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LAND TENURE AND PROPERTY RIGHTS MATRIX  
**LAND TENURE AND PROPERTY  
RIGHTS OVERLAY**

**SEPTEMBER 2013**

This tool was prepared by Tetra Tech on behalf of USAID, under the Property Rights and Resource Governance Program under the Prosperity, Livelihoods and Critical Ecosystems (PLACE) Indefinite Quantity Contract (IQC) Contract No. EPP-I-00-06-00008-00, Task Order 002.

For more information on this tool, please contact:

**Dr. Gregory Myers**, Division Chief, Land Tenure and Property Rights, E3/LTRM, USAID,  
[gmyers@usaid.gov](mailto:gmyers@usaid.gov).

**Dr. Michael Roth**, Task 3.01 Manager, Property Rights and Resource Governance Program,  
Tetra Tech, [michael.roth@tetratech.com](mailto:michael.roth@tetratech.com).

LAND TENURE AND PROPERTY RIGHTS MATRIX

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## **DISCLAIMER**

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government



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# ACRONYMS

ADR	Alternative Dispute Resolution
CBNRM	Community-Based Natural Resources Management
FAO	Food and Agriculture Organization
GIS	Geographic Information System
GPS	Global Positioning System
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
IDP	Internally Displaced Population
IQC	Indefinite Quantity Contract
LTD	Land Tenure and Property Rights Division
LTPR	Land Tenure and Property Rights
NRM	Natural Resources Management
PLACE	Prosperity, Livelihoods and Critical Ecosystems
PRRGP	Property Rights and Resource Governance Program
REDD+	Reducing Emissions from Deforestation and Degradation
USAID	United States Agency for International Development
USG	United States Government



# PREFACE

Resource tenure and property rights challenges are present in almost every country where the United States Agency for International Development (USAID) works. In many countries, tenure and property rights problems are so grave that they create political instability, violence, population displacement, famine, and environmental destruction, which significantly undermine or prevent successful implementation of many USAID programs. Over the last decade the demand to address property rights issues has increased from both USAID field missions and host country governments. The increase in demand is due, in part, to a growing awareness among development practitioners of the role played by property rights (and natural resource access and use) in economic growth, governance, and conflict and resource management.

USAID and its partners have learned a great deal over the last three decades about the relationship between property rights and economic growth, productivity, and to a lesser extent, natural resource management and conflict. There are several important lessons learned from the last decade of research and policy work on property rights with a particular emphasis on land and resource tenure.

1. **Land tenure and property rights (LTPR) systems are fundamental to a wide variety of development outcomes.** Secure land tenure improves food security, economic growth, and natural resource management and reduces the impacts of conflict and climate change. Securing the rights of women, youth and vulnerable populations and broadening their access to resources complements and deepens the impact of interventions aimed at improving these outcomes. This is the case for people across the economic spectrum from smallholder farmers to urban manufacturers. An effective land governance and property rights system is fundamental to the broad process of economic and political development.
2. **Weak land governance systems limit economic growth; threaten good natural resource management; often promote conflict; and pose special problems for vulnerable groups, including minorities, indigenous people, the poor, and women.** Recognition of customary rights to land resources and the devolution of management authority improves land and resource governance and is crucial to sustainable natural resource management. Although many countries have effective and secure land governance and property rights systems, in numerous places, systems and rights are weak. The results of these weaknesses include conflict over land and resources, corruption associated with poorly functioning land governance systems, resource degradation, and limited economic growth.
3. **In development programming, property rights are most frequently dealt with in the context of land tenure reform, but they are increasingly being addressed through more integrated projects.** Programming decisions made in a variety of sectors that consider land tenure can have profound impacts on land use and natural resource management, agricultural systems, and infrastructure development.
4. **Too often, LTPR reforms are measured in terms of outputs rather than impacts** (e.g., measuring the number of land titles that have been issued as opposed to focusing on market performance and investment increases, reduced conflict, or improved use of sustainable management practices). This focus on outputs prevents USAID from fully understanding the efficacy and potential cross-sectoral benefits of its property rights reforms and programs. A greater emphasis on impact evaluation is needed.

5. **The ultimate objective is to secure property rights that will promote economic growth, food security, natural resource management, and stability.** Security of tenure can be achieved through a variety of approaches and should result in greater confidence that property rights will not be indiscriminately taken or unjustifiably restricted. Securing land and resource rights can be achieved through a variety of legal, administrative, and judicial means. It may require legal reform in one context and dispute resolution in another. USAID promotes the implementation of “secure enough” tenure rights and does not consider land titling or land formalization as the ultimate objective.

Issues and constraints regarding property rights vary from region to region, and they will continue to evolve over time. The most volatile of USAID-presence countries—and those that are often in the greatest need of property rights reform—are fragile states. Since property rights are so closely linked to development agendas across the globe, there is a need to understand how these rights shift as economies move through the stages of economic growth and democratization (and, in some cases, from war to peace) and how these shifts require different property rights interventions.

