: none"> Exercise political will and allocate the economic resources needed to pursue land redistribution more effectively. Seek alternatives to market-assisted land reform. Look for ways to formalize land claims of informal sector and indigenous peoples. Support recognition of collective ownership rights.
Central and Eastern Europe	<ul style="list-style-type: none"> Privatization of State and collective agricultural enterprises over the last 10 years by establishing private farms. Restitution of former holdings, resulting in small and fragmented holdings 	<ul style="list-style-type: none"> Strengthen land administration, consolidate holdings through participatory procedures and innovative approaches. Look into exchange of holdings, use of land reserves.
Former Soviet States	<ul style="list-style-type: none"> Privatization of State and collective farms through issuance of shares, rather than division of estates. Growing concentration of shares in some places. Weak incentives to increase productivity. Limited land markets. 	<ul style="list-style-type: none"> Help set up mortgage systems to enable purchase of land by poorer groups. Improve understanding of gender roles and prevent rising poverty among women.

Securing rights to land and related resources

Securing of rights is a question of institution and enforcement. Many natural resources, especially those that are scarce, unpredictable or irregular, do not lend well to private ownership and are more efficiently managed as a collective asset. In many rural areas, farming societies are based on a mix of individual rights and collective regulations, the combination of which may differ depending on the setting and the resources in question.



Building on existing rights and practices

In the past, land tenure systems in customary areas have been considered backward, insecure and a constraint on productivity growth. The aim was therefore to replace them with a formal, State-led system based on private ownership. However, the fact is that customary tenure has proven to be quite dynamic. In most cases, there is no major inefficiency in customary land management systems that could justify their replacement. Even if the aim of the State is to develop a formal system of titles, it should opt for a progressive evolution that builds on existing rights and gives them legal recognition.

Titling is not always the solution

It is widely believed that land registration or titling is necessary to secure rights, increase productivity, and gain access to credit, but experience has shown that titles are neither necessary nor sufficient to achieving these aims. Moreover, land registration programs are reliable only if the registry is regularly updated. Titling programs can actually lead to increased insecurity and inequity where procedures allow for political manipulation in favor of wealthy individuals. Titling can bring increased hardship for poorer people where land rights are complex and where lack of access to information about the procedure as well as the cost exclude them from such processes.

This does not mean however that titling is never useful. It plays a role in a number of circumstances, such as where land markets are evolving rapidly, where many people from outside the local community are involved, where farming systems require substantial amounts of capital that decentralized credit cannot provide, and where urban encroachment is a major threat.

Land rights administration: Lowering transaction costs

Land administration involves a range of different functions: information on rights and transfers, adjudication, and arbitration supported by systems of land surveying, mapping, land information, valuation, registration of rights, recording of transactions, issuance of titles and collection of fees or rents.

The design of the land administration system is a very crucial issue. Too often, centralized land administration is top-heavy, inefficient and costly. Some degree of decentralization will help to achieve more effective land and natural resource management, since more relevant and detailed knowledge regarding land rights is found at the local level.

The key aspects that need to be considered for a user-oriented land administration include:

- Resolving contradictions between norms;
- Offering simple, accessible procedures, with well-known rules that address the problems faced by farmers;
- Promoting efficient arbitration systems which are accessible to people;
- Removing inefficiencies in land administration and ensuring accountability;
- Maintaining a public record of land claims;
- Ensuring effective publicity of land claims prior to their registration and conversion to title;
- Avoiding opportunities for corruption presented by difficult and complex procedures; and
- Providing avenues for appeal.

Using new technology, such as global positioning satellites (GPS), can also improve the quality and efficiency of land information systems.



The role of the rental market in enhancing productivity and access

Given adequate guarantees of security for the transacting parties, land rental markets provide users the flexibility to increase or decrease their landholdings according to changing needs without permanently reassigning their underlying rights. They help give the poor access to land and allow them to temporarily or partially withdraw from farming without losing their landholdings.

Land redistribution

Due to the more effective use of labor, production in small- and medium-size farms has proven to be more efficient than in larger farms. There are therefore limited economies of

scale in agriculture. On the other hand, there are economies of scale in the processing, distribution and marketing of goods in a competitive global market.

However, land distribution may produce a temporary decrease in productivity if there are not enough economic incentives, and institutional, financial and technical support to help new farmers develop their holdings.

Problems in transferring land ownership remain. Should it rely on a market-based process and the principles of willing-buyer/willing-seller? Or should the State take a more interventionist approach? While market-led reforms avoid the damaging aspects of forced redistribution, the availability of land for sale and funding constraints both greatly limit the speed and impact of such reforms. To be equitable and successful, such processes require transparent procedures, political will, and strong donor support.

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) angoc@angoc.ngo.ph and the International Land Coalition (ILC) coalition@ifad.org.

Policy Designs for Land Management



Most countries have been engaged in various land-related measures, both to address the perceived weaknesses of existing systems, and to establish new mechanisms for land management that are believed to be necessary to encourage greater growth, equity or environmental sustainability. Certain key lessons can be drawn from this varied experience.

1. Recognize that land reform is a long-term, complex and highly political process.

The processes — changes in laws, registration, and establishment of new structures for land management and administration — are likely to be long-term, complex and highly political. This requires governments, donors, and other groups involved in supporting these processes to take a long-term strategic approach, and to make a commitment to see it through.

2. Promote inter-ministerial collaboration, with in-depth analysis of current situations.

Land issues are multidisciplinary, and thus should involve different ministries and institutions. Constructing a common framework of analysis, based on field research, is

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necessary to achieve consensus on the reforms needed and to work towards relevant and effective solutions.

3. Promote a participatory approach to policy making.

To foster a sense of ownership and promote effective implementation, governments must consult, listen to and engage with different actors, and understand their views, providing them with a platform for discussion of policy options. Strong political support for the reform is needed and has to be built over time.



KEY PRINCIPLES UNDERPINNING EFFECTIVE LAND MANAGEMENT SYSTEMS

1. Recognize that land reform is a long-term, complex and highly political process;
2. Promote inter-ministerial collaboration, with in-depth analysis of current situations;
3. Promote a participatory approach to policy making;
4. Take into account the gap between statutory law and local practice;
5. Identify key principles and allow for diverse solutions within them;
6. Take into account the implementation costs of designing land tenure reform measures;
7. Carefully craft the rules and tools;
8. Recognize that the impact of reform depends on changes in practices and not on the legal text alone;
9. Ensure widespread dissemination of information on the scope and content of the reform;
10. Approach gender issues carefully;
11. Recognize the rights of minorities; and
12. Include sound land use planning in land policy.

4. Take into account the gap between statutory law and local practice.

In many countries, there are huge gaps between the law and the practice of it. Such gaps can cause conflicts. But where legal changes recognize and support broader social changes, then they would be more likely to guide behavior in directions sought by government, and thus prove to be more effective. Hence, new legislative provisions need to take account of the broad range of current land practices, with a view to adapting rather than merely replacing them.

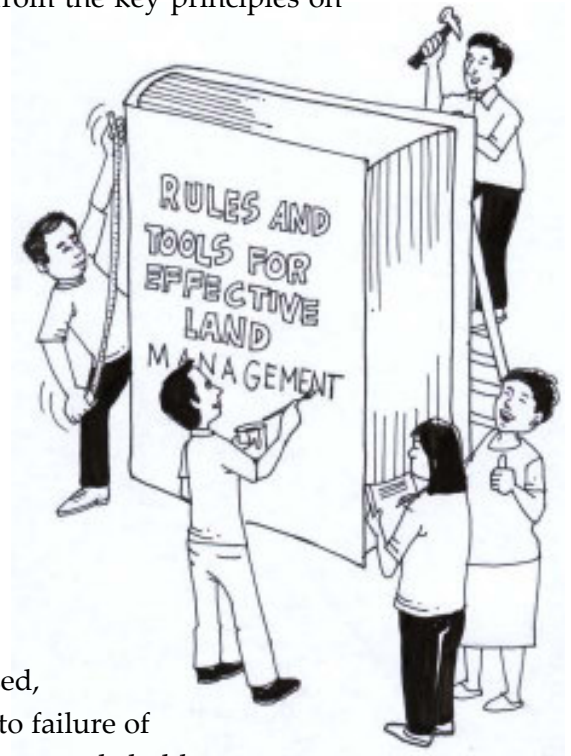
5. Identify key principles and allow for diverse solutions within them.

Different situations require different solutions. Land issues, including the pattern of land use, population density, strength of local structures, and systems for regulating land rights, differ widely among countries. This makes it necessary to focus on priority areas and to tailor

interventions to local circumstances without deviating from the key principles on which the policy is based.

6. Take into account the implementation costs of designing land tenure reform measures.

Setting up new structures and procedures can be very costly. Hence, it is a good idea to strike a balance between designing a comprehensive set of structures and processes for managing land, and opting for a minimalist approach, which is more affordable. It may also be better to build on existing institutions, and establish pilots to test approaches for later replication. Similarly, it makes more sense to focus on areas of highest priority rather than to try to cover everything.



7. Carefully craft the rules and tools.

Rules, tools and procedures have to be carefully discussed, designed and tested, to avoid loopholes that could lead to failure of the reform and other unintended negative effects. Different stakeholders are likely to try to manipulate procedures to further their own interests.

8. Recognize that the impact of reform depends on changes in practices and not on the legal text alone.

A change in legislation is not by itself sufficient to achieve the broader objectives sought by many reforms to land policy. For example, where land is redistributed to the landless,



considerable financial and technical support may have to be expended for some time to help new landowners to take advantage of market and other opportunities. Equally, the population needs to be informed of new laws and procedures, if they are to benefit from them. This argues for the dissemination of information in a form that is comprehensible and relevant to people's needs.

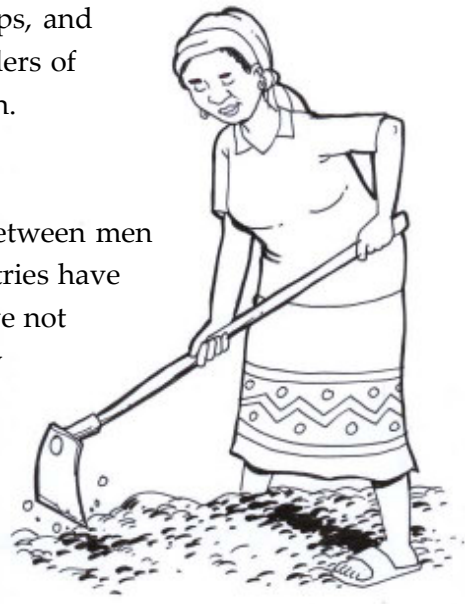
9. Ensure widespread dissemination of information on the scope and content of the reform.

Failure to properly disseminate information about such laws negates the purpose of the reforms. The language and terminology of legal texts can be a major hurdle. Thus, the new provisions have to be translated into the appropriate local languages and terms. However, given the high level of illiteracy among rural populations, particularly women, non-written

means of communication (*e.g.*, through radio, workshops, and extension work) will be required to inform all stakeholders of changes to their legal rights and the implications of such.

10. Approach gender issues carefully.

Despite broad agreement on the principle of equality between men and women where land rights are concerned, few countries have either not translated such principles into law or else have not enforced it. While legislation makes it possible in theory for those who feel aggrieved to claim rights with judicial sanction, not everyone will gain by pursuing their formal rights in this manner. Typically, women and men uphold traditional gender roles and relationships over formal rights. Unfortunately, women lack the confidence, information, experience and resources to get what they are entitled to by law. The knowledge that they can ultimately turn to the law may help strengthen their position in negotiations.



11. Recognize the rights of minorities.

Measures to secure the rights of minority groups and indigenous peoples must be based on respect for customary laws and tenure regimes. Capacity-building measures may be required to overcome entrenched prejudices in national administrations and to allow for the effective participation of these groups in the design and implementation of policy and legal reforms.

12. Include sound land use planning in land policy.

The quality, value, and location of land, including its vulnerability to degradation, vary widely. Land policy needs to take such diversity into account, and tailor rules and procedures to particular settings. A land use planning approach which is based on a consultative process, which allows for changes in land use, including the alienation of land for infrastructural needs in exchange for compensation, and which incorporates environmental principles and objectives, must be sought.

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Influencing Government Policy through Advocacy



Source

"Influencing Government Policy Through Advocacy: The Experience of Uganda Land Alliance"

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In January 1995, a group of international and national NGOs met to form the Uganda Land Alliance. The Alliance was set up as a pressure group with the mission of ensuring that land policies and laws are reviewed to address the land rights of the poor, women and other vulnerable groups. It developed six major approaches:

- Lobbying and advocacy;
- Public dialogue and awareness building;
- Land rights protection;
- Research and documentation;
- Monitoring implementation of policies and structures established by the 1998 Land Act; and
- Networking.

The Alliance chose to focus on land policies and laws because the mainstay of Uganda's economy is agriculture, with close to 75 per cent of its population depending heavily on subsistence agriculture.

The Alliance took the view that advocacy is a force for social change and transformation, directed at highlighting power relations in society, assuring marginalized people a place in public decisions and making their lives and environment healthier, safer and more productive.

What the Alliance has Learned

In the course of its advocacy work, the Alliance has learned the following valuable lessons:

- *Have well-done research, gender disaggregated data and valid information*, especially when you are lobbying experts/technical persons in the field. This information must be precise and concise, and should include arguments from all angles (legal, political, economic, social, constitutional, ethical, moral) and, where necessary, should be backed up by verifiable statistical data.

Reminders to Advocacy Groups



- **Legitimacy** — Who are you? Who do you speak for? With what authority do you speak? How do you know what the people you are speaking for want?
- **Credibility** — How much can the organization be believed or trusted? Is its information reliable, its programs and services sound, its staff qualified? Is the organization accountable internally and externally?
- **Mobilization of resources** — Can you show that your work is relevant and that you therefore deserve funding from whatever the source may be?
- **Sustainability** — Beyond financial sustainability, does the organization have membership sustainability (continuing relevance to the needs of its constituents and beneficiaries)?
- **Consensus building** — Does the organization agree on the key issues that will form the basis of the advocacy campaign, and how these will be presented? Are any dissenting parties dealt with in a sensitive manner so that disagreement does not lead to disintegration of the network?
- **Mobilization of a critical mass** — Are these issues around which the organization can mobilize a critical mass or not?

- ***Make follow-up appointments*** to find out whether the policy makers have read your communication proposal or not, so that alternative procedures may be devised.
- ***Understand the environment one is working in.*** Identify which policy(ies) is/are relevant to the issue being lobbied for and how the proposal you are suggesting will affect them. Identify who your allies and opponents are, who the key decision-makers are, and who are the people who influence them.
- ***Understand the procedures and workings of government.*** For example, know the stages involved in drafting a law from the technical committee up to Parliament so that you know the options available at each stage and how to use each of them.
- ***Keep an open mind and avoid prejudices*** when you disagree with people, especially the policy makers. Always leave room for further negotiation, since they have the power to make the changes being lobbied for.
- ***Maintain clearheadedness and commitment to purpose.*** Understand that lobbying is a process, not an event. Advocacy is about influencing the powerful on problems that concern people, especially those that have been marginalized and excluded from the political process. It is about politics and change, about values and beliefs, about consciousness and knowledge. Therefore, change cannot occur overnight. Keep this in mind so that you do not give up in the face of setbacks, opposition, or apparent defeat.
- ***Have a strong coalition of different civil society groups with various backgrounds,*** including religious institutions and leading public opinion leaders. The strength of numbers, especially in getting policy makers to respond, cannot be overemphasized. Coalitions also play an important role in providing a broad information base.



