

Implementing the Land Governance Assessment Framework

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Outline

- What is land sector governance?
- Why are we monitoring it?
- The methodology used
- Some results from the case studies
- Implications and lessons learnt



What is land governance?

- How property rights to land (for groups or individuals) are defined, enforced, can be exchanged, and transformed
- The way land is managed, land use plans and regulations are prepared and implemented, and how land is taxed
- What is state land, how is it managed, acquired and disposed of
- The nature and quality of property ownership information available to the public and the ease with which it can be accessed or modified
- The way in which disputes are resolved and conflict is managed



Why monitor it?

- Serious issue; far-reaching economic and social consequences
 - Importance of property rights for investment, poverty reduction and growth
 - Bad land governance leads to deep-rooted conflicts
 - High profile land grabs and corruption (Kenya)
 - Petty corruption can be costly (US \$ 700 mn./a in India)
- A number of factors are likely to increase pressure on land
 - Population growth, urbanization
 - New land uses (e.g. biofuels) increase land demand
 - Payments for environmental services (REDD)



How to monitor it?

- **Public Expenditure and Financial Accountability Framework (PEFA)**
 - Coordinated among donors (EU, IMF, bilaterals, WB)
 - Goals: Country ownership, donor harmonization, progress monitoring
 - Reports for >40 countries since 2006: www.pefa.org
 - Avoid duplication; basis for policy dialogue and policy support



LGAF Process

- **LGAF Methodology**
 - 5 broad thematic areas, 21 indicators, 80 dimensions
 - Expert investigation (legislation, statistics and data)
 - Panels score dimensions (A – D statements), justify, make recommendations
 - Supplemented by sampling (court and registry records)
 - Panel summaries -> country reports

Expert Analysis

Preliminary data gathering by experts in:

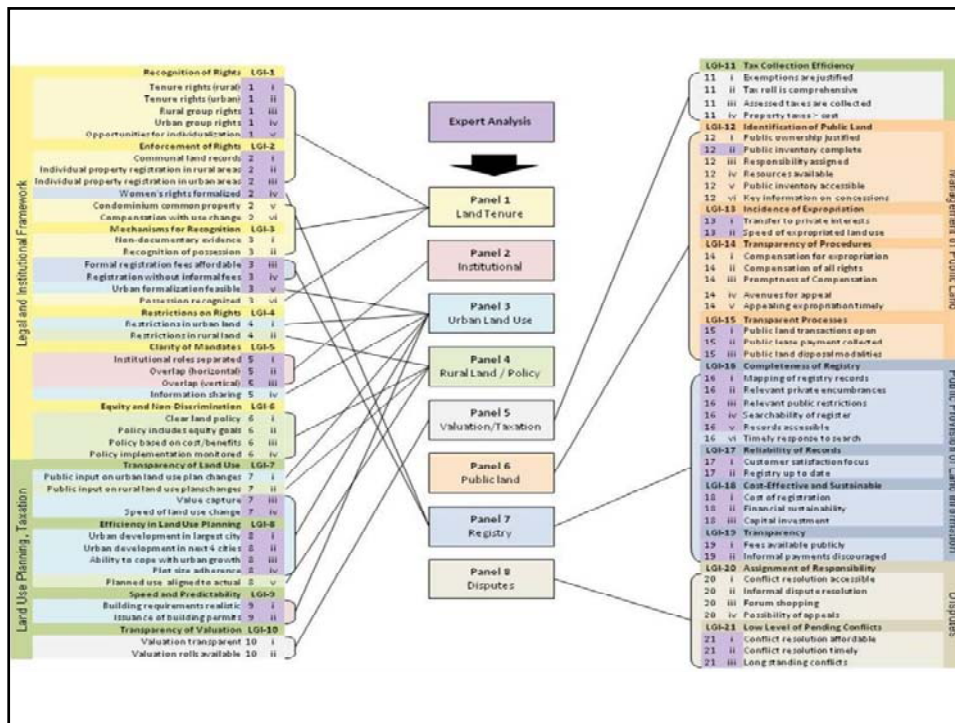
1. Land Tenure
2. Land Use / Policy
3. Public Land Management
4. Land Registry

Panels of Experts

1 – 2 day workshops gathering experts from the private and public sector on topics of:

1. Land Tenure
2. Institutional roles
3. Urban Land Use and Development
4. Rural Land Use and Land Policy
5. Land Valuation and Taxation
6. Public Land Management
7. Public Provision of Land Information





Example of Dimension Scores

LGI 3, Dimension, iv:	Assessment
First-time registration does not entail significant informal fees	<p>A – There are no informal fees that need to be paid to effect first registration.</p> <p>B – There are informal fees that need to be paid to effect first registration, but the level of informal fees is significantly less than the formal fees.</p> <p>C – There are informal fees that need to be paid to effect first registration and the level of informal fees is about the same as the formal fees.</p> <p>D – There are informal fees that need to be paid to effect first registration and the level of informal fees is significantly higher than the formal fees.</p>
Comments on the answer provided (please list all the informal fees and indicate the relative size of the various informal fees):	
Sources of data/information:	
Robustness and reliability of data/information provided (comment on reliability of sources, explain variations across data sources or opinions, etc.):	