In light of these common concerns and issues, a whole-of-government approach to addressing land tenure and property rights has been developed through USAID and the Millennium Challenge Corporation (MCC). USAID’s LTPR Division (LTD) coordinates issues of LTPR programming with other USAID bureaus, US government (USG) entities, and multilateral organizations. USAID currently works in close to 30 countries around the world to promote land governance systems (both formal and informal) that enable broad-based economic growth, human rights protection, and effective natural resource management. Because weak land governance systems compound vulnerability, our efforts are particularly beneficial for vulnerable groups. These efforts are investing over \$800 million to strengthen the land tenure and resource rights of men, women, and children in the developing world.

#### **BOX A. ILLUSTRATIVE USAID LAND TENURE PROJECTS**

- Afghanistan Land Titling and Economic Restructuring
- Biodiversity Conservation of Public Lands in the Brazilian Amazon
- Egypt Financial Services Project
- Ethiopia Land Administration Program
- Ghana Commercial Agriculture
- Indonesia Marine and Climate Support
- Liberia Property Rights and Artisanal Diamond Development
- Property Rights and Resource Governance (Global)
- Rwanda Land Project
- Tajikistan Land Reform
- Timor Leste Strengthening Property Rights
- Ukraine Land Titling Initiative
- Uganda Supporting Access to Justice, Fostering Peace and Equity

See *USAID Land Tenure and Property Rights Portal* (<http://www.usaidlandtenure.net>)

# INTRODUCTION

## A FRAMEWORK FOR LAND TENURE AND PROPERTY RIGHTS

USAID has developed a suite of tools and methodologies designed to enhance the understanding and programming of LTPR challenges and activities to advance USG Development Objectives in a number of areas, including food security, global climate change, conflict mitigation and women’s economic empowerment. This body of work has been highly experimental, consultative, and developmental and has grown commensurate with growth of US investments in this sector.<sup>1</sup>

This work includes four components as summarized below, and are meant to be mutually reinforcing as illustrated in Figure 1: LTPR Framework.

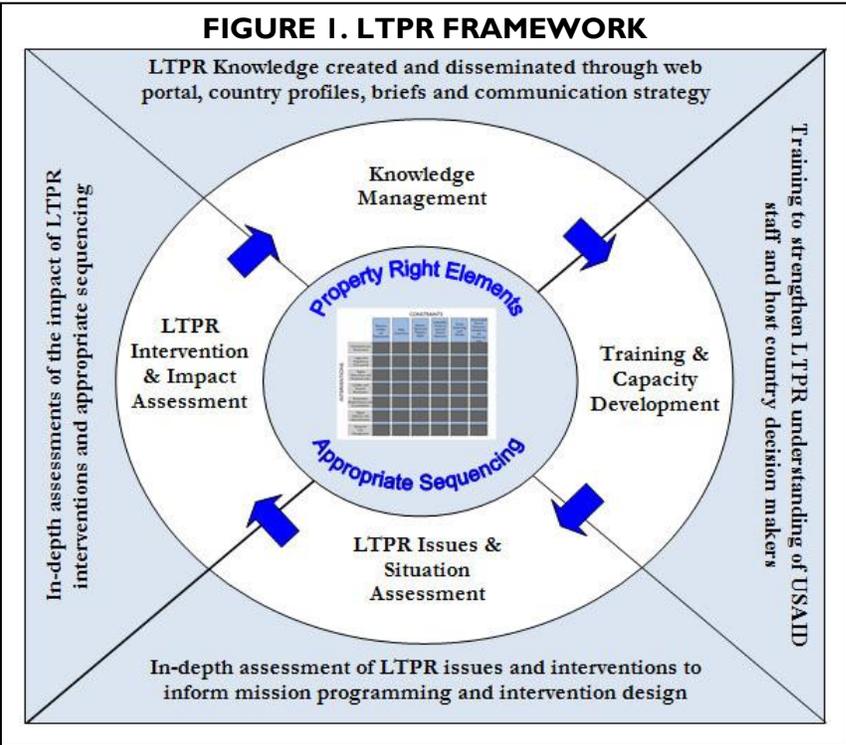
1. **The LTPR Framework** serves as the overarching conceptual methodology tying together overarching themes, definitions, tools, assessments, designs, and training programs that USAID uses to improve LTPR programming and capacity building. The Framework also includes:

**LTPR Matrixes—A Methodology for determining USAID-recommended interventions for different asset and social classes (e.g., men and women); and a methodology for identifying constraints and opportunities.**

**LTPR Intervention**

**Sequencing** of land tenure and land reforms tailored to each country, region, or project context that leads to stronger and more efficient property rights systems. Beyond identifying interventions to address LTPR constraints, sequencing in addition requires assessment of appropriate scale, timing, and ordering.

**The LTPR Glossary** is a guide to key LTPR terms and concepts, gathered from frequently cited international references.