- ***Remember that, in lobbying, the target is always a person,*** never an institution or elected body. Avoid sending blanket letters to an organization. Target individuals within the key institutions who have the power to make decisions or those who have influence over these decision makers — then follow-up with those persons.
- ***Obtain commitment of the members of the coalition for the duration*** of the lobbying process. Coupled with this is the need for transparency and openness in

handling the lobby process. Any form of activity that is improper or unclear may alienate some members, thus leading to the collapse of the lobby coalition.

- **Rally sufficient resources, both human and financial.** People who are knowledgeable on the issues being lobbied for must be on standby at all times to either do research and analyze the issues involved, or to attend a meeting with policy makers to present the proposal being lobbied for.
- **Consider establishing contact with decision-makers through informal means,** if official channels initially prove difficult. Sometimes the most vital links with these people can be made informally, with positive results. It then becomes easier to set an appointment to follow up the issue formally.

- **Cultivate a good relationship with the media** in order to receive considerable and favorable coverage from them. If you can get an issue into the media often enough, policy makers will take notice and may even make the first contact with you. However, media exposure may be double-edged as some negative publicity may cause serious damage to the campaign. Therefore, deal with the media cautiously.



- **Undertake sustained action to engage public discussion and build awareness** about the need to address the legitimate interests and concerns of women in land issues.
- **Conduct action-oriented research and documentation** of women's realities and experiences under the different land tenure systems.

Target Issues

In addition to the above lessons learned on effective advocacy, further specific efforts must be made to ensure that women and land rights issues become part and parcel of the national and international agendas. Further, discussions on land must be broadened and deepened so that land is not just perceived as a political and legal issue, but also as a cultural, socioeconomic, development and human rights issue.

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The Role of Different Stakeholders in Implementing Land Policies



Given the varied socioeconomic situations as well as the diversity of people and interests in the world, national land policies should aim to provide solutions that are tailor-fit to the needs of the different stakeholders and to local circumstances.

In general, however, land policies should strive to be accountable, transparent and cost-effective. The system of administration should be oriented towards ensuring that the rights of the poor and less powerful groups are respected and confirmed.

It is, therefore, important for the central and local government, the private sector, civil society groups, local communities and donors to know their respective roles and work together towards a meaningful program.

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STAKEHOLDERS

Central/Local Government



Private Sector,
Civil Society



Donors



ROLES

- Draw up policies and establish laws, structures, and procedures to protect property rights;
 - Ensure fair and secure distribution of land rights;
 - Set out agenda by consultation;
 - Receive inputs from a wide range of interested parties;
 - Review policy with a view to formulating legislative, structural and procedural provisions;
 - Decide trade-offs among different objectives;
 - Address land issues constructively/minimize conflicts.
-
- Participate actively in consultation processes;
 - Get involved in monitoring and review of how rules are implemented.
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- Continue to address land issues without forcing the pace;
 - Offer funds to support preparation/implementation of land reform without taking over from government;
 - Contribute to research, institutional and capacity-building.

— *From the “EU Land Policy Guidelines”*

The Role of Central and Local Government

It is the duty of the government to draw up policies and establish laws, structures and procedures for the protection of property rights. Ensuring fair and secure distribution of land rights lies at the heart of a country’s economic, social and political life. Decisions taken today regarding changes to land policy will have long-term ramifications on how power is exercised later on and how opportunities will be made available to those yet to be born.

Given the centrality of land rights and policy, governments need to set out their agenda by consultation and to review policy with a view to formulating legislative, structural and procedural provisions. Receiving inputs from a wide range of interested parties should help governments to gain a clearer idea of priorities, and the nature of the choices to be faced.

Governments must decide on the trade-offs among different objectives. Clear choices must be made, such as between a tenure system geared towards securing ownership rights for large-scale commercial farmers and securing the use and access rights of small stakeholders. If a government is truly working towards poverty reduction, it must ensure that the policy is favorable to the majority of land users.

To address land issues constructively as well as to minimize conflict, a legal framework flexible enough to deal with the diversity of local situations must be adopted. This makes local government a “natural” partner in land policy. However, laws must be drafted to ensure that local authorities remain impartial and that their decisions are consistent with national policy.

The Role of Private Sector, Civil Society Groups and Local Communities

Governments need to engage the private sector, direct land users and civil society groups in dialogue to discuss proposed land policies, identify priorities and think through the long-term implications of a particular course of action.

Participatory consultation processes are now widely used in many countries. But these are largely empty, due to the limited commitment by government to respond to feedback, and uncertainty regarding how to incorporate the diverse observations and counterproposals. Instead, governments tend to rely on a small group of “experts” to formulate its plans.

The private sector, civil society groups and local communities should not only contribute to designing policy, but must also be closely involved in monitoring and reviewing the way the new rules, structures and procedures are being implemented.

The Role of Funding Partners

In the past, many donors, including European Union member States, have been

EU STRATEGIES

The European Commission and European Union member States have played a major role in international debates and in development policy regarding land tenure and land regulations. In general, the following strategies can be considered by EC and EU countries:

- Initiate a common approach to land policy and tenure reform, encourage the sharing of experience between EC and member States and support greater coordination and common understanding of land issues;
- Advocate a more balanced approach to land reforms by multilateral institutions and for stronger integration of land tenure issues into national development processes (Poverty Reduction Strategy Paper, national/rural development strategies, etc);
- Actively encourage coordination and collaboration with other donors, in particular within the UN family (such as FAO and UNDP), in support of national reform processes in line with each agency’s specific field of expertise and presence in the country; and
- Develop initiatives for applied research and development on the linkages between land and poverty and between land tenure and the environment.

The EC and EU member States can improve the impact of land reform by jointly supporting national reform processes, and in particular by:

- Supporting the design and implementation of sectoral approaches to implementing participatory land tenure reforms which take into account the necessary institutional development and which are attentive to issues of sustainability and recurrent cost implications;
- Contributing to making the design of land policy and reforms a truly participatory endeavor, specifically by encouraging government to secure the participation of civil society, indigenous people and local communities in the debate;
- Supporting capacity development in land administration at all levels, including local communities; and
- Supporting monitoring and evaluation of the impact of the reform and encouraging proper dissemination and discussion of research findings.

reluctant to get involved in the highly political issue of land reform. Their support had been limited to promoting titling and land information systems, and other noncontentious activities.

Today, donors are beginning to recognize the importance of addressing land issues. However, they must enter this area cautiously. They can help support processes but not force the pace; offer funds to support the costly aspects of preparing and implementing land reforms without taking over from government; and contribute to research, and institutional- and capacity-building.

Lessons learned

1. Land reforms are complex undertakings which require firm political commitment by the State and support from society at large. Donors' support must be non-dogmatic, non-intrusive and well-informed on the prevailing situation.
2. Donors' support must be accompanied by an in-depth dialogue with the State at the highest level, and must encourage large inter-ministerial coordination and debate.
3. Land reforms are long-term processes, going through a series of successive phases requiring an iterative approach. Donors should be ready to accompany such processes over the long period. Sector approaches can provide some safeguards against the risk of one or another donor discontinuing support.
4. Gender-sensitive legislative reforms are essential, though not sufficient to secure enforceable access to, control over and use of land resources by both women and men.
5. Information and awareness are key. Donors must contribute to the understanding of different stakeholder interests and strategies and should encourage the search for consensual solutions.
6. Research can be a powerful tool for understanding and steering national processes. Donors can be instrumental in accompanying implementation with research and encouraging feedback and debate on emerging issues.
7. Land reforms are extremely case-specific. Donors should support tailor-made solutions that are strongly linked to local social and institutional contexts and avoid blueprints.



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Can Land Funds Work for the Poor? *A Learning Experience from Ecuador*



Land Funds, or a pool of financial resources frequently established by governments to finance the cost of purchasing land for the rural poor, have generally had disappointing results, not least because these have not been complemented by programs that help the beneficiaries become sufficiently profitable to repay the Land Fund.

In contrast, an Ecuadorian NGO, the Fondo Ecuatoriano Populorum Progressio (FEPP), was able to successfully implement a land fund program by combining land purchases with programs designed to give the poor access to other factors of production. The FEPP experience has shown that the difficulties that land funds have sometimes encountered or created in other places can be overcome by engaging the related processes which together can bring about a measurable change in the living conditions of marginalized people.

Source

Manuel Chiriboga and Carlos Jara.
"The Cost of Land: Can Land Funds
Work for the Poor? A Learning
Experience from Ecuador".

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The Failure of Agrarian Reform in Ecuador

Since the 1990s, agriculture in Ecuador has been progressively transformed by the demands of structural adjustment programs and market deregulation. The 1994 Agrarian Development Law was passed largely to promote sector modernization and to consolidate a new structure of concentration, supported by the business sector.

This law became an instrument to protect private property. Rural land began to be sold on an unprecedented scale. The State abandoned its agrarian reform policy as a way of modifying prevailing forms of land tenure so that pressures from landless peasants and miniholders would not get in the way of modernization in the sector. No attempt was made to rectify inequalities in land distribution; rather, conflicts were simply *processed* by the State, and public responsibility ended with the provision of certain services.



“Reducing access by campesinos to land to a strict logic of purchase and sale simply ignores the campesinos’ socio-cultural realities.”

Land was allocated only where demographic pressure demanded it, and following cash compensation at market value. This policy however did not take into account the nature of the financial market and hence of the virtual impossibility of *campesinos’* obtaining capital.

It is not surprising that after a decade of such conservative modernization in Ecuador’s agriculture sector, only 2.3 per cent of landowners control nearly half (or 42.6 per cent) of the land.

(Third National Agricultural Census conducted by INEC, the Agricultural Information and Census System and the Ministry of Agriculture, June 2002)

This situation of concentration is made even worse by the lack of education in many campesino communities (*i.e.*, as much as 23 per cent of *campesinos* have had no schooling whatsoever); lack of access to appropriate technology or to the necessary infrastructure; low coverage of public services; and poor access to formal credit sources (which currently service less than three per cent of potential demand by Ecuadorian farmers). Given the high interest rates on both formal and informal credit and low productivity on their farms, *campesinos* find themselves caught between a rock and a hard place. In many places, particularly along the coast, this situation has led to land being lost to banks or moneylenders, or sold to urban buyers.

The FEPP Land Program: An External Debt Swap Initiative

The *campesino* and indigenous uprising of June 1990 forced the Government to find a solution to disputes over land access. The answer was found in a proposal presented by the Ecuadorian Episcopal Conference, at the suggestion of FEPP, to set up a land acquisition fund. A swap operation for USD 6 million was authorized. Once a procedure had been agreed with the Monetary Board, FEPP purchased USD 930,000 in Ecuadorian debt securities, equivalent to

The Fondo Ecuatoriano Populorum Progressio (FEPP) is a private, ecumenical, nonprofit social foundation sponsored by the Ecuadorian Episcopal Conference and set up by lay persons. The FEPP bears the influence of the more progressive elements of the Catholic Church.

15.5 per cent of the face value of the operation, to purchase USD 6 million from the Banco Santander in the New York secondary market. To do this, FEPP obtained funds from sources in Germany, Switzerland, France, the Netherlands, Austria, the United States and Italy.

The Central Bank recognized 70 per cent of the value of the debt purchased and handed over State bonds. This provided the initial financing for the program. By means of this operation, FEPP established a fund to acquire land in the amount of 5,091 million *sucre*s (USD1=1,919 ECS or *sucre*s [1993]), at a conversion rate of 5.47 times per unit invested. (Navarro)

As of December 1997, when the program finally ended, funds had been provided to acquire 45,706 hectares of land benefiting 9,287 families. In addition, 343,481 hectares of land were titled, benefiting 1,946 families.

The Land Purchase Process

The following procedure was followed by FEPP in its land purchases:

1. The *campesino* organization identifies the property and evaluates the possibility of purchasing it.
2. On this basis, an application is submitted to the FEPP Regional Office.
3. The FEPP Regional Office evaluates the application and decides whether to intervene.
4. The proposal is sent to PROTIERRAS (PT), which decides how to proceed, including an analysis of the information, type of support required, training activities, etc.
5. PT performs a detailed analysis of the property, including a land survey.
6. PT performs a legal title review.
7. The stakeholders begin negotiations, based on information provided by FEPP regarding assessment, estimated requirements and ability to pay, and land prices in the area.
8. In parallel, a production plan is drawn up to enable negotiations to take place on credit terms and conditions, and the guarantee fund is set up.
9. The production plan is drawn up, economic organization begins, and markets are identified.

FEPP-PROTIERRAS (PT) was formed by FEPP in 1997 to provide services to requesting *campesino* organizations in land surveying, as well as legal advice in the purchase and legalization processes.



10. Commitments for purchase and sale between sellers and buyers are signed in the presence of a notary.
11. The information is sent to FEPP and/or CODESARROLLO for analysis of the credit application.
12. Once the application has been approved, funds to pay the owner are delivered.
13. Final legal instruments and mortgages are prepared and the transaction is registered.
14. The plan in support of the organization's economic activity is put in operation.



CODESARROLLO, or People's Savings and Loan Cooperative for Development, is a financial institution that is mobilizing part of the FEPP lending system.

The average duration of the foregoing process is three to four months.

Strategic Approach

FEPP's approach to operating its land fund program can be gleaned from various aspects of program implementation.

Risk Management

1. The *campesino* organization's members frequently have experience in production and capacity for market positioning, and are known to and supported by FEPP Regional Offices, significantly diminishing the risk. Also the fact that credit is provided to the organization allows a system of collective guarantees and mutual vigilance to take effect. In many cases, this implies that part of the property acquired is identified for collective operation, with profits being used to repay the credit.
2. One requirement for allocating credit to *campesino* organizations is that a Guarantee Fund be set in the amount of 10 to 20 per cent of the loan, deposited in a savings account determined by FEPP. These funds may come from the organization's prior savings or from savings collected at the time. The establishment of this fund is a clear indication that the *campesinos* are prepared to proceed with the process of land purchase.
3. The beneficiary organization mortgages the property in favor of FEPP as collateral security. Interest rates are set within a range that depends on the nature of the activity, and are variable, and less than but close to market rates.

Credit Repayment

4. Once the rules for negotiating the land purchase have been established, FEPP technical staff intervene to establish, together with the *campesino* organization, a feasibility project that supports the value of the land, and hence ensures the ability to repay the credit incurred. Credit for purchasing land is accompanied, when needed, by another loan designed to activate production factors and reorganize social relationships.

5. FEPP ensures compliance by the borrower organization with its obligations by developing its intangible capital (*i.e.*, market information, solidarity, financial discipline, skills, management capacities, communication), carrying out a viable production plan and promoting innovation.



6. The loan amount and repayment period are determined jointly by FEPP and the *campesino* organization, according to the organization's potential and prospects. Experience shows that when repayment periods are not set properly, this has an adverse impact on portfolio recoveries.



Institution-building

7. A beneficiary organization is never abandoned or left to fend for itself. FEPP puts in motion an entire process of technical assistance, socio-organizational support and social capital development. This support is calculated to produce a desired development impact, *i.e.*, to create opportunities for sustainability and ensure credit repayment.
8. FEPP works to orient the organization's new management model towards business goals. Not a few beneficiary organizations that had received land credits have gone on to operate as microenterprises. Some reorganize as agro-artisanal associations for profit, particularly when the production plan includes processing and adding value. In other cases, they organize as cooperatives, workers' associations, or as communities. In still others, several economic organizations may be formed within a community, linking groups to lines of activity.