Output – Country Scorecard

Country LGAF Scorecard for Ethiopia

■ Good governance
 ■ Progress towards good governance
 ■ Not quite meeting good governance criteria
 ■ No attempt to meet good governance criteria

LGI-Dim	Topic	Score			
		A	B	C	D
Recognition of Rights					
1 I	Land tenure rights recognition (rural)		✓		
1 II	Land tenure rights recognition (urban)		✓		
1 III	Rural group rights recognition		✓		
1 IV	Urban group rights recognition in informal areas			✓	
1 V	Opportunities for tenure individualization				✓
Enforcement of Rights					
2 I	Survey/mapping and registration of claims on communal land			✓	✓
2 II	Registration of individually held properties			✓	✓
2 III	Women's rights are recognized in practice by the formal system		✓		
2 IV	Customs/regime provides appropriate management of CP	✓			
2 V	Compensation due to land use changes				✓
Mechanisms for Recognition					
3 I	Use of non-documentary forms of evidence to recognize rights			✓	✓
3 II	Formal recognition of long-term, unchallenged possession			✓	✓
3 III	First-time registration on demand is not restricted by inability to pay formal fees		✓		
3 IV	First-time registration does not entail significant informal fees		✓		
3 V	Formalization of residential housing is feasible and affordable			✓	✓
3 VI	Efficient and transparent process to formally recognize long-term unchallenged possession			✓	✓
Restrictions on Rights					
4 I	Restrictions regarding urban land use, ownership and transferability		✓		
4 II	Restrictions regarding rural land use, ownership and transferability		✓		



Output – Country Scorecard (cont.)

LGI-Dim	Topic	A	B	C	D
Clarity of Institutions					
5 I	Separation of institutional roles			✓	✓
5 II	Institutional overlap			✓	✓
5 III	Administrative overlap			✓	✓
5 IV	Information sharing		✓		
Equity and Non-Discrimination					
6 I	Clear land policy developed in a participatory manner			✓	✓
6 II	Meaningful incorporation of equity goals			✓	✓
6 III	Policy for implementation is costed, matched with the benefits and is adequately resourced			✓	✓
6 IV	Regular and public reports indicating progress in policy implementation			✓	✓
Transparency of Land Use					
7 I	Changes in land use based on public input			✓	✓
7 II	Sufficient public notice of land use changes			✓	✓
7 III	Public capture of benefits arising from changes in permitted land use			✓	✓
7 IV	Speed of land use change			✓	✓
Efficiency of Land Use Planning					
8 I	Process for planned urban development in the largest city			✓	✓
8 II	Process for planned urban development in the 4 largest cities			✓	✓
8 III	Ability of urban planning to cope with urban growth		✓		
8 IV	Plot size adherence			✓	✓
8 V	Use plans for specific land changes are in line with use			✓	✓
Speed and Predictability					
9 I	Applications for building permits for residential dwellings are attributable and processed in a non-discretionary manner.	✓			
9 II	Time required to obtain a building permit for a residential dwelling	✓			



Output – Country Scorecard (cont.)

LGI-Dim	Topic	A	B	C	D	
Transparency of Valuation						
10	i	Clear process of property valuation				
10	ii	Public availability of valuation rolls				
Tax Collection Efficiency						
11	i	Exemptions from property taxes are justified				
11	ii	Property holders liable to pay property tax are listed on the tax roll				
11	iii	Assessed property taxes are collected				
11	iv	Property taxes correspond to costs of collection				
Identification of Public Land						
12	i	Public land ownership is justified and implemented at the appropriate level of government				
12	ii	Complete recording of publicly held land				
12	iii	Assignment of management responsibility for public land				
12	iv	Resources available to comply with responsibilities				
12	v	Inventory of public land is accessible to the public				
12	vi	Key information on land concessions is accessible to the public				
Incidence of Expropriation						
13	i	Transfer of expropriated land to private interests				
13	ii	Speed of use of expropriated land				
Transparency of Procedures						
14	i	Compensation for expropriation of ownership				
14	ii	Compensation for expropriation of all rights				
14	iii	Procedures of compensation				
14	iv	Independent and accessible recourse for appeal against expropriation				
14	v	Appealing expropriation in time-limited				
Transparent Processes						
15	i	Openness of public land transactions				
15	ii	Collection of payments for public leases				
15	iii	Modalities of lease or sale of public land				



Output – Country Scorecard (cont.)