<sup>1</sup> This body of work updates tools that were originally produced under the *Lessons Learned: Property Rights and Natural Resource Management* contract

2. **LTPR Assessment Tools—A Methodology for Assessing LTPR Constraints and Interventions—** includes two tools to guide USAID mission programming:

*LTPR Situation Assessment and Intervention Planning (SAIP) Tool*, which is a diagnostic and programming tool to help USAID missions understand and assess LTPR issues and determine how these contribute to or impede realization of Development Objectives; and

*LTPR Impact Evaluation Tool*, which provides a methodology for designing evaluations to determine the outcomes and impacts of land and natural resource tenure and property rights programming, whether as a project's main focus or a component of a broader set of goals.

In addition to these Framework and assessments tools, USAID has developed:

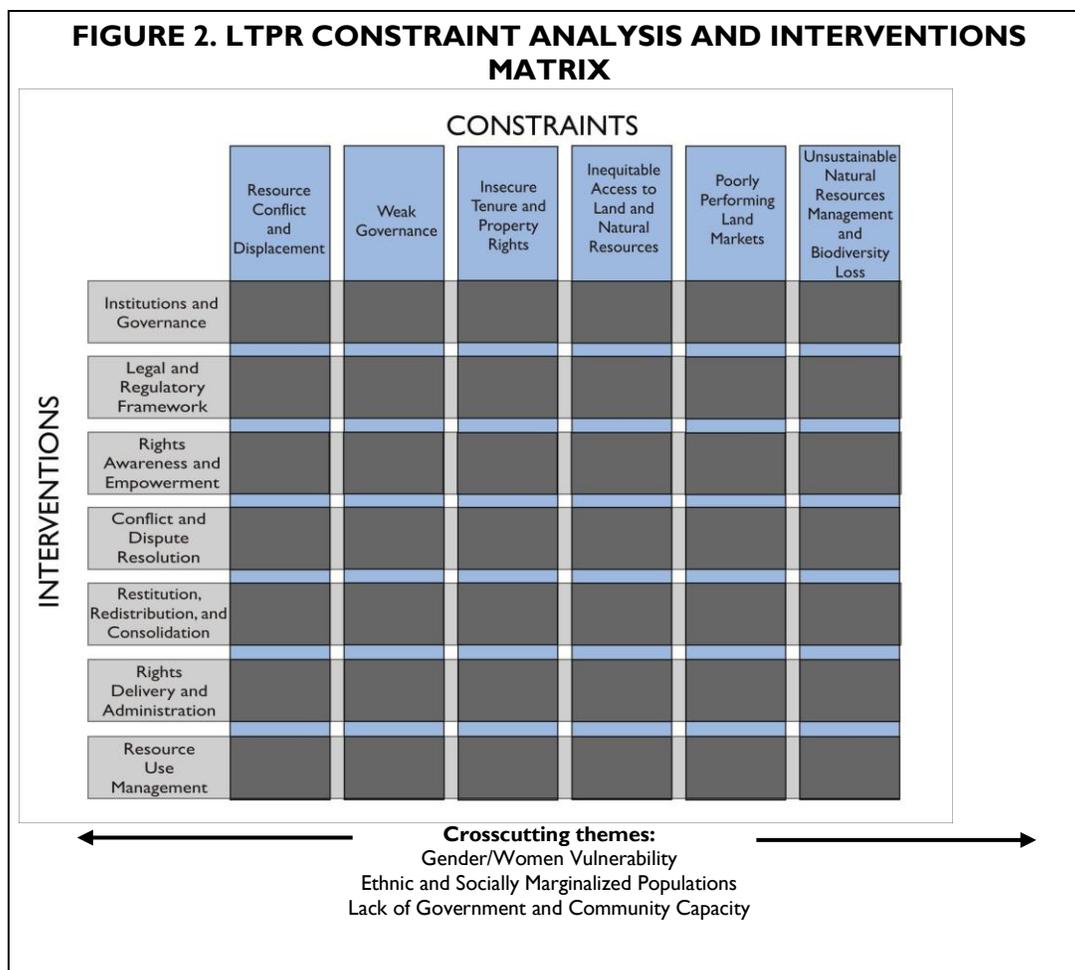
3. **LTPR training materials**, which include short courses and other trainings to transfer knowledge and best practices about land tenure and property rights and strengthen LTPR knowledge, capacity, and understanding of USG program staff and implementing partners. Curriculum may be found on the LTPR web portal at [www.USAIDlandtenure.net](http://www.USAIDlandtenure.net); and,
4. **LTPR Knowledge Management**, which consists of USAID Program Briefs on land tenure projects, LTPR Country Profiles, Issues Briefs, films, and LTPR research. This can be found at the *USAID Land Tenure and Property Rights Portal* ([www.usaidlandtenure.net](http://www.usaidlandtenure.net)), which serve as the foundation for LTPR knowledge management within the Agency.