Lessons from the FEPP Experience

1. FEPP has been an effective intermediary in land valuation processes by using their skills, knowledge and influence to strengthen the power of the poor to negotiate fair land prices. Market imperfections have been reduced by having an intermediary able to offset the lack of knowledge and experience of the poor farmers to negotiate the purchase conditions. The institutional assistance to the loan beneficiaries resulted in lower land prices.
2. Land titles are a precondition to accessing Land Funds. But land titling is complex: it involves legal processes often beyond the capacity of the rural poor alone; requires multiple steps; involves numerous direct and indirect costs; and requires substantial time, including transport to land registry offices. FEPP provided direct assistance to farmers to complete and reconcile these transaction processes. Moreover, this experience highlights that success is related to the capacity of the intermediary, in this case FEPP, to achieve security of rights and tenure.

3. *Land Funds are a necessary but not sufficient condition for land poor households to become profitable producers.* Without access to the other factors of production, such as skills and technical training, and access to markets, the poor will not become sufficiently profitable to service the cost of repayments to the Land Fund. The risk of losing land will escalate. Since Land Funds are normally limited to land purchase, FEPP's experience confirms that the success of Land Funds depends on complementary resources for accessing these related resources and factor markets. Land must be considered in a more comprehensive framework of development. While this approach is more costly, the production services, as the FEPP vision has shown, are essential to sustainability and improved household well-being.
4. Designing, using and sustaining the benefits of Land Funds is challenging. Lessons from past land redistribution programs have shown that competing and powerful interests have, in many cases, reacquired these lands. FEPP has given particular attention to social mobilization and strengthening or establishing institutions of the poor to provide knowledge, access to services and collective action and power to represent and protect the interest of the rural poor.
5. Land Funds frequently face problems of repayment, because poor families seldom receive the support services they need to make their land productive nor access to fair market



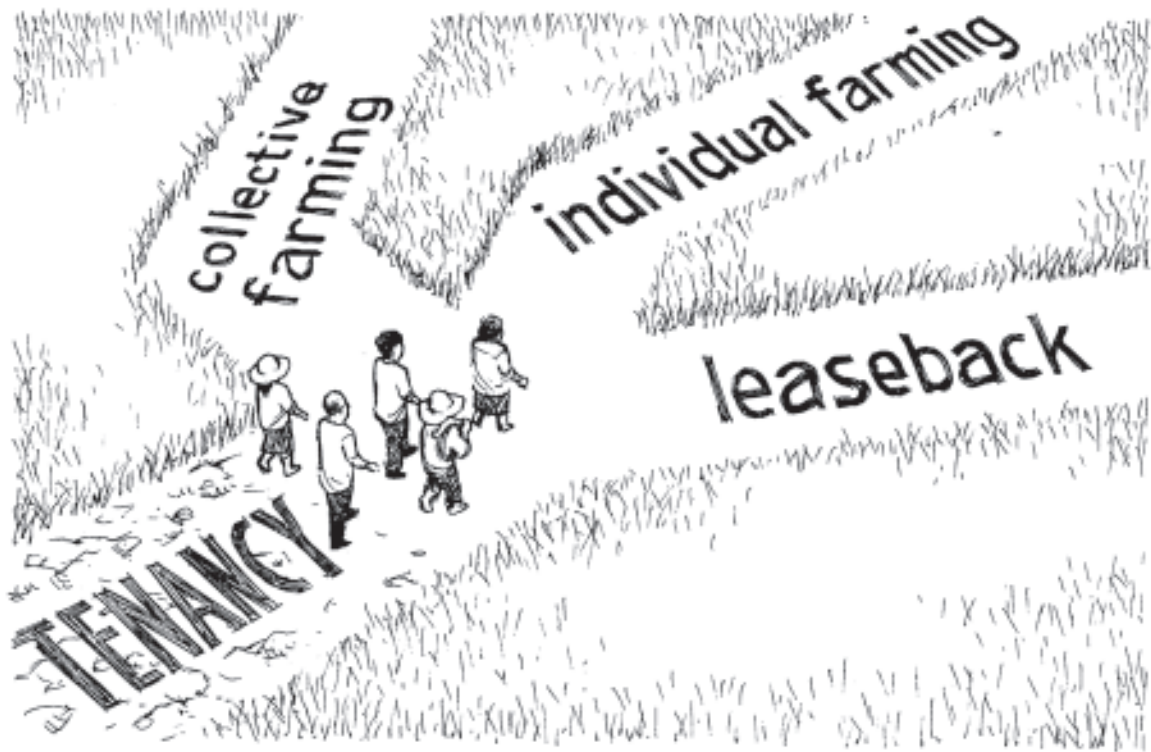
prices for their products. Under the Land Fund activities of FEPP, an important focus is placed on ensuring that land beneficiaries can gain access to these services. This results in both higher family incomes and the financial ability to repay. However, this is a necessary but not always sufficient stimulus for repayment. Therefore, FEPP, through its trusted relationship with the land beneficiaries, was able to make them understand that repayment results in subsequent loans that will improve further the rural economy, from which they will receive direct and indirect benefits. The high repayment rate for FEPP is a very important success indicator for Land Funds.

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Collective Farming as a Transition Strategy for Beneficiaries of Agrarian Reform



Since 1998 the re-distribution of private lands in Capiz Province (located in Western Visayas, Central Philippines) under the Philippines' agrarian reform program has been resisted by the former landowners. Even in cases where land had been successfully turned over to ARBs, landlords have attempted to regain control of awarded land through leaseback arrangements with the farmers. Under such an arrangement, farmers revert to their former status as paid plantation workers instead of assuming their new role as managers of their land.

In particular, the sugar-growing haciendas (estates) which are the subject of this article proved to be attractive targets for leaseback schemes because these haciendas were covered by a collective title (called Certificate of Land Ownership Award, or CLOA), which did away with the problem of negotiating with many ARBs. In response to

Source

Antonio B. Quizon, and Mary Grace L. Riguer, "Collective Sugarcane Farming in Capiz, Philippines: Survival in a Dying Industry?", *Globalization and Small Farm Household Agricultural Practices in the Philippines. A Case Study*, CARRD and ANGOC, Philippines, 2003.

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this, two non-government organizations, namely, the Center for Agrarian Reform and Rural Development (CARRD) and PAKISAMA (a national federation of organizations of peasants, fisherfolk and rural women) proposed that the ARBs try out cooperative-managed collective farming. This option would fortify them against landlord harassment as well as help them get access to production capital from the formal banking sector.

Collective Farming on three Sugar-Growing Estates

In 1998, CARRD and PAKISAMA applied for government funding for the collective farms being put up by two cooperatives: ESMAC (at Hacienda del Carmen/Sta. Ana) and CARBMPC (at Hacienda Carmencita). They immediately ran into problems: the government did not think that the two cooperatives had the capital or the managerial capacity to undertake such a project. It eventually agreed to provide production loans to the cooperatives

but only after CARRD had signed on as co-financer. The same arrangement held true for the collective farming project of SNARBMPC in Hacienda Sto. Nino.

The haciendas (feudal estates) were Haciendas Carmencita and Sto Nino, both in President Roxas, and Hacienda del Carmen/Sta. Ana in Barangay Binuntucan, Pontevedra. In all three haciendas, a cooperative was formed among some of the Agrarian Reform Beneficiaries—CARBMPC (Hacienda Carmencita); SNARBMPC (Hacienda Sto. Nino); and ESMAC (Hacienda del Carmen/Sta. Ana).

The cooperatives were the legal holders and managers of the collective farm projects.

Meanwhile, a Project Committee composed of representatives of the cooperatives, CARRD, and the government, was created to monitor and evaluate the performance of the collective farms. This committee also recommended policies to govern the projects.

CARRD was co-proponent of the cooperatives for three years, or until the cooperatives could manage their own operations. It provided (1) financial assistance to the cooperatives as their counterpart to the loans they take out; (2) capability-building and agriculture extension services like education and training, strengthening of management systems, and technical production assistance.

Day-to-day operations at the collective farms were run by a management staff, which included: (1) a professional farm manager who served for three years, after which s/he was succeeded by other members of the cooperative; (2) an accountant/bookkeeper; (3) a treasurer/cashier; (4) a general clerk; (5) field foremen, who supervise the daily operation of the farms; (6) field guards charged with security in the farms; and (7) laborers.

The farm manager was in charge of allocating work within the estate. As a rule, he prioritized members of the cooperatives, or ARBs and their immediate family, living in the village, in regard to hiring workers.

To ensure repayment of government loans as well as the regular amortization on the newly-acquired lands, the sugar *quedans* (receipts issued by the sugar mill to sugar farmers which indicate their share of the raw sugar after tests conducted on the purity of the harvest) were made out to the government. The government sold the *quedans* to the highest bidders, deducted all loan obligations from the proceeds of the sale, and deposited the rest in a bank account of the cooperative. The cooperatives were charged market rates on the government loans.



The cooperatives generally paid higher wages to their workers. CARBMPC paid a fixed amount (PhP70) per day per labor requirement (i.e., cutting, hauling, field cleaning). This was higher than the PhP50 daily wage rate paid by the former hacienda managers. ESMAC paid more for a half-day's (three-hours) work per worker.

At the same time, the cooperatives instituted a profit-sharing scheme in which workers earned a daily wage as well as a share of the profit at the end of each cropping season. The net income from the collective farms was distributed among members in the form of shares, rebates and contributions to the cooperative's operational funds. CARRD, as NGO co-proponent, also received a share as compensation for its monitoring and extension costs.

Evolution of collective farming in three farming communities

Although governed by similar mechanisms, the collective sugarcane farming projects in the three haciendas took on different routes after their first cropping cycle: CARBMPC failed in its second crop cycle; ESMAC succeeded until its fourth crop cycle; and SNARBMC shifted to individual farming in its second crop cycle. However, all the collective farming projects were notable similar in one aspect—they all led to individual cultivation (see Figure 1).

CROP YEARS				
1998-1999	1999-2000	2000-2001	2001-2002	2002-2003

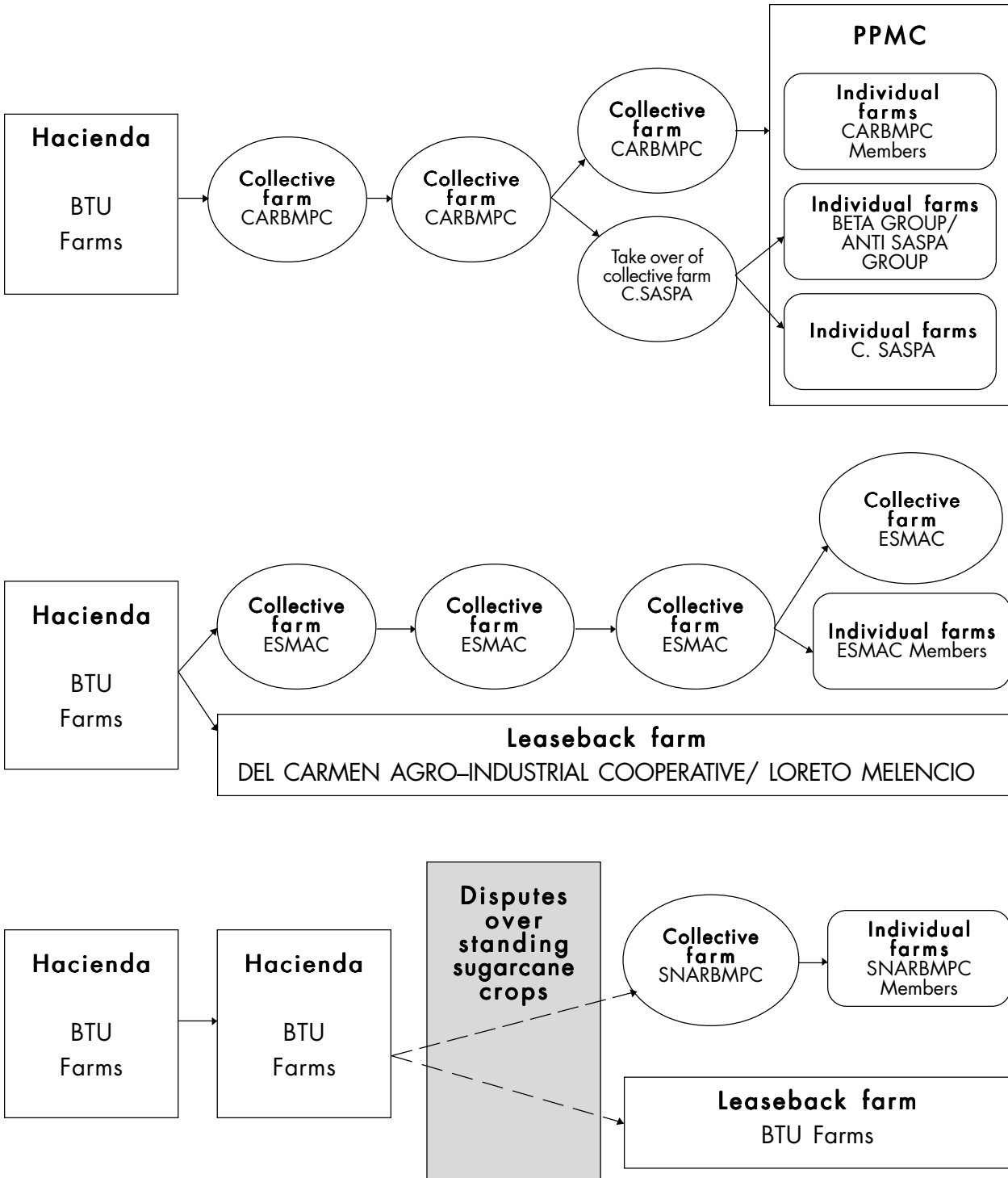


Figure 1. EVOLUTION OF SUGAR FARM MANAGEMENT IN THREE HACIENDAS, CROP YEARS 1998–2003

Collective farming as a transition or coping strategy

In the three haciendas, collective farming has proved to be a *coping or transition strategy* designed to assist former sugarworkers in making their lands productive. However, collective farming in sugar lands is a necessary first step (and often, the only option available to ARBs) immediately after land redistribution.

- Collective farming increases farmers' capacity to access formal credit. No banking institution is likely to provide or to process a huge number of small, individual loans for farmers without any track record. Also, experience shows that farmers are likely to lose their lands altogether if they seek production loans at usurious rates from moneylenders.
- Since the farm's finances are centrally managed, the cooperative is able to accumulate and build-up internal capital. The case of ESMAC has shown that, with sound financial management, a cooperative may achieve a level of self-reliance for its annual production capital requirements within just four cropping seasons.
- Collective farming allows greater margin for immediate on-field experiments, since no single household assumes the full impact of a possible crop failure. Already, cane variety testing has been done on the collective farms.
- Finally, the *transition* period (i.e., three to four years) allows the cooperative sufficient time to adjust, mature and develop its leaders, acquire new skills and managerial capacities, and explore new contacts with potential business partners.

However, the longer-term target is still individual farming, with only certain farming-related activities (e.g., land use planning, credit and savings, technical/agricultural improvements, marketing and pricing) to be kept up under collective arrangements.