LGI-Dim	Topic	Score				
		A	B	C	D	
Completeness of Registry						
16	i	Mapping of registry records				
16	ii	Economically relevant public encumbrances				
16	iii	Economically relevant public restrictions or charges				
16	iv	Searchability of the registry (or organization with information on land rights)				
16	v	Accessibility of records in the registry (or organization with information on land rights)				
16	vi	Timely response to a request for access to records in the registry (or organization with information on land rights)				
Reliability of Records						
17	i	Focus on accurate information in the registry				
17	ii	Registry/website information is up-to-date				
Cost Effective and Sustainable						
18	i	Cost of registering a property transfer				
18	ii	Financial sustainability of the registry				
18	iii	Capital investment				
Transparency						
19	i	Schedule of fees is available publicly				
19	ii	Internal payments charged				
Assignment of Responsibility						
20	i	Accessibility of conflict resolution mechanisms				
20	ii	Internal or community based dispute resolution				
20	iii	Firm shopping				
20	iv	Feasibility of appeals				
Low Level of Pending Conflicts						
21	i	Conflict resolution in the formal legal system				
21	ii	Speed of conflict resolution in the formal system				
21	iii	Long-standing conflicts (unresolved cases older than 5 years)				



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Progress in Developing LGAF

- Development of framework
- 5 pilot countries to account for diversity of situations
 - Indonesia
 - Kyrgyz Republic
 - Peru
 - Tanzania
 - Ethiopia
- Finalization of LGAF as World Bank ESW
- LGAF Implementation Manual
- Rolling out LGAF – Benin



1. Policy and Legal Framework Findings

- Legal recognition does not imply recording of rights (eg. Customary rights in Peru)
- Most countries have > 1 tenure regimes, but transition is usually difficult/impossible
- Institutional roles are often unclear and there is little information sharing (eg Tanzania, Indonesia, Ethiopia)
- Policy exists, but often without any monitoring (Kyrgyzstan an exception)



2. Land Management & Taxation Findings

- Marked differences between urban/rural sectors
- Most countries rank poorly in land use planning (master plans fail to address demand for housing)
- Building applications better implemented (path to formalisation in some countries, eg Peru and Ethiopia)
- Tanzania has a highly participative planning process in rural areas, but plans are easily over-ridden
- In most countries there is a big difference between recorded and market values
- Revenue collection varies (Tanzania 50-60%) but tax receipts are evidence of rights (Ethiopia, Indonesia)



3. Public Land Management Findings

- Generally little/no inventory of public land
- Unclear/overlapping responsibility
- Definition of public land unclear (Ethiopia, Indonesia)
- Peru and Kyrgyzstan good governance in expropriation (compensation payment slow in Peru)
- Little/no compensation for the loss of non-registered rights
- In some countries there is non-transparent expropriation for large scale private investments (Ethiopia)



4. Provision of Land Information Findings

- Coverage, currency and benefits of registration systems differ
- Over-centralised/supply driven (Tanzania)
- Affordable and financial sustainable (Peru, Kyrgyzstan)
- Inferences difficult from registry data (Peru, Ethiopia)
- Public service standards generally exist, but enforcement varies
- Service standards exist but in some countries have limited underlying rationale



5. Dispute Resolution Findings

- Conflict resolution is a problem virtually everywhere
- Judicial system also not helping (Tanzania, Ethiopia)
- Weak link between informal and judicial dispute resolution systems
- Multiple fora for dispute resolution
 - leading to forum shopping
 - Disadvantages the poor



Peru: Recognition vrs Enforcement

1. Recognition of a continuum of rights 2. Enforcement of rights

LGI-1 (i) Land tenure rights recognition (rural)

A Existing legal framework recognizes rights held by more than 90% of the rural population, either through customary or statutory tenure regimes

LGI-1 (iii) Rural group rights recognition:

A Group tenure in rural areas is formally recognized and clear regulations exist regarding group's internal organization and legal representation

LGI-2 (i) Surveying and registration of claims on communal or indigenous lands

D Less than 50% of the area under communal lands has boundaries demarcated and surveyed and associated claims registered



Difficulties in enforcing communal rights

- Unsolved boundary conflicts among communities
- Surveying in jungle areas is costly and difficult
- Requirements to prove community representation are too difficult to comply with
- Defining native communities territories cannot be ascertained by traditional approaches of occupation
- Some communities oppose State recognition claiming self-determination



Advantages of LGAF

- Sector-wide approach focused on outcomes rather than existing institutions
- LGAF formulated to indicate solutions not problems
- Feed into country strategy; identify areas for more attention
- Cross-country comparison to identify best practice
- Assessments can be repeated at 2-3 year intervals to assess progress



Advantages of LGAF (cont.)

- Complementary to global and regional initiatives
 - FAO's 'voluntary guidelines on responsible governance of land & NR tenure'
 - AU land policy initiative/UN-Habitat governance and transparency
 - Can provide legitimacy for first assessment and follow-up indicators
 - Provide capacity for in-depth analysis and policy/institutional adjustments
 - LGAF methodology and framework used for PLIAF



Lesson Learnt

- A land governance framework is feasible and meaningful
 - Can serve as a diagnostic tool/organizing framework for sector-wide approach
 - Expert panels plus quantitative information are appropriate
 - Can serve as a basis for policy options and priorities at country level
 - Plus identification of best practice based on variation across countries



Lesson Learnt (cont.)

- Doing it in practice is an iterative process
 - Requires a well-informed, skilled country coordinator
 - Requires clearly formulated manual and definitions for rankings to be meaningful
 - Identification of reasons for low rankings to generate policy options
 - Should lead to formulation/monitoring of improved administration data