The **intended audiences** for all of these tools are USAID missions, USAID Washington Bureau staff, and other USG personnel who seek to understand how property rights issues may be affecting program outcomes, how to design interventions that can help address those issues, and how to evaluate the impacts of those programs to inform new program development. The tools may likewise prove useful to a range of development practitioners outside the USAID sphere who encounter property rights challenges in their work and seek to understand and address them more effectively.

This report presents the **Matrix Overlay for Land Tenure and Property Rights (LTPR)**, one of the sub-tools comprising the Land Tenure and Property Rights (LTPR) Matrix and LTPR Framework, which are elaborated in the document *Land Tenure and Property Rights Framework* (USAID, September 2013). Both the LTPR Matrix and LTPR Framework are briefly presented here to contextualize development of a Matrix that is used to harmonize the population of five Matrix overlays—Land Tenure and Property Rights; Freshwater Lakes, Rivers, and Groundwater; Minerals; Trees and Forests; and Women, Land, and Resources—that serve the conceptual foundation for USAID LTPR programming. This document presents the matrix *Land Tenure and Property Rights Overlay constraints and interventions*. The population of other overlays is contained in companion documents.

## **LTPR MATRIX: A TOOL FOR VISUALIZING THE LTPR UNIVERSE**

As early as 2004, USAID felt the need for a conceptual framework that would simply and eloquently help USAID and contractors identify and assess LTPR issues (constraints) and “toolboxes” of interventions to address those constraints. Land tenure and property rights is concerned with questions of access to land and natural resources, the distribution of rights to those resources within society, the security of tenure held by various individuals and groups over these resources, and the sustainability of their use.



The current generation base LTPR Matrix described in this section is aimed at addressing these questions and is the conceptual backbone of all interventions that follow. The Matrix illustrates a fairly complex but finite set of LTPR themes, constraints, and interventions. It is not meant to be read sequentially from left to right, nor from top to bottom; rather, it provides a menu of constraints and interventions to be considered within the realm of LTPR programming. The Matrix consists of six categories of LTPR issues and potential constraints, three crosscutting constraints, and seven categories of policy and program interventions.

## CATEGORIES OF LTPR CONSTRAINTS

- Resource Conflict and Displacement (Column 1)** – Conflict over access and use of land and natural resources often resulting in landlessness, squatting or population displacement due to macro causes of genocide and war, social and ethnic conflict, climate change, and resource scarcity.
- Weak Governance (Column 2)** – Deficiencies in capacity to manage and/or disparities in power, influence, and wealth that lead to mismanagement, lack of accountability, and inability of individuals, communities, legal entities and groups to act upon and defend their rights in land, resources and property.
- Insecure Tenure and Property Rights (Column 3)** – The consequence of inadequate rights awareness or the perception of having too few rights, inadequate duration of rights, or inability to protect rights

from encroachment by others due to problems of open access, weak governance, rights inequality, weak statutory and customary tenures, and expropriation without fair compensation.

4. **Inequitable Access to Land and Natural Resources (Column 4)** – Disparities in access and control over resources between classes and gender that are often affiliated with poverty and social strife and result in problems of landlessness, uneconomical and fragmented holdings, squatting, informal settlements, and weak and unsustainable livelihoods.
5. **Poorly Performing Land Markets (Column 5)** – Absent/weak sales, rentals, sharecropping, and exchanges that restrict the transfer of resources between willing sellers, buyers, lessors, and renters thereby constraining economic growth, or that fail to serve the poor and disadvantaged due to imperfect information, lack of capital, unequal bargaining power, or risk of distressed sales.
6. **Unsustainable Natural Resources Management and Biodiversity Loss (Column 6)** – Overharvesting or degradation of land, water, forests, pasture, and wildlife resulting in unsustainable use and biodiversity loss, or in the context of minerals, environmental degradation and practices that abuse or usurp the rights of communities/miners due to weak property rights and governance systems.

#### **Crosscutting Constraints:**

7. **Gender/ Women Vulnerability (Crosscutting)** – This constraint category further nuances other constraint columns in the matrix by asking the question of LTPR constraints for whom, and addresses discrimination in property rights, land access, land markets, and ability to sustain natural resource management by women and men.
8. **Ethnic and Socially Marginalized Populations (Crosscutting)** – The constraint categories to the left in the matrix are further nuanced in this constraints column by the questions of LTPR constraints to marginalized and disenfranchised populations including among others HIV/AIDS affected households, pastoralist societies, indigenous populations, and post-conflict and climatically vulnerable populations discriminated against or left behind by political and economic change, or needing LTPR support or protection in face of political, economic and climatic shocks.
9. **Lack of Government and Community Capacity (Crosscutting)** – This constraints category relates to the identification and development of human capital in service to land property rights reforms.