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GPS and 3-D Mapping: *Effective Tools to Establish Ancestral Domain Claims*



Three-Dimensional (3-D) Mapping is a technique that the Philippine Association for Intercultural Development (PAFID) has developed and used through the years in implementing its Land Tenure Improvement Program. Unlike ordinary maps, a 3-D Map is like a real picture of a place: it reflects all the important land and water marks in the area under study. Just as importantly, it indicates the location of resources on which the communities derive their livelihood, as well as features that have a social, cultural and even spiritual significance to the local people. As such, the 3-D map is not only a physical representation of the area but also a record of collective and communal knowledge.

Source

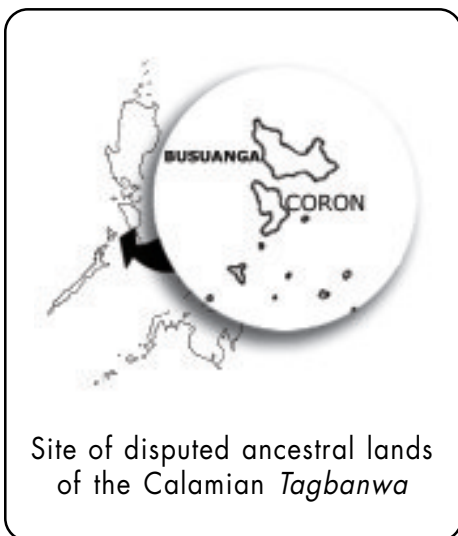
Philippine Association for Intercultural Development (PAFID) and Philippine Partnership for the Development of Human Resources in Rural Areas (PhilDHRRA), "Staking a Claim on Ancestral Land and Waters", Paper prepared by PAFID and PhilDHRRA.

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This tool was used in combination with Global Positioning Satellite (GPS) technology to great success in the first-ever legal claim for ownership of ancestral land and waters filed in the Philippines. While inexpensive, the 3-D map proved to be an accurate representation of the

area being surveyed. On the other hand, GPS technology was used to validate the 3-D map. Hence, this case shows how local knowledge combined with state-of-the-art technology to produce a map of such accuracy that the tribal people's claim could not be denied.



Site of disputed ancestral lands of the Calamian *Tagbanwa*

Background and Context

In the early 1970s the municipal government of Calamian in Northern Palawan, Philippines appropriated what had long been considered as the ancestral caves of the *Tagbanwa* clan — an indigenous clan spread out among Palawan's northern cluster of islands — claiming that these belonged to the State. Rights to these caves were auctioned off to the highest bidders, who, in exchange for a fixed rent, would henceforth have exclusive rights to harvest the birds' nests found in the caves. This cut off the *Tagbanwa* from their traditional source of income. The municipal government also ordered the clan to pay taxes on their ancestral lands. The *Tagbanwa* struggled to comply, borrowing heavily on their already diminished birds' nest harvest. But this exaction eventually proved too great for this subsistence folk; they defaulted on their loans and went bankrupt.

What followed was a time of great poverty and hardship for the clan. A few families, driven by desperation, agreed to work as nest gatherers for the winning bidders under a leasing scheme implemented by the municipal government.

A few, however, decided to protest the confiscation of the clan's property and the onerous taxation on their lands. They had heard about the grant of a Community Forest Stewardship Agreement (CFSA) to the *Tagbanwa* in Quezon, Central Palawan, which guarantees tenure, albeit limited, in exchange for the community's management of forest resources. However, some of the *Tagbanwa* felt that a CFSA would leave the coral reefs and *teeb ang surublien* (ancestral waters) unprotected since the CFSA was confined to forest resources. This aspect weighed heavily on the *Tagbanwa* leaders and led them to consider applying instead for a Certificate of Ancestral Domain Claim (CADC). In the early 1990s, cyanide and dynamite fishing became prevalent in the *Tagbanwa*'s artisanal fishing grounds, and this had led to a significant reduction in the daily fish catch in near shore areas.

As traditional small fisherfolk, the *Tagbanwa* felt that they would be unable to survive in their ancestral lands if the *teeb ang surublien* were progressively destroyed. As one of their leaders explained, the indigenous sea cannot be separated from the ancestral land claim as each sustains the other and neither is viable as a separate entity. The indigenous seas were regarded as natural, inseparable adjuncts of ancestral land, integral to the survival of the Calamian

Tagbanwa people. Hence, as early as 1990, the clan had already expressed their desire to include coral reefs in their ancestral domain claim.

Thus, on February 19, 1993 the *Tagbanwa* leaders filed a petition for a CADC with the local office of the Department of Environment and Natural Resources (DENR). In the next three years, the leaders followed up their CADC application, with little success. The application papers were eventually “found” gathering dust in a desk drawer at the DENR, and still unsigned.

Something Old, Something New

Community Based Mapping

In 1996, a field worker from the Philippine Association for Intercultural Development (PAFID) was sent to assist the clan. To establish the extent of the area under dispute, the field worker helped the community in preparing community sketch maps. In these sketch maps, officers of local organizations in the area, together with clan representatives and village elders, indicated the relative location of such land and water marks as houses, *Tagbanwa* sitios, water sources, mangrove areas, burial sites, coral reefs, fishing grounds, kaingin (slash-and-burn farming sites), and cashew groves, among others. These sketch



maps would be the basis for preparing base maps to be used in the on-ground survey of the ancestral domain. (See steps to the 3-D Mapping Process and Community Resource Assessment and Planning on next page.)

Tagbanwa communities. Yet, decisions still had to be reached with regard to selecting corners for the domain. While drawing sketches, leaders of the local organizations as well as elders and clan representatives discussed the placement of corners or boundary points to each of their claims until they reached consensus.

“If it [the ancestral land claim] includes land, then it should also include the sea, because without the sea the *Tagbanwa* would not survive.”

— Ben Calix,
Tagbanwa leader



Utilizing community memory and customary law

In preparation for the actual survey, sworn statements from village elders were collected, as well as evidence of long-term use and occupation of their territory. In general, the extent of their ancestral domain was common knowledge and fairly established among the

THE 3-D MAPPING PROCESS AND COMMUNITY RESOURCE ASSESSMENT AND PLANNING

What follows is a general outline of the process in conducting 3-D mapping and community resource assessment and planning.

Introduction

Getting the team together
Registration of participants
Orientation and Levelling off

Module 1: Input on the situation of indigenous people in the Philippines

Input is provided on the general situation of indigenous peoples (IPs), particularly their struggle for socioeconomic and tenurial rights as well as relevant figures and statistics on the IP population, demographic condition, and other concerns/issues.

Module 2: Input and review of the local community situation

Inputs include an overview of the general socioeconomic and political situation of the Philippines to help the participants understand how the national situation impacts on local conditions. Then they are guided through the necessary steps to analyzing their situation.

Workshop guide questions are written on a board or manila paper for the group's reference during the group workshop activity. They are asked to describe their local situation during specific periods (e.g., before the Second World War, during the Marcos Regime, or more simply, the past and present) giving emphasis on the resources they depend on for their survival, important landmarks like burial caves, lakes, rivers, boundaries of communities, communal forest and reserved forest, etc.

Module 3: 3-D mapping orientation and group workshop

- How is the contour map made or prepared?
- Who makes or prepares it?
- What is the ideal size of a 3-D map?
- What is a 3-D map?
- What are its uses?
- What is the advantage of having a 3-D map?
- How is a 3-D map done?
- What important things should be found on a 3-D map?

Module 4: Actual 3-D mapping

- Preparation of the base board
- Tracing, cutting, and layering
- Coating with marine epoxy

Module 5: Thematic mapping/timeline

Timelining is done after completing the raw 3-D map.

At this point, participants are asked to locate and trace on the map (by putting temporary markers) important geographical markers, forest boundaries, communities (original settlers and new), transient/new settlers, fishing grounds, lakes (names), rivers, springs (names), sacred places like mountains, centennial trees, and other important features like slash-and-burn farming, or kaingin.



3-D Mapping Process, cont'd.

Module 6: Coding of present local situation, land and marine uses

The participants are guided in the assignment of codes, using different colors, to indicate the present local situation, and land and marine uses.

Module 7: Coming up with community rules and regulations to govern the use and preservation of land and forest resources, ancestral waters, flora and fauna, minerals and other natural resources, medicinal plants, sacred places and burial grounds

Presented to the participants is the final 3-D map of their place where they can see the exact picture of their domain, and where important landmarks like rivers, lakes, fishing grounds, and others are located. With the map, they are able to identify which parts of their domain are prone to destruction or exploitation by members of the community or by outside groups.

Their task now is to identify ways to protect and preserve the invaluable resources present on and in their ancestral lands and waters.

Module 8: Visioning workshop

Participants are divided into workshop groups to brainstorm on what they want or envision their community to be. The output of each of the workshop groups is reported or presented to the big group for critiquing and consolidation.

Module 9: Community planning

Inputs on how to prepare a community plan are given. The participants are asked to go back to their respective workshop groups to discuss and design a strategic plan which would operationalize their identified objectives and the rules and regulations they have come up with.

A *Tagbanwa* group in the northern cluster of Palawan indicated boundary points on land based on their knowledge of which islands had been traditionally occupied by their ancestors and what customary law dictated as clan inheritance.

All known settlements, as well as lands planted to paddy rice, were also included. The survey points in the mountains were traced far enough to include the trails taken by their ancestors in gathering forest products. Meanwhile, other boundary points on land were set according to *Tagbanwa* taboos. For example, the area inhabited by the *iraw balidbiran*, a winged snake, formed one edge of their ancestral domain. Otherwise, the boundary points followed the peaks and ridges of the northern Busuanga mountain range.

Their basis for selecting the boundaries for the indigenous seas was equally straightforward: all coral reefs or marine resources, fishing grounds, *panyaan*, reserves and other marine territories that had been passed on to them by their ancestors and used currently were included in the claim.

Indigenous and modern methods working in tandem

The marine survey involved Trimble GPS receivers. The GPS continuously recorded a stream of positions as it moved along the survey path, thus building up a boundary line. The equipment and the survey party were ferried aboard a motorized *banca*, steered by a *Tagbanwa timon*, or boat captain familiar with the area.

Because a member of the clan had directed the survey path, community members were assured that the boundaries were the exact points or areas they had indicated.



A GPS expert aboard a banca being steered by a *Tagbanwa* boat captain

Map validation

Mapping experts helping the clan applied differential correction to the survey results before preparing a GPS map. (Differential correction is a numerical method designed to refine extraneous, satellite anomalies that had been intentionally or unintentionally introduced into the field data.) Without differential correction, the positions read from GPS receivers would be irrelevant to making accurate boundary maps. The experts then digitized several features from maps of the Coast and Geodetic Survey, specifically, rivers, lakes, coastlines of islands, location of peaks, and coral reefs. Next, they overlaid the corrected boundary points and the corrected outline of major coral reefs and culled the place names from the community sketch maps. Based on the latter, another layer was created to indicate the location of swiftlet caves, burial grounds, *kurut* groves, fishing grounds, villages and sitios, coconut and bamboo groves and other indigenous uses of the territory.

The resulting maps were presented to a general meeting of local *Tagbanwa* organizations. Residents thereupon annotated the map with place names in the *Tagbanwa* dialect. For Jimmy Quijano, a young *Tagbanwa* from one of the *sitios* (villages) represented at that meeting, the spread of the Calamian *Tagbanwa* territories as laid out in the maps brought a sense of pride, and made them feel that “*meron din kaming puwang sa mundo*” (We too have a place in the world).

The maps went through several revisions as village elders and local leaders weighed the merits of keeping out sensitive information from the maps to prevent poachers and other outsiders from using it to their advantage. They also used several symbols to indicate important resources: for example, a picture of a *tekbeken* (octopus) was used to mark the location of the *panyaans* (habitat of octopus, and also where the tribal healers and shamans commune to gather strength and power).

After all the corrections were made, the maps were redrawn and given to the local leaders, who then attached it to their CADC application. The PSTFAD then conducted a validation of the claim and thereafter forwarded its report to the DENR Regional and Central Office in March 1998.

The Pay-Off

After much delay and in spite of formidable opposition, the *Tagbanwas'* struggle to get recognition for their ancestral domain claim finally bore fruit. On June 12, 1998, or six years after they filed their application, a CADC covering 22,400 hectares of land and waters was signed and approved by then DENR Secretary Victor O. Ramos.

The *Tagbanwas'* triumph represents the first successful legally binding ancestral waters claim in Asia. It later became the basis for the inclusion of ancestral waters in the Indigenous "Peoples Rights Act of 1997". It has since become a rallying point for other marginalized Tagbanwa communities to organize the "SARAGPUNTA", a region-wide coalition of indigenous *Tagbanwa* in the Philippines, and continues to encourage other indigenous peoples (IP) groups, both local and international, to work for their rights over their traditional waters.

Reflections

The *Tagbanwa* communities' experience is one of a kind in the history of indigenous peoples' struggle to gain tenurial rights to their ancestral land and waters. Unlike many ancestral land claims, the *Tagbanwa* claim included evidence from submerged areas and their particular ecology, which are not so well-known. The 3-D mapping tool proved useful in this regard because it drew from the people's knowledge of these areas. Their experience has set a valuable precedent for identifying and delineating ancestral domains.

The success of the *Tagbanwa* communities' struggle can be credited to the following: (1) the people's great interest and commitment to conserving and protecting their natural environment; (2) the democratic and strong leadership of the *Tagbanwa* organizations; and (3) external linkages and technical support provided by a community development-oriented non-government organization like PAFID.

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) angoc@angoc.ngo.ph and the International Land Coalition (ILC) coalition@ifad.org.

Land Use Planning in the Uplands of Lao PDR



Laos is a small, mountainous country with a very low population density — less than 20 persons per kilometer — making pressure on land and forest resources quite low as well.

In Laos, land and forests are, by law, State property. Thus, the move by the government in 1996 to set up a comprehensive Land Use Planning (LUP) and Land Allocation (LA) program was significant.

Source

Dr. Jens Kallabinski, "Land Use Planning (LUP): an Approach to Poverty Reduction and Stabilization of Shifting Cultivation in the Uplands of Lao PDR to Improve Upland Livelihoods"

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The objective of the LUP and LA was to promote decentralized and community-based management of natural resources, with the aim of actualizing the following national development goals:

Social Goals	Economic Goals
<ul style="list-style-type: none"> • Poverty reduction • Food security • Village consolidation 	<ul style="list-style-type: none"> • Stabilization of shifting cultivation • Increase of agricultural productivity combined with sustainability to secure long-term income • Opium eradication • Creation of a community-based natural resource management (CBNRM) program to improve and protect forest areas and their biodiversity by transferring the responsibility to the village level

The LUP/LA national program has since covered 95 per cent of the villages in Bokeo Province and 40 per cent of the villages in Muang Singh and Nalae Districts. (It is scheduled to end in the year 2005.)

ASSESSMENT QUESTIONS

Process of LUP

- Did the villagers understand the purpose of LUP?
- Is there a noticeable difference between the shorter methodology which was being applied and the improved approaches by the GTZ?

Socioeconomic changes

- How does LUP contribute to poverty reduction?
- What are the implications and impacts on the villagers' daily livelihood?
- What changes were the villagers confronted with after LUP?
- What effects does LUP have on environmental issues?

Impact Assessment of LUP

To determine the impact of the LUP/LA program at the village level, the GTZ (Deutsche Gesellschaft für Technische Zusammenarbeit und Entwicklung) conducted an assessment of the LUP process and the socioeconomic changes (*see box article*) in seven villages in Muang Singh District, four villages in Nalae District, and two villages in Bokeo Province. The assessment was conducted from November 2003 to January 2004.

Methodology

The assessment instrument was a questionnaire that combined semi-structured and structured interview approaches, in consideration of interviewers with little training in conducting interviews. The questionnaire was translated into the Lao language to minimize misunderstanding due to language differences and to facilitate the questioning of the villagers.

During the interviews, the following constraints arose:

- ➡ Valuable information was lost in the translation;
- ➡ Time for the interviews was restricted, making it impossible to conduct actual field studies (*e.g.*, checking of plots or crops).

- The presence of an official from the Department of Agriculture and Forestry (DAF) official might have influenced the interviewees' responses.
- Difficulties were encountered when trying to locate legal documents (either within the village or at the DAF).

Results

Despite marked differences among the villages assessed (*e.g.*, in economic status and village history), the results of the assessment showed the following commonalities in the responses of the interviewees:



Positive aspects

- ✓ All the villages seemed to approve highly of the clear village boundaries, which reduced quarrels with adjacent villages.
- ✓ Most of the villages cited a considerable improvement in their forest regeneration.
- ✓ Some of the villages claimed that their living conditions had generally improved.

Negative aspects

- ✗ Land zoning within the village boundaries was done arbitrarily, and failed to consider actual topography, soil conditions, etc.
- ✗ A high percentage of land within the village boundaries was designated for conservation and protection purposes, leaving limited areas for agriculture and forest production that are insufficient to meet the villagers' daily needs.
- ✗ Pressure on Non-Timber Forest Products (NTFPs) increased in some areas, leading to a noticeable decrease in certain products (*e.g.*, green bamboo).
- ✗ LUP created greater pressure on arable land by failing to allot plots to be used as fallow land for shifting cultivation.
- ✗ Increasing pressure on agriculture led to decreased yield and thus to greater poverty. Some families sought to improve their livelihood by opening up land that had not been allocated and often lies within protected forest areas.

Modifying the LUP Approach

The goals set by the Lao government for the LUP/LA program were apparently not matched by actual experience in the villages. Thus, in 2002, the GTZ supported a revised LUP/LA approach in the Muang Singh District. The GTZ strengthened the participation of the villagers to implement the LUP in order to improve long-term livelihood.

For this purpose, the importance of spending more time in the villages to gather data, make a needs assessment, and fully understand the problems of the villagers (both male and female) was recognized. The integration of the villagers' knowledge into the LUP process was likewise seen as vital to achieving sustainable land use. However, the difference in impact between the original LUP procedure and the modified LUP procedure (*see table below*) has yet to be assessed over time.

Guidelines for Methodological Adaptations

Based on the impact assessment of the LUP/LA program, the following guidelines are recommended for methodological adaptations in the procedure:

Eight-Stage LUP/LA Procedure		
	ORIGINAL	MODIFIED
Stage 1	Preparation for the implementation of LUP and LA activities (training of staff, preparation of materials, village consultations)	LUP and LA preparation
Stage 2	Village boundary survey, land use zoning, forest surveys and land zoning, forest surveys and land use mapping	Introduction to LUP, gender exercise, Participatory Analytic Resource Map (PARM)
Stage 3	Data collection and analysis concerning land tenure, socioeconomic conditions and needs	Village boundary delineation and agreement
Stage 4	Village land use planning and land allocation meeting	Land use and forest survey, village profile
Stage 5	Agricultural field measurements	Village zoning, forest and agricultural land allocation decisions
Stage 6	Preparation of forest and agricultural agreements and transferring rights to villagers	Signing of contracts and land tenure
Stage 7	Land use management extension	Promotion, extension, support
Stage 8	Monitoring and evaluation	Monitoring and evaluation

Laws, Policies, Regulations

- Prepare a summary of the relevant laws (including a handout of short explanations in Lao) to facilitate understanding of the legal policy; and
- Have the village regulations (including traditional rules) drafted by the villagers themselves.



Data Collection and Storage

- Improve the cooperation between the Community Development workers and other teams in order to avoid duplication of data collection;
- Focus only on land and natural resource issues; and
- Analyze the data gathered more thoroughly to make best use of them in the LUP process.

Boundary Agreement and Land Use

- Take aerial pictures for use in defining zones and land use;
- Standardize all boundary agreements and have these signed by neighboring villages to obtain their full consent;
- Allocate agricultural use areas to villages which depend on shifting cultivation to allow for a sustainable rotational cultivation system (including fallow periods);
- Spend more time to identify additional paddy land which could be designated as reserve land for future allocation; and
- To prepare for future resettlement of villages, use enlarged topographic maps to identify potential areas for settlement (including new paddy fields, water supply, topography, etc.).

Land Allocation

- Ideally, allocate all land within the village boundaries for permanent crops only;
- Develop criteria for new land in consultation with the villagers to help minimize social conflicts among them and to improve the livelihood of the poorest villagers;
- Integrate migrating families into the process; and
- Review the cases of relocated households that had migrated to new villages after the implementation of LUP.

Extension

- Provide technical advice to offer the villagers alternatives to their traditional land use; to do this, conduct a parallel analysis of land capability and development;
- Provide neutral advice to the villagers to prevent new forms of land misuse or exploitation;
- Offer consultancy on a long-term basis to teach the villagers new agricultural methods; and
- Extend financial support to help poor villagers to grow new crops.

Monitoring & Evaluation and Future Prospects

- Conduct regular follow-up (initially on a monthly basis, then gradually less frequent over time) of the LUP/LA process through assessment visits, monitoring the impacts, and evaluating the understanding of LUP; this will help identify new problems and conflicts at an early stage and thereby help to address them more quickly; and
- Make the successful LUP/LA process the starting point for an improved community-based mechanism for Natural Resource Management (NRM) covering non-timber forest products (NTFP), firewood and timber production, as well as the protection of land, water supply, etc.

The suggested improvements in the LUP/LA program could be done step-by-step, making use of existing partnerships with government agencies or NGOs. This bottom-up approach would help the villagers understand the LUP process better, address their daily needs, and thus be more beneficial to them.

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The Community Resource Balance Sheet



The Natural Resource Accounting (NRA) approach makes it possible to estimate the monetary value of changes to a country's ecology and stock of natural resources, and to adjust the national income or Gross National Product (GNP) accounts accordingly. In the NRA framework, imputations of monetary value may be based on: (1) the actual market value of the resources depleted, or the market value of restoring environmental quality; (2) the economic value of the effects of environmental damage on people; and (3) the monetary value of instituting measures that mitigate the effects of the damage on people.

However, some issues related to assigning monetary value remain unresolved. For instance, there is widespread perception that no system of national accounts is likely to capture the true economic cost of environmental damage caused by economic activities. Moreover, the NRA approach is considered as not comprehensive enough to measure development because it only takes stock of natural resources — measuring their value vis-à-vis economic activities — and ignores the social dimension.

Source

Dr. Arturo C. Boquiren, 1995. "The Community Resource Balance Sheet." Marco, J. and Nuñez, E., Eds. Participatory and Community-Based Approaches in Upland Development: A Decade of Experience and a Look at the Future, 3rd National Conference on Research in the Uplands. De La Salle University Press, Manila, Philippines

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In contrast, the **Area Balance Sheet** approach takes into account both the social and the environmental factors of development. This concept was developed by the Asian Institute of Management in the Philippines. Meanwhile, the **Community Resource Balance Sheet (CRBS)** system has been developed to operationalize the area balance sheet concept. Initial work towards the development of the CRBS has been done by the faculty of the University of the Philippines College of Baguio.

Development Philosophy of the CRBS

A key principle advocated by the CRBS is that *development* must be viewed as the advancement of people's capacity to collectively define their goals or aspirations, and to improve the means through which they can realize such aspirations. Development should also be regarded as a multidimensional process that involves changes to the economic, political, and other dimensions of social life.

At the community level, development involves empowerment, or raising people's capacity for self-organization, decision-making and for managing policies and programs relevant to them.

Nature of the CRBS

The CRBS is a *community insiders' tool*. It is intended to be used by the community itself for its own development purposes. Outsiders may introduce it to the community, but community members must be enabled to use the tool themselves.

Assets encompass everything that can be found in the area, including but not limited to human and capital resources, monetary assets, physical infrastructure, and economic, social, religious, and political structures. Assets also include intangibles such as beautiful scenery, aesthetics, warmth, friendliness, and the like.

The CRBS relies on local research teams and on the conduct of participatory workshops. Participants are involved in the discussion, validation and enrichment of data, and in planning and decision-making based on the data.

Features of the CRBS

1. The CRBS system maximizes people's participation in conceptualizing, constructing (including data gathering), and analyzing the area balance sheet. As a tool for assessing development in a geographic area, the area balance sheet should be based on the standing values of the area's residents, and assessed from the perspective of the people in the area.
2. In addition to listing all the assets and claimants of an area, the CRBS System identifies key accounts, *i.e.*, an area's most important assets. This facilitates the implementation of a

manageable and relevant system for monitoring, evaluating and planning development.

3. The people themselves should identify which accounts should be considered as key to a CRBS.
4. The CRBS system defines community net worth as the quality of life of the people in the area. It is concerned not only with the current growth and distribution of an area's assets but also with issues of spatial and intergenerational equity.
5. Community net worth is determined by the types, quality and abundance of community assets, as well as the status and profile of claims to the assets.
6. The CRBS recognizes that in the social world, assets cannot be absolutely equated to liability + net worth. This is because of competing claims in any community.
7. Several methods — including a self-assessment and monitoring tool — are used whenever and wherever these are appropriate to the level of organization, capacity, and logistics in a given community.

IN SUMMARY, THE CRBS CAN BE DESCRIBED AS FOLLOWS:

- A multi-method participatory approach to the construction of a barangay or community-level area balance sheet;
- A multipurpose system for a holistic approach to formulating a community profile or organizing community baseline information; establishing development objectives; monitoring or measuring one or several dimensions of development or changes taking place in the area; and developing a model for program evaluation; and
- A community insiders' tool or system being developed for their own use.

Although the CRBS system equates *quality of life* with *community net worth*, it looks beyond present quality-of-life indicators and takes into account social, intergenerational, and spatial equity indicators. By adopting this concept of community net worth, the CRBS defines an area development manager's greatest task to be that of improving the quality of life of a community.



Utilization of the CRBS

A community resource balance sheet statement is constructed from a listing of assets and their claimants. While the usual balance sheet is analyzed by an accountant, a CRBS statement is analyzed by the community members from whose point of view development is assessed.

Vertical analysis refers to the review of a single CRBS statement for the purpose of assessing any of the following:

- The composition of community assets;
- Claims or competing claims to the assets; and
- The quality of life or net worth of a community.

STEPS TO ESTABLISHING A CRBS IN A COMMUNITY

Step 1 Form a CRBS Preparations Committee among the initiators of the research. This Committee shall oversee the training of local interviewers, the actual data-gathering and processing, and preparations for the workshops to be conducted.

Step 2 Plan for the data-gathering process. Review the variables in the pro-forma instruments, and decide on the appropriate scope and format for the community.

Step 3 Identify and train local researchers in data-gathering and processing. Local researchers may be formed into teams for the various aspects of data-gathering and area assignments. Personnel for data-gathering/processing and workshop preparations may come from the NGOs, POs, or other members of the community: teachers, youth leaders, members of the barangay or community council, government extension workers, volunteer health workers, etc.

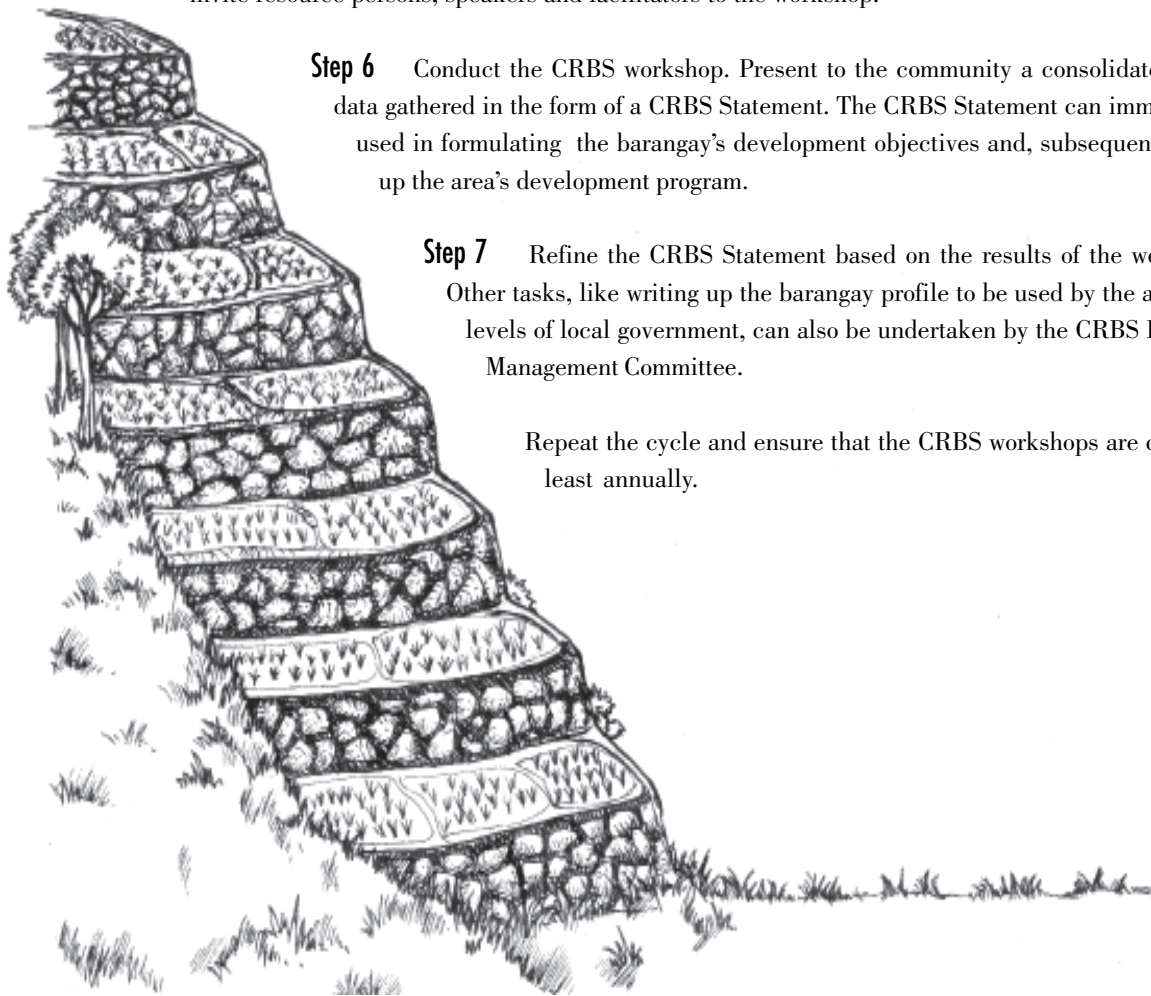
Step 4 Prepare the initial CRBS statement of the village, as well as supplementary tools like maps.