## **CATEGORIES OF LTPR INTERVENTIONS**

1. **Institutions and Governance (Row 1)** – Institutional arrangements that improve the governance of property rights from central to local levels by establishing rule of law, devolving authority, decentralizing decision making, ensuring impartiality of the judiciary, providing for citizen participation, and ensuring accountable and democratic governance.
2. **Legal and Regulatory Framework (Row 2)** – Interventions that provide individuals, groups, communities, or legal entities with important legal rights of ownership, usufruct, exclusion, and transferability, and typically focus on legal and regulatory reforms that increase clarity of rights, strengthen rights ownership, and provide for legal recourse and due process.
3. **Rights Awareness and Empowerment (Row 3)** – Interventions aimed at raising citizen awareness and understanding of their property rights as well as the procedures and facilities available to claim, defend

and enforce those rights. Illustrative interventions include mass media, human capacity training, communication strategies and informational meetings targeting beneficiaries.

4. **Conflict and Dispute Resolution (Row 4)** – Formal and informal conflict mediation and dispute resolution strategies and mechanisms aimed at mediating conflict, resolving disputes, dispelling or averting violence, providing effective legal recourse and enabling compensation in the event of resettlement and public takings.
5. **Restitution, Redistribution, and Consolidation (Row 5)** – Land reform and resettlement to redress land concentration, privatize ownership, reconstitute rights, resettle displaced populations, or consolidate small, fragmented units into larger ones with the aim of redressing historical injustices and achieving a more fair, equitable, and productive land and agrarian structure.
6. **Rights Delivery and Administration (Row 6)** – Effective and low-cost land administration interventions that connecting rights to land, resources and property in law with the exercise of those rights in practice and focus on improving the effectiveness and reach of government in support of rights registration, land demarcation, surveying, mapping, and cadastral development.
7. **Resource Use Management (Row 7)** – Strengthened property rights and governance to improve land and natural resources management, conservation and bio-diversity protection, or land use planning for municipal/urban development, and include such interventions as participatory decision-making, zoning, trusts, conservancies, protected areas and co-management models.

The Matrix in Figure 2 serves as the template for regularizing and developing empirical overlays for five natural and human resource domains in Figure 3:

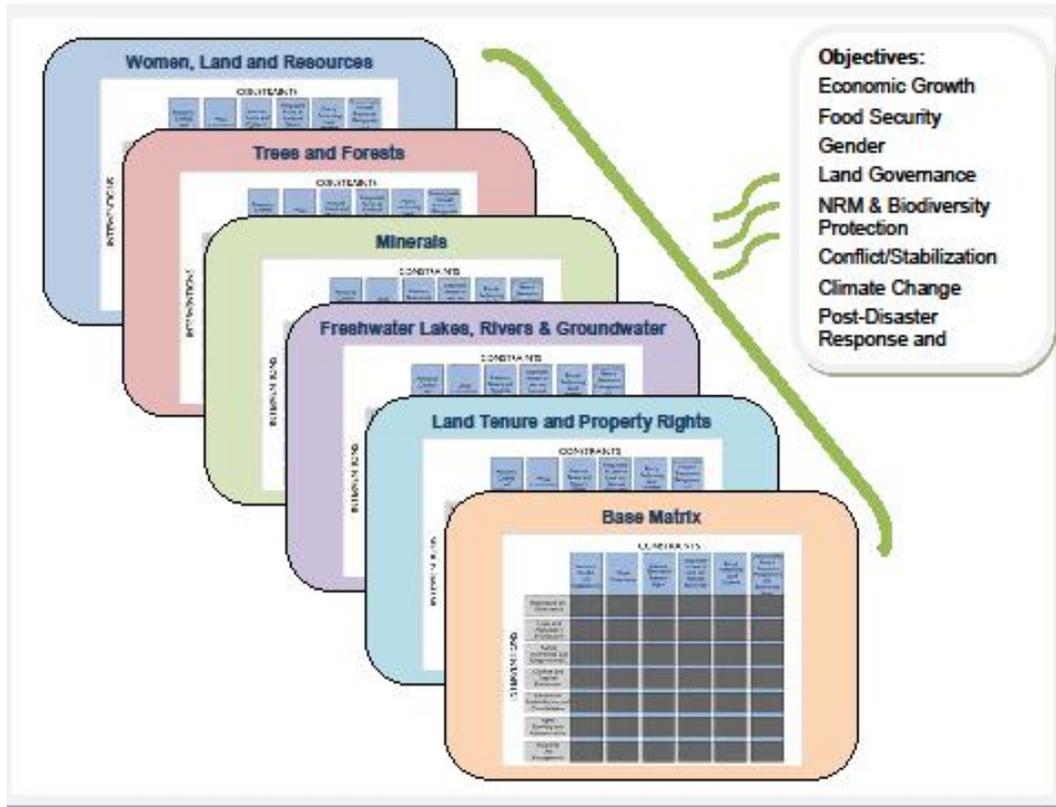
- Land Tenure and Property Rights;
- Freshwater Lakes, Rivers, and Groundwater;
- Minerals;
- Trees and Forests; and
- Women, Land, and Resources.

Each of these overlays is a standalone Matrix. Other domains are possible: pastures, wildlife, fisheries, and coastal areas. The overlay approach allows expandability by adding additional overlays in the future (e.g., coastal areas) as demand warrants.