Step 5 Prepare for the CRBS workshop. Draw up a list of participants. In targeting participants, the Committee should make sure that at least two residents from each *sitio* are included, in addition to the key informants interviewed, and other data sources like government and NGO field workers. Identify and invite resource persons, speakers and facilitators to the workshop.

Step 6 Conduct the CRBS workshop. Present to the community a consolidated report of data gathered in the form of a CRBS Statement. The CRBS Statement can immediately be used in formulating the barangay's development objectives and, subsequently, in drawing up the area's development program.

Step 7 Refine the CRBS Statement based on the results of the workshop. Other tasks, like writing up the barangay profile to be used by the area or higher levels of local government, can also be undertaken by the CRBS Preparations/Management Committee.

Repeat the cycle and ensure that the CRBS workshops are conducted at least annually.



Horizontal analysis is the review and comparison of several CRBS statements for the purpose of identifying problems and trends that have emerged over time. More insights to problems and trends can be gained from analyzing more CRBS statements as different time periods are reflected therein.

Analyzed vertically and/or horizontally, CRBS statements are useful for:

- Situation analysis;
- Project identification and prioritization;
- Project feasibility studies;
- Economic analysis;
- Project monitoring and evaluation;
- Planning, monitoring and evaluation of the area's development; and
- Measuring development.

Utilization and Work in the CRBS

The CRBS was first tested in Barangay Alno, La Trinidad, Benguet province, Philippines in 1993 to prepare a barangay profile and as a tool to identify key community problems. Based on these, the barangay formulated a development plan and identified project priorities. Local government units in other municipalities of Benguet took notice of the experience in 1994, and have since used the approach for baseline data construction.

The CRBS can be improved by making it more widely applicable, *i.e.*, to various types of communities in coastal and urban areas; improving its manner of presentation; and simplifying it and making it more gender-sensitive. The faculty of the UP College of Baguio that were involved in creating the CRBS are continually developing the approach and its tools.

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Peasant Paralegals: A Means to Fast-track Agrarian Reform



In the sugarlands of Western Batangas in the Philippines, thousands of farmers are tenants to landowners who have consistently evaded land reform. This is despite the passage of several laws, including the Agricultural Land Reform Code of 1963 (R.A. 3844) which abolished share tenancy (with some landholdings being exempt), and the later Comprehensive Agrarian Reform Law (CARL) of 1988 (R.A. 6657) which abolished share tenancy on *all* agricultural landholdings without exemption.

Under the CARL, agricultural leasehold was made a preliminary step to land ownership. Hence, all sharecrop tenants were automatically converted into agricultural lessees, whether or not a leasehold agreement had been executed. However, in actual practice, the enforcement of leasehold entailed arduous legal procedures which led to years of litigation.

Sources

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A PROBLEM THAT WON'T GO AWAY

A number of land reform laws have been implemented in the Philippines, but all have fallen short of universally applying the land-to-the-tiller principle. As a result, many Filipino farmers continue to work under unfair land tenure arrangements, particularly share tenancy.

In exchange for being allowed to cultivate another person's land, the **share tenant** typically pays 70 per cent of farming costs while taking a mere 30 per cent of the profit. Moreover, because share tenancy arrangements are generally not covered by contracts, the landowner could eject tenants at will. Share tenants also tend to rely on landowners' patronage for loans and financial and material support, thus perpetrating a culture of dependency among them. So onerous were conditions under share tenancy that laws have been passed to convert all lands covered by share tenancy to leasehold.

Lessees, while still considered as tenants, have greater control of lands. They are free to sell their produce and to keep the proceeds of the sale, paying only a fixed annual rent to the landlord. They are also protected by a contract against arbitrary expulsion and other forms of landlord abuse.

Unfortunately, share tenancy arrangements persist to this day because of delays and deficiencies in the implementation of agrarian reform programs.

Formation of KASAMA

This situation led to the formation in 1984 of a farmers organization called Katipunan ng Samahang Magsasaka (KASAMA). KASAMA's mission was to form "a strong and broad peasant federation that will advocate and implement a genuine agrarian reform and rural development program that will respond to our historical and present problems of poverty and injustice so that we may be able to fully participate in the act and process of social transformation."

The immediate challenge for KASAMA was to institute a legal and just sharing arrangement, given the opportunities that a leasehold law presented. "Land tenure improvement through legal assistance" became its centerpiece program. "Towards this end, KASAMA enlisted the assistance of volunteer lawyers to inform sugar tenants of their rights under the law; it managed to organize a significant number of barangay (village) chapters despite the prevailing culture of dependence and fear among tenant farmers. Members who filed legal petitions for leasehold were also supported through loans under a Social Credit Fund. This availability of credit enabled KASAMA members to gather enough courage to face the landowners in a legal battle.



Development of Farmer Paralegals

The large number of land cases, alongside the high costs of litigation, led KASAMA to the need for paralegals.

The paralegals were themselves tenants and could therefore speak convincingly of what the law provides for small farmers like them. A typical KASAMA paralegal was at least a high school graduate, was exposed to other organizations, and had an inquisitive and logical mind, a high tolerance for frustration, and a genuine concern for fellow farmers.

To develop its paralegals, KASAMA sought legal advice and training from lawyers organizations. KASAMA tapped lawyers to speak on laws on agrarian reform and leasehold. As the farmers' awareness of their rights and benefits grew, they were trained to file petitions for leasehold. Members of the Legal Assistance Department of KASAMA helped the petitioners complete the documents needed. While cases were pending, regular legal clinics were conducted, especially for those who had pending petitions. With the guidance of lawyers, the paralegals became acquainted with the intricacies of the law, which they in turn explained to the farmer-petitioners.

Through this mentoring system, KASAMA was initially able to develop eight seasoned paralegals to represent petitioners before the Municipal Agrarian Reform Officer (MARO). These paralegals prepared petitions and pleadings with only minimal supervision from lawyers.

Resistance and Acceptance

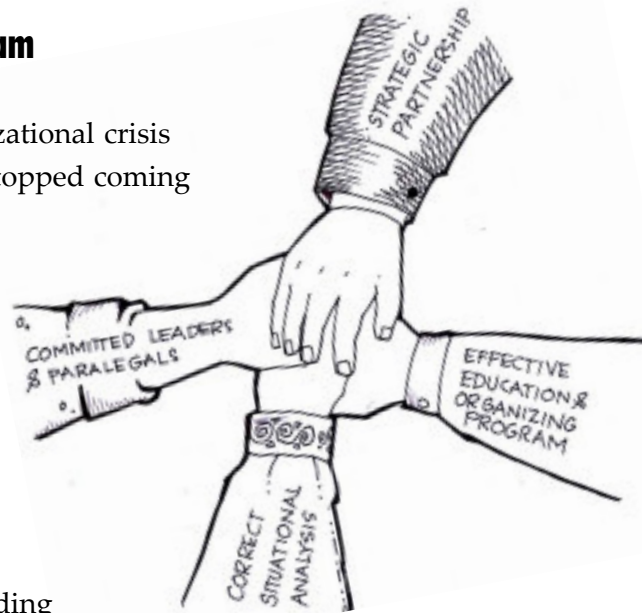
As expected, the landowners did not take too kindly to the KASAMA paralegals. Often during hearings and MARO mediation, they would either question the presence of the paralegals or ignore them completely. Other lawyers felt insulted at having to argue their case with a "mere" farmer. The judicial system at the local level was equally unprepared for farmer-paralegals. KASAMA's first batch of paralegals was either ignored or humiliated at mediation hearings. Lawyers were especially hostile towards "uneducated" farmers acting as legal counsel in agrarian courts.

Eventually, however, the KASAMA paralegals gained the respect of the lawyers – leading to the latter's acknowledgment of the validity of the farmers' claims and agreement to mediation rather than litigation. The MARO in the Batangas town of Balayan, too, came to consider the KASAMA paralegal as an ally in the implementation of agrarian laws, as he could facilitate negotiations between the landowner and the petitioner. The MARO also found it easier to talk to only one representative rather than to several petitioners; in some cases, even referring farmers to KASAMA to seek representation.

KASAMA's paralegal program reached its peak in the mid-1990s, when it assisted farmers in 20 barangays in four municipalities of Batangas. KASAMA's paralegals have handled cases involving land conversion, ejection of farmers from their tenanted lands, and cancellation of land transfer documents. Over the years, KASAMA had trained about 100 farmer paralegals, of whom 19 continue to practice to this day.

Impact of the Farmer-Paralegal Program

In 2001 KASAMA went through an organizational crisis due to conflicts among its leaders. Funds stopped coming in and operations, including its paralegal program, were suspended. By then, however, some paralegals had become so skilled and had gained such reknown in their communities that they continued to "practice law," even if from their homes. A year later, remnants of KASAMA began to revive the organization. A few farmer paralegals have been reinstated and have begun to work on pending legal tenure cases.



While officially implemented only from 1984 to 2001, KASAMA's paralegal program has changed the landscape not only of agrarian reform but of development work in the Philippines. KASAMA's major contributions are as follows:

- 1. Key role in the accomplishment of agrarian reform in sugarlands in Batangas.** Agrarian reform in Batangas owes much to the pioneering grassroots legal assistance program of KASAMA. Table 1 shows that from 1984 to 2000, KASAMA's legal assistance program, in which the paralegals played a key role, helped 606 farmers occupy 4,116 hectares of lands by facilitating their acquisition of leasehold contracts or land transfer certificates.
- 2. People's participation in legal proceedings.** Since 1984, when KASAMA farmer-members began to provide legal services, farmer paralegals have become essential to agrarian reform work among civil society organizations (CSOs). Legal proceedings previously deemed to be too complex for laypersons have become accessible even to grassroots people.

The government has acknowledged farmers' legal services nationwide. Under revised rules, non-lawyers are now allowed to handle agrarian cases, especially if these non-lawyers are representatives of farmers organizations.

TABLE 1. RESOLVED CASES, NUMBER OF AFFECTED FARMERS AND LANDOWNERS

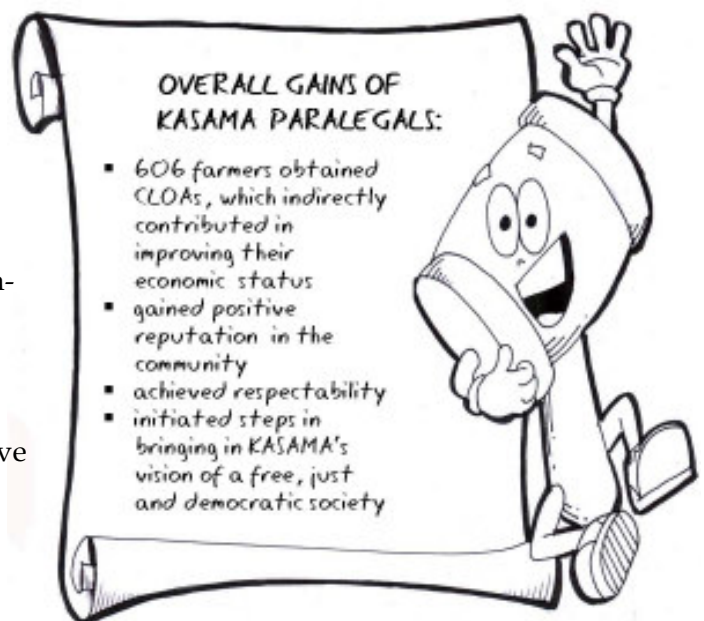
	1984–87	1988–98	1998–2000	TOTAL
Number of farmer–beneficiaries	73	331	202	606
Number of landowners	7	241	172	420
Number of hectares	163	3, 615	338	4, 116
% to total hectares	3.96	87.83	8.21	100

3. Mediation and compromise, rather than litigation and confrontation. Records show that over 95 per cent of the agrarian cases handled by KASAMA paralegals were resolved through mediation, thus avoiding long and costly court litigations for poor farmers. KASAMA paralegals have become widely recognized for their skills in facilitating mediation proceedings between landowners and farmers that even local government officials and landowners now routinely seek their advice and assistance in agrarian issues. Ka Oben, the oldest farmer paralegal with 16 years of experience, explained it thus:

“Being farmers ourselves, we know that the issues involved often go beyond the legal issues. Sometimes, a farmer will refuse to sign a good leasehold contract simply because he is angry with his landowner for something that happened between them in the past. It is our primary role to mediate, and it has been our biggest challenge to learn how to deal with different types of people.”

4. Personal gains for farmer paralegals. Recognition by the local community has led to empowerment among poor farmer paralegals. The farmer paralegals ascribe priceless value to the training they received. By ably representing farmers in legal cases, they have gained the respect not only of farmers but also that of opposing counsel and the judicial system.

KASAMA paralegals have provided an alternative source of legal services to poor people. Their practical skills have also proven to be useful in non-agrarian cases, such as in preparing affidavits to assist community members in civil and criminal cases.



However, many farmer paralegals have remained poor because of sporadic and inadequate compensation for their services. Being a paralegal meant being prepared to receive cases at untimely hours; handling heavy caseloads, for some as many as 120 cases per year or 30 concurrent cases; and sometimes spending one's own money on case documentation and litigation expenses. Nevertheless, paralegals have been partially compensated by their poor clients through small cash donations, gifts and by community recognition.

Prospects for Replicability

KASAMA's Legal Assistance Program, specifically the training and development of paralegals, can be easily replicated by other organizations of the marginalized. The basic prerequisites are: (1) a firm belief in the ability of the marginalized to understand the intricacies of the legal process and (2) a readiness to engage in strategic partnerships.

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INTERVIEWS

Focus Group Discussion (FGD) with eight KASAMA leaders and paralegals, including NAGKASAMA leaders Apolonio Mendoza, Chito Afafe, and Placido Bautista, paralegals Victor Barrientos and Roberto Panaligan, KASAMA leader Rolando Seralvo; and founding KASAMA secretary general "Ka Oca" Castillo, on December 27, 2002.

This Resource Book is produced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) angoc@angoc.ngo.ph and the International Land Coalition (ILC) coalition@ifad.org.

Communal Titling for Cambodia's Indigenous Peoples



In 2001, a Land Law was passed in Cambodia which recognized communal titles issued to indigenous communities. Following this, the Ministry of Land Management Urban Planning and Construction (MLMUPC) decided in 2003 to pilot communal titling in three villages in the northeast of the country: one in Mondolkiri Province and two in Ratanakiri Province. These pilots were intended to guide the development of a Sub-Decree that would outline the process for communal titling.

Source

Jeremy Ironside, "Securing Land Tenure Rights for Cambodia's Indigenous Communities."

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Land Sales and Alienation

The dramatic increase in migration and settlement in several areas where indigenous people live is leading to a multitude of problems for the original inhabitants. Lowland immigrants are

INDIGENOUS COMMUNITIES WITHIN CAMBODIA

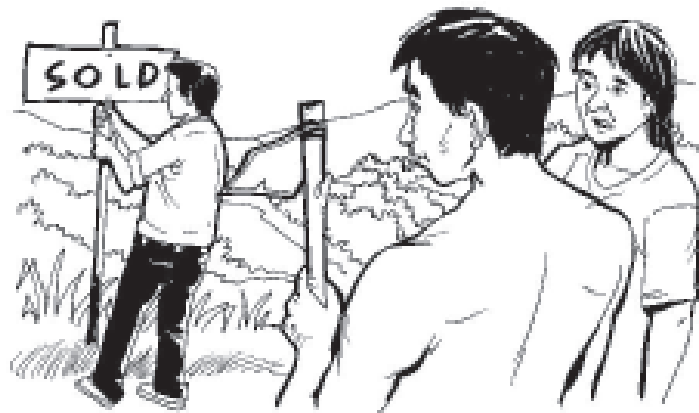
A 1998 census showed that there are 17 different indigenous groups in Cambodia, which number some 101,000 persons, or 0.9 per cent of the total population. This is probably an underestimate as many minority groups are likely to deny their ethnicity. The majority of indigenous people lives in the largely forested areas of the north and northeastern part of the country. Earlier, in 1997, the Interministerial Committee for Highland Peoples Development estimated the number of indigenous persons in the three northeastern provinces of Mondolkiri, Ratanakiri, and Stung Treng at 105,000. There are indications however that almost all of Cambodia's 24 provinces contain indigenous communities.

The sparsely populated northeastern provinces of Ratanakiri and Mondolkiri are the only provinces with majority (around 70 per cent) of indigenous peoples. A dramatic increase in the immigration of Khmers to the highlands is taking place, which started in Ratanakiri some years ago and now continues in Mondolkiri.

taking advantage of the vulnerable situation of indigenous people, and the absence of regulations, to lay claim to the people's traditional lands. Illegal land transactions are taking place at an alarming rate without thought of the problems that would result from widespread landlessness among indigenous peoples or the impact this is likely to have on the remaining forested areas.

At the heart of these trends is lack of enforcement of the Land Law, as indicated by the following:

- Individual members of indigenous communities are selling land without enough information, or as a result of coercion, threats and intimidation.
 - Local authorities are selling land without informing the indigenous community, and sometimes in contravention of village statutes banning land sales.
 - Village/commune land is being sold by members of a neighboring village or commune, using the confusion over boundaries as an excuse, or based on wrongful claims.
 - Powerful or well-connected people, both indigenous and not, are occupying or taking over land without the approval of majority of the indigenous community.
- Community members are making secret land deals with buyers without the community's knowledge, and often without written contracts. Old swiddens around towns and along roads are the first to be sold because the prices being offered for them are too tempting for the villagers to resist.
 - Forested areas are either being illegally cleared to claim possession, or else a villager is being bribed to authorize the clearing.



Areas of old swidden field are being sold and forestland around the swidden is being illegally cleared to increase the area.

- Illegal land transaction documents are being backdated prior to the 2001 Land Law in an attempt to take advantage of the possession rights conferred by the previous Land Law.
- Land is being borrowed or rented, in some cases by cash cropping companies, without written agreements and often with the intent to take over the land permanently.



All these practices contravene the Land Law. Article 23 of this law establishes the right of communities to continue managing their land in the traditional fashion, and seeks to prevent land being lost prior to the issuance of a communal title. Notwithstanding this legal protection, indigenous groups remain vulnerable in the face of the current land pressure. Land is being sold at ridiculously low prices of US\$50/hectare or less. Many young people are being induced to sell pieces of their community's land to buy things like motorbikes, etc. These illegal land transactions are posing a serious impediment to resolving conflicts — a prerequisite to communal titling.

In the communes of Ratanakiri and in other provinces, the majority of the land is no longer owned by the indigenous communities in the area. This trend has been observed in several other communes and has accelerated over the past few months following the start of activities to pilot communal land titling.

These practices contradict not just the intent of the Land Law but also the policy priorities identified in the National Poverty Reduction Strategy. Landlessness in Cambodia has been found to be inextricably linked to poverty, and land alienation partly explains why more and more indigenous communities, who are already vulnerable, are getting poorer.

Forest and Agricultural Concessions

Newly built roads, land pressure in the lowlands, and the rapidly growing population have created a huge interest in upland resources among domestic and international investors. In fact, the government has awarded several “land concessions” to establish industrial agricultural plantations, tourist resorts, etc. In addition, some forest concessions that have been on hold in the past few years are due to resume operations soon. Forest concessionaires intimidate indigenous communities and cut their resin trees, which communities tap for income, depriving them of their own secure sustainable livelihood support. Illegal logging continues unabated in many areas, often with the collusion of the armed forces and provincial authorities.



INDIGENOUS PEOPLES' TRADITIONAL LAND USE AND MANAGEMENT: THE SWIDDEN SYSTEM

Numerous studies have shown that indigenous people run a well-developed land allocation and land management system that relies on communal decision-making through traditional structures. Among Cambodia's indigenous groups, communal forms of land tenure are evident in the rotation of upland agriculture fields, and equitable distribution of land among the community members.

Swidden agriculture is based on the principles of rotation and soil fertility improvement through natural forest regeneration.

Two key principles of sustainable management have guided this form of land use by indigenous groups:

1. Minimizing impact and allowing sufficient time for forest regeneration by rotating over the village area and not farming one swidden plot for too long; and
2. Maintenance of evenly dispersed populations rather than concentrating settlements in one area.

The equidistant distribution of populations over the landscape was one of the practices of the hill tribe cultures in northeast Cambodia. This, combined with the fact that swidden farmers are driven to regenerate the forest in order to keep and replenish the fertility of the soil, has worked to maintain overall forest cover in much of the northeast at 80 per cent or higher for several centuries. The relatively low population density has also helped to preserve the forest.

Swidden fields are also allowed to lie fallow in order to promote their regeneration, and there were and still are strong taboos to ensure this. As a result, many indigenous farming people have a hard time accepting the call for them to continue production on single plots for many years. In their view, and based on their local ecological knowledge, such a strategy will lead to both ecological and social problems.

The swidden system is part of a balanced livelihood system that has developed over centuries. However, in many areas, swidden systems are breaking down because it has become increasingly harder to keep enough land fallow for a sufficient length of time. *Land security is needed to safeguard the livelihoods of many of the most vulnerable communities, while the traditional land use systems evolve and adapt to changing circumstances.*

Enforcing the 2001 Land Law and Access to Information

Aside from poor enforcement of the Land Law, the other problem behind the land alienation which is affecting indigenous communities is the *lack of access to information*. Officials and land speculators looking to expedite illegal land sales are spreading lies, such as:

- ☞ Fallow agricultural lands belong to the State, and therefore communities should sell their lands as soon as possible before officials take it from them.

- Communities should sell their lands for “development” and for cash cropping because it is part of the national policy for poverty reduction.
- Villagers need privately owned land so they have something to sell when they need money for medical expenses.
- A tax on land will have to be paid so it is better to sell the land.
- Communal title is “the same as Pol Pot (Khmer Rouge) times”. This is a clear misinterpretation of the word communal in Khmer language. Actually, communal title aims at issuing one title to a community and allows that community to allocate individual or family rights to use that land.



Experience has shown that where communities have a better understanding of their legal rights, and where they are not so vulnerable to misinformation, the rate of land alienation tends to be lower.

Indigenous Land Rights Protection: Activities to Date

Land Use Mapping and Planning

Provincial governments in Ratanakiri and other provinces have been working alongside NGOs to promote land security through community-based natural resource management. This has resulted in provincial recognition of many community natural resource management areas. Mapping and land use planning activities being carried out by different organizations have by now covered nearly half of the 49 communes in Ratanakiri Province. Various mapping and planning methods have been tried and confirmed that communes under the most severe land pressure, *i.e.*, those located along roads and near market towns, have been unable to deal with the intense land pressure in these areas, even with provincially recognized land use plans and maps.

Consultative Groups and No Sales Agreements

As of September 2004, indigenous peoples networks were being developed in Ratanakiri (the Highlanders Association and NRM Network) and other provinces. Regular consultative meetings and exchanges between indigenous representatives from different provinces are being initiated to develop strategies to prevent further land sales.

One such strategy is the enforcement of commune-level No Sales Agreements. Villagers were encouraged to agree that their community would stop selling land and members were asked to thumbprint a No Sales Agreement document. This document was then handed to the Commune Authorities for their recognition and approval. By late 2004, four No Sale Agreements had been developed and approved by communes in Ratanakiri.

Pilot Communal Land Titling

By the same period, the MLMUPC had begun implementing the Land Management and Administration Project (LMAP) in conjunction with the German Agency for Technical Cooperation (GTZ), the World Bank (WB) and other donors. As part of the LMAP, the General Secretariat of the Council of Land Policy (GSCLP) was charged with developing land policy and legal instruments for land management.



Earlier, in March 2004, the GSCLP had formed an inter-ministerial National Task Force (NTF) to coordinate pilot Indigenous Land Rights activities. The role of the NTF was to oversee the development of a sub-decree that would outline how communal land rights for indigenous communities would be enforced. A consultation forum was set up to enable indigenous peoples and civil society to get involved.

FIRST-EVER NATIONAL FORUM OF INDIGENOUS PEOPLES

On September 9-12, 2004, a meeting was held among indigenous representatives from 14 provinces throughout the country, representing 11 different groups. For some, this was the first time they had ever met people from another indigenous group. The meeting discussed how an indigenous person should be defined in Cambodia, how these different groups manage their lands and what common problems they are facing. Information gathered was intended to feed into the drafting of the Sub-Decree on Communal Land Titling. This Forum formed the basis of further consultations and meetings in the different regions and provinces to get input and feedback for the Sub-Decree and to develop a network of indigenous people throughout the country.

Under the NTF, the GSCLP formed Provincial Task Forces (PTFs) in Ratanakiri and Mondolkiri, under the chairmanship of the Provincial Governors and the Chief of the Provincial Departments of Land Management Urban Planning and Construction. The PTFs included NGO/IOs involved in the communal land titling activities, representatives of the respective pilot villages, and Community Networks. The MLMUPC/GSCLP aims to finish all land titling in Cambodia by 2007, including that of indigenous lands.

By September 2004, activities had started to slow down. Much time had gone into developing extension material to inform communities in the pilot villages about the Land Law and the options open to them (*i.e.*, communal or individual land ownership). Each adult member of the community attended two extension sessions, following which the Governor of Ratanakiri Province and the Chief of the Provincial Department of Land Management met with the villagers in the pilot sites to find out which land titling option (communal or individual) they preferred for their village. Once they had made their choice, the two villages submitted their land titling application.

By including a chapter on communal land titling in the 2001 Land Law, the National Assembly implicitly recognized that there is no single development model for the entire population of Cambodia and that the country's indigenous peoples have special requirements. The rapid socioeconomic and land use changes underway in many indigenous areas make land tenure security an urgent priority — to allow these communities and their farming systems time to adjust to these changes, to prevent large-scale land dispossession and to ensure that poverty

RECOMMENDATIONS

Early results of the pilot project pointed to the following proposals:

- The Royal Government of Cambodia should declare a moratorium on the registration of private land in areas eligible for communal title until the sub-decrees governing both indigenous communal title and economic concessions have been adopted. The donor community should encourage the government to do this.
- There is an urgent need to investigate the legality of all recent land sales, primarily those that had taken place after 2001 on land eligible for communal title. A conflict resolution process also needs to be implemented to rectify and gain some control over the situation. Otherwise, the anarchic land market will create more and more complex and potentially violent conflicts that would literally take years to resolve.
- The instigators of illegal land sales and land grabbing should be prosecuted in the courts.
- The Royal Government, with the support of its development partners and in collaboration with civil society, should urgently launch an information campaign on the Land Law, land rights and contract procedures at the provincial level in areas where indigenous communities live.
- The Royal Government should ratify a Declaration on access to public information that identifies the procedure to request such information. This should include complaint mechanisms when relevant authorities fail to deliver the requested information.
- Donors should continue to support training (extension) on land rights of indigenous peoples in local languages.
- Indigenous and independent legal representation in Land Cadastral Commissions (for resolving conflicts over non-titled land) and court processes is also required.
- Many areas of land that are part of the agricultural system, including forest areas, and especially spirit forests, burial forests and small areas of forest within agricultural land, need to be included in communal land titling if indigenous land management and culture are to be protected.
- Community forestry agreements and land titling activities should be developed together. Community forest areas also need to be bigger than the three-hectare-per-family allocation being promoted by the Forest Administration.

within these communities is reduced rather than increased. The long-term health of the indigenous cultures of this area is very strongly linked to their land use systems.

In most of the areas where Cambodia's indigenous people live, the issues of land and forest tenure security are inextricably linked. There are a number of possible ways to give indigenous communities rights of communal ownership to agricultural areas and to develop community forestry agreements for



areas outside of these. In future, communal lands could act as a buffer between cash cropping areas and forested areas, with the swidden areas being a mix of cropping, agroforestry and fallows. Swidden systems and upland farming could evolve into agroforestry-type options, in place of monoculture plantations or cash cropping.

However, in many areas where indigenous people live, there is a crisis of land use policy. While the Government talks of opening up these areas to cash cropping, economic concessions, etc., it lacks the capacity to make sure that these changes will not impact severely on the people and the natural resources of the area. Furthermore, much needs to be done to assist indigenous communities to protect their land before and after land titling.

For all these reasons, communal titling methods that are simple and can be efficiently implemented are required. Otherwise, the promise of land security through communal titling will not be realized. Indigenous communities have a significant contribution to make in the sustainable management of their traditional areas and they need the tenure security of their communal lands to develop models that combine economic development with social and environmental considerations.

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Enhancing Access of the Poor to Urban and Peri-urban Land for Food Production



Increasingly, urban and peri-urban agriculture is being recognized as an effective strategy to reduce urban poverty and to enhance the food security, health and nutrition of disadvantaged groups. Studies have also shown that urban households involved in farming have a better nutritional status compared to non-farming households. Moreover, creating better conditions for poor urban families to grow and market vegetables, livestock, fish, etc., positively affects the access of other non-farming urban poor groups to fresh and nutritious food at affordable prices.

Source

Proceedings of the E-conference on "Optimizing Agricultural Land Use in the City Area (Access to Land, Water, Adequate Norms and Regulations, Integration in Land Use Planning)," Nov. 3-22, 2003 organized by the UNDP/ UNHABITAT and the Resource Center on Urban Agriculture and Forestry (RUAF) (ETC Foundation). The report of proceedings can be found in http://www.ruaf.org/conferences_fr.html

The following insights into urban and peri-urban agriculture were excerpted from the proceedings of an E-Conference on Urban and Peri-urban Agriculture organized by the Urban Management Programme, Regional Coordination for Latin America and the Caribbean

(UNDP/UNHABITAT) and ETC-RUAF held on November 3 to 22, 2003. The objective of the E-conference was to share and discuss local experience in:

- Strategies to enhance the urban poor's access to land and thus help them engage in food production; and
- Examples of the development and application of municipal by-laws, norms and regulations regarding access to land for urban agriculture.



Urban farming provides a source of employment not only for the producers involved, but also for hired laborers and people operating related micro-enterprises (production of compost, herding, collection and selling of grass or manure, processing of agricultural produce, and street vending of food).

It is also a viable alternative to wage labor for women who lack access to formal employment due to limited education and training. It allows them to work closer to their homes, thus enabling them to combine multiple tasks during the day. Ownership of animals and/or earning of independent cash income may strengthen women's social position within the household and the community.

Nearly 400 participants from 82 countries registered and many more followed the discussions by visiting the RUAF website. More than 450 relevant contributions were received for discussion and some 30 papers were added to the conference website.

How do the urban poor seek access to land?