## **MATRIX OVERLAYS**

In this report, Sections 1.0 to 6.0 populate the *Land Tenure and Property Rights Matrix* with salient issues and key interventions, and link these to information sources for easy reference. Annex A provides summary tables on issues and interventions extracted from the overlay which serve as useful tools for training exercises or as “quick sheets” when undertaking assessments. Overlays and quick sheets for resource domains can be found in the following documents, all developed under the USAID Property Rights and Resource Governance Task Order:

**FIGURE 3. LTPR CONSTRAINT ANALYSIS AND INTERVENTIONS MATRIX**



- Overlay 1: *Land Tenure and Property Rights Matrix*;
- Overlay 2: *Freshwater Lakes, Rivers, and Groundwater Matrix*;
- Overlay 3: *Minerals Matrix*;
- Overlay 4: *Trees and Forests Matrix*; and
- Overlay 5: *Women, Land, and Resources Matrix*.

Each overlay is organized into chapters (see Sections 1.0 to 6.0) centered around constraint categories which:

- Provide an overview of issues and sub-issues related to respective constraints;
- Describe various policy and program interventions USAID recommends bundled according to intervention categories;
- Explain how the Food and Agriculture Organization of the United Nations (FAO)'s *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* addresses the constraint (where applicable); and
- Include a list of related reading for each topic.

USAID programmatic recommendations are guided by the following principles:

- Land tenure and property rights systems that recognize, record, and administer a multiplicity of statutory and customary land tenure and property rights, whether held by individuals, groups or legal entities;
- Land tenure and property rights systems that protect the rights of women and other marginalized groups in society;

- Fully participatory processes to define, delimit, record, and administer land tenure and property rights and obligations;
- Market-mediated approaches to provide access to land;
- Land governance systems that are reasonably accessible, in terms of location and cost, to all members of society;
- Land governance systems that allow and support the creations of transparent and effective land markets, including land sales, leases, and the use of easements and other mechanisms; and
- The equitable application of laws, regulations, and administrative practices for all market participants. Importantly, the US government does not support the following: Expropriations and forcible evictions/relocations (or the use of compulsory purchase/resumption) that violate rights to due process and do not award prompt, adequate and effective compensation or that take private property for private purpose.”

Whether for trainings, assessments, or project designs, there is a programmatic need to order the “universe” of possible LTPR issues and interventions. The LTPR Matrix and overlays address this need. The process of using the Matrix and overlays to examine LTPR issues and constraints generally comprises the following steps:

1. Use the Matrix and overlays to clarify or identify key issues; for example, land conflict created by disagreements over tribal/clan boundaries.
2. Identify categories of policy and programmatic interventions suited to addressing the constraints under the appropriate toolbox of interventions.
3. Within the toolbox of interventions, identify specific USAID-recommended policy and programmatic interventions (i.e., the tools). For example, within the toolbox entitled Legal and Regulatory Framework, one might consider granting legal recognition of customary institutions in land law or policy to address land conflict created by clan disagreements. Within the toolbox of Rights Delivery and Administration, one might recommend community land demarcation as an appropriate intervention to connect rights in law to specific boundaries of community land.
4. Each of the five overlays can be used individually or in combination, as in a landscape, watershed, or ecosystem assessment.

The specific interventions mentioned in the Matrix and overlays, while illustrative, nonetheless serve to accelerate or expand thinking when needing to conduct “how to” courses and transfer knowledge in training programs, help to target or focus questions or lines of enquiry when conducting LTPR assessments, or recommend appropriate intervention strategies whether by way of making recommendations or formulating project designs. The Matrix is thus the conceptual framework for ordering and clarifying thinking on LTPR constraints and interventions, and the causal linkages between them.



# I.0 RESOURCE CONFLICT AND DISPLACEMENT

		CONSTRAINTS					
		Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing (Land) Markets	Unsustainable Natural Resources Management and Biodiversity Loss
INTERVENTIONS	Institutions and Governance						
	Legal and Regulatory Framework						
	Rights Awareness and Empowerment						
	Conflict and Dispute Resolution						
	Restitution, Redistribution, and Consolidation						
	Rights Delivery and Administration						
	Resource Use Management						

## I.1 LTPR ISSUE

Control over scarce land and property plays a critical role in almost all conflict, from disputes between family members to wars among countries. Land and natural resources are woven into the social, political, and economic relationships from which conflict arises, and are vital to livelihoods that the majority of rural populations depend upon. Because of the powerful role land plays in our productive and emotional lives, current disputes can summon up grievances from the distant past and further fuel conflict. Unclear rights to land and natural resources, tenure insecurity, or inequitable land and asset distribution can all contribute to conflict. Insecurity and inequity fosters competition and creates opportunities for individuals in positions of

power to claim, steal, or usurp ownership of valuable land and assets. As the chaos of conflict progresses, loss and harm often falls disproportionately on women and vulnerable groups. New conflict arises when changes in value intensify competition, especially in poor agricultural contexts where land provides subsistence or when valuable oil or minerals are discovered in the subsurface. Population growth, new markets, technological change, economic turmoil, and state investment may all trigger land- and resource-based conflict.