The experience presented in the E-conference illustrated the many ways through which the urban poor seek to secure access to land (and water):

- Investments in social relations (marriage, participation in local organizations and churches);
- Development of strategic partnerships between households or by linking up with people with access to land;
- Individual lobbying with caretakers of land or joint lobbying with private institutional land owners or the local government;
- Occupation of "vacant" land; and
- Tapping of wastewater disposal lines.

Constraints Encountered

The E-conference reported several factors that limit access to urban land for agriculture, (1) for *actual farmers* and (2) for *poor rural and urban newcomers*:

Actual farmers in peri-urban areas have no legal standing and their right to agricultural land use is not protected. Competition for land among urban estate developers, recent migrants and the urban poor, is undermining social cohesion. Formal ownership rights are overlapping with the

customary and are in fact becoming the norm. At the same time, customary mechanisms to distribute and manage communal lands are no longer being observed, leading to land fragmentation and sale of communal lands to resource-rich “citizens”.

The problem of landgrabbing by politicians who use the urban poor as proxies to occupy “vacant” land and thereafter claim occupancy rights to it is widespread. Corrupt chiefs and non-cooperative “absent” landowners (private, institutional, or public) abound.

Meanwhile, rules for access and procedures for land registration are often highly complex and bureaucratic, making it difficult for the urban poor to file land applications. Farmers also face difficulties stemming from their short duration of stay in the village, their low socio-economic status, youth, gender (female), or ethnicity (low caste, minority group). In addition, land rents continue to increase while irrigation water and soils are progressively becoming contaminated, leading to diminishing quality of the agricultural land available and the devaluation of the land.

Poor rural and urban newcomers

to urban areas seeking access to land lack the type of social relations through which access to land and water can be gained and secured. The high prices of land and lack of resources to lease or buy it are serious constraints. The low quality of available “vacant” land (low fertility, debris, regular flooding, contamination, vulnerability to erosion), tenure insecurity, risk of theft, and high transport costs, especially in locations that are far from roads and markets, are other problems. Uncooperative owners of idle land and eviction by local authorities (to maintain the law or for personal gain) are forces to reckon with.



Strategies to Enhance Access to Land

The E-conference showed that various municipalities, NGOs, and other local stakeholders have already developed a number of promising strategies to enhance access of the urban poor to land and water for agriculture:

1. Provision of access to public or semi-public land for temporary agricultural use

A good starting point is to make an *inventory of available vacant open land* in the city (through participatory methods and GIS) and analyze its suitability for use in agriculture. Furthermore, the *creation of a Municipal Agricultural Land Bank* can bring landowners in need of temporary or permanent users in contact with those in need of agricultural land. In addition, *the formulation of a City Ordinance that regulates the temporary use of vacant land* in the city is important.

The *development of safer and more productive urban agricultural systems* is often constrained by the present informal or illegal status of urban agriculture, resulting in highly insecure land use rights in many cities.

The *provision of temporary occupancy licenses* to land users farming on fairly suitable land is essential in providing some legality and security to the temporary users, aside from reducing the probability of harassment and improving access to credit.

Another lesson is the important role that *institutional landowners and parastatals* can play in *leasing out temporarily idle land* to the urban poor and disadvantaged; as well as *independent organizations playing a mediating role* to create an acceptable win-win situation for both parties. *Farmer training in adequate management practices* that are acceptable to the institutional owner is also crucial.

Access to water of acceptable quality is equally essential. With urban farmers relying on urban wastewater, adequate norms and guidelines regarding the safe use of wastewater, rainwater harvesting, and local treatment have to be promoted. Local experiments and the development of models based on “model farms” can serve as examples.

2. Allotment gardening on privately owned land

Before the participants to allotment gardening are selected and groups are formed, it is important to ensure that everyone understands *the local social relations*. The active involvement of the municipality as well as the availability of an *entity (municipal department or NGO or project) that can play a facilitating and coordinating role* is likewise crucial. It is also necessary to define *clear land management conditions* (e.g., the type of crops that can be grown, restrictions against the building of structures on the land, methods of waste management) and to assist the allotment gardeners to learn and apply the required practices.

One way to encourage private land owners to make vacant land available to urban poor groups interested in farming is to *raise municipal taxes on idle urban land* or to *reduce the taxes to be paid by land owners who make idle land available for (temporary) farming*.



3. Demarcation of permanent urban agriculture zones as a form of permanent land use and its integration into city land use planning

The legalization of urban agriculture and demarcation of special zones for urban agriculture is strongly advocated by many practitioners. Legal protection for urban agriculture — in certain parts of the city — will make it more sustainable and ensure the maintenance of green zones in the city. However, it is recognized that the maintenance of these zones greatly depends on the *political will of the local authorities* and the *practical, technical and financial capacity of the municipality*.

Another lesson is the *location of zones designated for agriculture in areas that are not well-suited for construction or where construction is not desirable*, as on flood plains, under power lines, in parks or in nature conservation areas.

4. Support Programs

Another requirement is the provision of adequate services to urban farmers, preferably through the *development of multi-stakeholder support programs*, in order to:

- Educate urban and peri-urban farmers in safe and hygienic food production;
- Make urban agriculture more productive and competitive (*e.g.*, shift to short-cycle production of vegetables, herbs, etc.; shift from free-roaming cattle to confined smaller animals);
- Enable the combination of urban food production with other desired functions such as greening, park management and recreation, safe composting and reuse of urban organic wastes, water drainage and storage.

Other Strategies Used

Exploring the role urban agriculture can play in the realization of broader urban policy goals and multi-functional land use is of key importance. The experiences shared in the E-conference indicate that to enable the development of adequate by-laws, ordinances, norms and regulations regarding urban agriculture, it is important to:

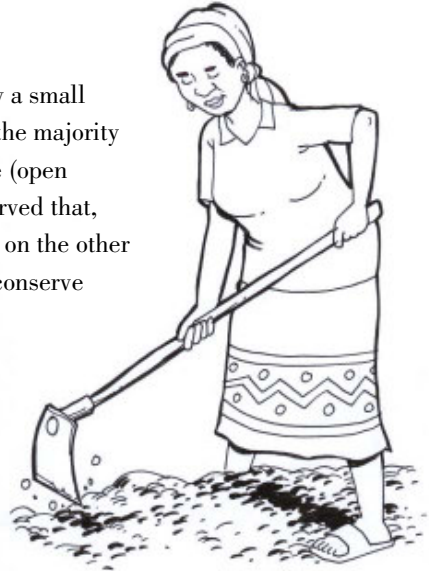
- Make examples of such norms and regulations available to municipalities;
- Develop a thorough understanding of customary and formal land rights and the local ways in which poor and powerful people create and secure access to land; and
- Develop effective guidelines regarding management practices to be adopted by each type of urban agriculture in different locations with active farmer participation.

Other strategies shared by the E-conference participants were the establishment of *one central coordinating municipal office*, as well as the involvement and collaboration of various municipal departments. They also noted the importance of *assisting urban and peri-urban gardeners and*

Case Study: Harare, Zimbabwe

E-conference participants related the case of Harare, Zimbabwe where only a small percentage of the urban farmers acquired land through formal means, and the majority (estimated at 80 per cent) simply occupied land they considered to be idle (open spaces, river banks, underdeveloped private and public land). It was observed that, where tenure is insecure, little or no investment was made in conservation; on the other hand, farmers who were formally allocated land had a greater tendency to conserve “their” land.

It was likewise observed that *lobbying and advocacy by urban farmers and other organizations works*, resulting — as in the case of Harare — in the acceptance of urban agriculture. In the 1970s, the Harare Council *zoned 50 hectares of land in a low-income suburb for agricultural use by urban poor*. In the 1980s, the City Council *formally identified and demarcated allotment gardens and allocated land to the cooperatives managing the allotment gardens*. In keeping with the objectives of the Master Plan for Harare, *agricultural zones were included in land use plans at lower levels*, but initially included only privately owned land which provided little room for the urban poor.



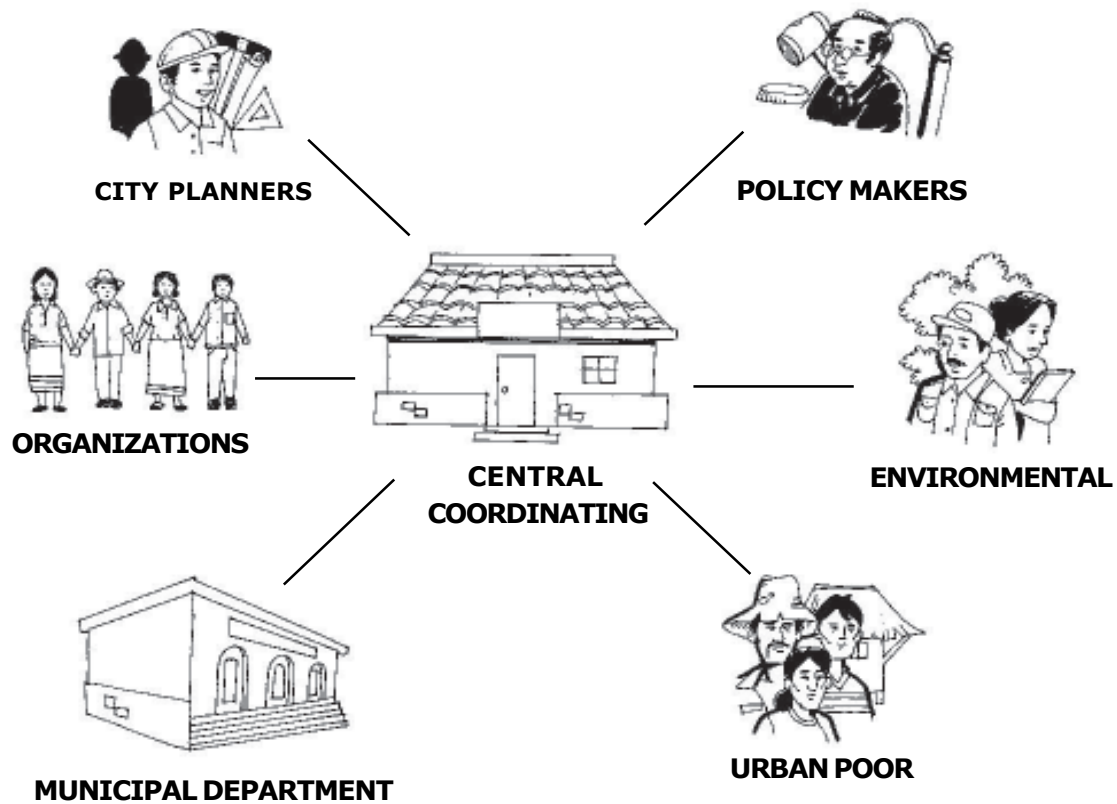
Due to the crisis in the 1990s, competition for agricultural land in the city became very intense and households started to farm on ecologically fragile lands. Throughout these years, legislation had been ad-hoc and inconsistent, and its implementation strongly dependent on the opinions of the sitting magistrates. Recently, *urban agriculture has been formally recognized at the local and national level as a legitimate land use form and an important strategy for urban poverty alleviation*.

It was also mentioned that the *involvement of the Association of Urban Planners in a Forum on Urban Agriculture and the sharing of experiences, research data, site visits, discussion of good practices, etc.* substantially lowered the resistance of urban planners. There is, however, still a *need for legislation to be accompanied by relevant regulations* so that there is no subjectivity based on officers’ perceptions of urban agriculture. There is likewise a need to *educate the Mayor and most technocrats* on the benefits and risks of urban agriculture and the measures to be taken to ensure its sustainability. The *types of urban agriculture to be practiced (e.g., agroforestry and bee-keeping, as opposed to the misconception that urban agriculture entails cutting of trees)* also have a bearing on acceptance. The integration of urban agriculture into *waste management* will also help.

Participants indicated that *entering into lease agreements with private and institutional land owners* (schools, churches, hospitals, the army, etc.) has worked quite well in Harare. Leasing is advantageous to both the owners (well-maintained, green, and secure grounds) and the farmers (known lease duration so they can manage accordingly). It is recommended that *the focus be placed on land use rather than ownership* and to involve urban farmers groups in land use planning.

Another important option is the *integration of home gardens in new settlement schemes*, since home gardens are not a contentious issue with local authorities and are not restricted. Planting of fruit trees along streets and growing of vegetables and fruits in parks were mentioned as promising options — although there is the problem of theft and the restriction on erecting fences for aesthetic reasons.

One final point was that the legislative framework for urban agriculture is important, but that *the political will to implement the framework* is even more crucial — something that was lacking in Harare for a long time.



farmers to get themselves organized and to voice their interests in dialogue with policymakers, city planners, health and environmental authorities, agricultural support organizations and other stakeholders. Organizations of urban farmers can also play an important role in farmer education on appropriate land use and management practices, and ensuring compliance with related municipal norms and regulations.

Another crucial lesson is the provision of more insights to municipal planners on the risks and benefits of each type of urban agriculture. *Effective guidelines on the management practices to be adapted by each type of urban agriculture and the conditions under which such types are acceptable in certain locations* need to be developed.

Several participants pointed out the *need for adaptations in national laws* in order to enable new developments at the local level.

Difficulties Encountered

The E-conference participants discussed several problems encountered by municipalities in optimizing the agricultural use of urban and peri-urban areas. Among these were the need for:

1. Greater access to credit and finance;
2. Urban agriculture projects specifically targeting women;
3. Assistance to female-headed households to access land close to their homes;
4. Special attention to the selling and processing of products; and
5. More research on gender differentiation of access to productive resources in urban agriculture.

Case Study: Rosario, Argentina

The E-conference participants from Argentina shared their experience involving the *participatory inventory of vacant open land in urban and peri-urban areas, its actual use and the classification of its suitability for certain types of urban agriculture*. This information served as the basis for the development of land use plans, and their integration into municipal land use policies.

Consultative workshops were held in existing agricultural areas, involving farmers as technicians, municipal officers, and NGOs/CBOs to arrive at agreements on required improvements in the management of the farms in relation to improvements in the legal status of agricultural land use. As a result of these participatory approaches, urban agriculture is now officially recognized as a form of urban land use, and is integrated in the city land use and urban development plans.

Community gardens were developed on suitable vacant public land made available by the municipality. This approach seeks to make use of under-utilized resources (vacant lots, unemployed labor, urban waste, abandoned infrastructure). The municipality signed agreements with groups of urban poor interested in farming in community gardens granting them temporary user rights. Such community gardens are not only for food production, but for multifunctional land use (e.g., combining production with recreation). Problems encountered: part of the vacant lots may be degraded and careful analysis of the risks and limitations of their use is needed; the legal status of many vacant lots is unclear.

An important lesson learned was that the **municipality accepted urban agriculture as a legal form of land use and integrated it in urban land use planning and development programs due to various factors:**

- The mobilization of the urban poor or farmers expressing their needs and proposing urban agriculture as a development strategy;
- The involvement of local NGOs and universities presenting data on land availability, actual presence and impacts of urban agriculture;
- The political recognition of the issue by an outside agent, such as the United Nations; and
- The collaboration among different municipal departments (strategic planning, housing, parks and gardens).

Overall strategies for facilitating access to land for agriculture should include:

- Setting up of a city committee and a program for urban agriculture;
- Incorporation of urban agriculture in land use plans and city development plans (at neighborhood or city level);
- Development of a facilitating legal framework (temporary user rights, fiscal incentives)
- Use of specific instruments, like an urban agriculture land bank, GIS, participatory diagnosis and action planning, multi-actor budgeting.



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