Populations may also be displaced by conflict over land and resources resulting from resettlement by other groups, by public takings, or by allocation to state or commercial enterprises. All too often, such redistribution is enabled or facilitated by unclear or informal use rights in law, overlapping claims, or failure to secure the rights of people to property they hold through proper land record systems. Displacement can result in landlessness, internally displaced populations (IDPs), or refugees if they cross international borders. In the case of involuntary resettlement, livelihoods are adversely affected unless holders are provided with fair and adequate compensation to cover loss of productive opportunities, employment, and assets. The increasing scale and frequency of large-scale land acquisitions, particularly in developing countries, has led to a significant growth of IDPs and refugees displaced from their land, often with little or no compensation. Interventions should focus on reducing tenure insecurity and improving land governance and land markets as a way to secure rights, resolve conflict, and broaden access to resources.

#### **SUB-ISSUES**

**Conflict arising from land and resource inequality.** Social tension can arise from the inequitable distribution of physical land resources or rights to those resources. Physical land inequality arises when a small percentage of the landholding population owns or controls a large percentage of the physical resource base, while a larger percentage of the population subsisting on those resources or residing on the periphery owns or controls a smaller percentage. Such can be the consequence of a colonial heritage, exercise of political influence or power, an unequal bargaining position that distorts markets, or massive conflict or displacement. In addition, acute land scarcity—when population growth and in-migration exceed the sustainable carrying capacity of the land and natural resource base resulting in poverty, insecure livelihoods, and land degradation—may also contribute to conflict. Wide differences in holdings of land of varying quality can also contribute to social tension, particularly when high quality or arable land is scarce, access to water or high quality pasture is limited, or when some groups reside on land that is severely degraded or unproductive.

**Tenure insecurity derived from competing or overlapping claims.** When governing institutions (formal or informal) fail to articulate and enforce legitimate rights to land, they create opportunities for competition and struggle. In other instances, conflict arises from legal pluralism, particularly when the state subscribes to owning the land but local people have use rights that are not statutorily recognized or enforced. Disputes may derive from the multiple competing uses for land, as when the same field is used for hunting, herding, and farming. They may also stem from the overlapping claims of social units, as when multiple individuals, households, villages, and kinship groups hold rights to the same land. Rights in the same land also overlap when owners grant rights to others through secondary arrangements, such as leasing, tenancy, seasonal grazing, or sharecropping. Any events that bring these multiple and overlapping rights into contradiction may reduce the security with which they are held, and increase the likelihood of conflict, unless effective dispute resolution mechanisms are in place. Any of these competing claims may establish a foundation for conflict, whether originating from unsubstantiated fears of tenure insecurity, loss of specific rights by a limited group of individuals, or the tenure chaos of a failed state.

**Population displacement and institutional regress resulting from external shocks.** Drought, natural disaster, climate change, war, and civil strife may uproot people from their homes and land and disrupt

stability, governance, and the functioning of local institutions. While some displaced people successfully find new lives and livelihoods, others experience loss of health, food security, housing, and welfare. Displacement can further create competition and potential for conflict, particularly when affected populations settle in receiving communities. Whether they remain in their own country, escape across national borders, or return to their homes after conflict or catastrophe, displaced people face struggles over rights in land, increasing potential for grievance, further impoverishment, and conflict. Populations resettled because of commercial development or state imposed changes in land use can also experience difficulty in adapting to their new environment or rebuilding their livelihoods due to loss of assets, livelihoods, and social networks.

**Conflict among nomadic pastoralists and between pastoralists and sedentary farmers.** Nomadic or semi-nomadic pastoralists rarely own the land on which they graze their livestock; rather, they share with others the pastures and resources (water and fodder) on which their livestock survive. The land they use may belong to the state or to other individuals and groups. Population growth; unclear or overlapping claims; and scarcity of pastures, migratory routes, and water resources, combined with government policies that marginalize pastoral groups, increase competition among users. Pastoralist groups can face conflict when seasonal climate factors negatively affect the resources available—for example, when a drought causes many nomadic herders and their livestock to converge on the same area because sufficient fodder and water cannot be found elsewhere. Pastoralists may also clash with sedentary farmers when driving herds across established farmland in search of food and water. The crop destruction that results can serve to foment conflict unless dispute resolution and mediation is made available to diffuse tension.

**Land and resource grabbing by investors, elites, and nation states.** Increasingly in recent years, nation states, political elites, and investors have sought to acquire vast tracts of land for investment or development. Such acquisition may sometimes be orderly, regularized, and useful for investment as was the case following conflict in Mozambique or northern Uganda. However, other large-scale land acquisitions can be more disruptive, particularly some of those following the food price spikes of 2007 and 2008. In the absence of fair and adequate compensation, communities residing on those lands suffer significant losses in assets and livelihoods for their families and future generations. In countries with weak legal systems easily manipulated by powerful individuals, these populations may have little or no legal recourse once they are evicted. International organizations such as the World Bank have developed policies and standards for involuntary resettlement that governments are encouraged to use as guidelines in developing their own policies and procedures. These guidelines include transparent processes for notifying affected populations of the proposed actions and their legal rights; negotiation with the affected population in the determination of fair market compensation; and technical, financial, and social assistance to maintain equal or greater livelihoods after resettlement. However, without recognition of customary rights in statutory law, governments too often claim that it, not communities residing on these lands, for all intents and purposes is the owner, leaving indigenous communities without legal recourse or valid standing for claiming compensation.

## **I.2 VOLUNTARY GUIDELINES WITH RESPECT TO CONFLICT**

To address the above issues, Section 25 of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* includes the following:

“All parties should take steps to prevent and eliminate issues of tenure of land, fisheries and forests as a cause of conflict and should ensure that aspects of tenure are addressed before, during and after conflict...”

1. States should ensure that all actions are consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments, including as appropriate those of the Convention relating to the Status of Refugees and its Protocol, and the United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (“Pinheiro Principles”). During and after conflicts States should respect applicable international humanitarian law related to legitimate tenure rights.
2. In order that tenure problems do not lead to conflicts, all parties should take steps to resolve such problems through peaceful means. States should revise relevant policies and laws to eliminate discrimination and other factors that can be a cause of conflicts.
3. When conflicts arise, States and other parties should strive to respect and protect existing legitimate tenure rights and guarantee that these are not extinguished by other parties. Consistent with existing obligations under relevant national and international law, States should not recognize tenure rights to land, fisheries and forests acquired, within their territories, through forceful and/or violent means. Refugees and displaced persons and others affected by conflict should be settled in safe conditions in ways that protect the tenure rights of host communities...
4. In situations of conflicts, whenever possible or when conflicts cease, States and other parties should ensure that tenure problems are addressed in ways that contribute to gender equality and support durable solutions for those affected...
5. Where appropriate, policies and laws should be revised to address preexisting discrimination as well as discrimination introduced during the conflicts. Where appropriate or required, relevant agencies should be reestablished to deliver services necessary for responsible tenure governance.”

### I.3 ILLUSTRATIVE INTERVENTIONS

The range of possible interventions relevant or applicable to this particular issue constraint can be quite broad depending on circumstances, and the need in any policy context to carefully adapt, target, sequence and nuance interventions according to institutional context and need. The interventions cited below are thus generalized and illustrative. The reader is further encouraged to review interventions for other constraint categories as well as a single intervention can be relevant to multiple constraints, particularly in contexts when multiple constraints across columns of the matrix are present or when of bundle of interventions across rows is required. Issues and interventions should thus be addressed holistically rather than concentrating on a single column or row.

	Resource Conflict and Displacement
<b>Institutions and Governance</b>	<ul style="list-style-type: none"> <li>• <b>Create political will.</b> Commit to stopping land and resource conflict and preventing further conflict by promoting fair and transparent dialogue among all stakeholders with the aim of reaching mutually agreeable decisions and increasing trust between government and resource users.</li> <li>• <b>Strengthen civil society.</b> Expand the capacity and role of civil society in researching land-based conflict, advocating in favor of policies that prevent or mitigate conflict, protecting human rights, and assisting the displaced and other affected populations with service delivery.</li> <li>• <b>Establish reconciliation commissions.</b> Openly hear grievances and settle upon mechanisms for restitution of rights or compensation for damages caused by conflict and displacement.</li> <li>• <b>Establish and strengthen local or special purpose courts.</b> Strengthen local or customary courts and traditional leaders to make judicial decisions. Establish and support special purpose courts to determine land ownership, hear disputes, and issue and register legal certificates of title.</li> <li>• <b>Comply with international treaties/standards.</b> Build government capacity to adhere to existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments, including as appropriate, those of the <i>Convention relating to the Status of Refugees</i> and its Protocol, and the <i>United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons</i> (“Pinheiro Principles”).</li> </ul>
<b>Legal and Regulatory Framework</b>	<ul style="list-style-type: none"> <li>• <b>Strengthen awareness of customary law and rights of displaced peoples.</b> Conduct information forums to acquaint the judiciary with relevant case law and international law on rights of the disposed and displaced peoples. Strengthen awareness of customary legal norms and principles.</li> <li>• <b>Clarify rights to enable legal recourse.</b> Reform legal frameworks to clarify rights to land and natural resources, and the relationship between statutory and customary tenure regimes. Enact laws that provide clear and transparent processes for state land takings; rights of due process; and prompt, adequate, and effective compensation—with access to legal recourse by those affected.</li> <li>• <b>Remove scale bias in land law and policy.</b> Enact laws and establish regulations and procedures to assure transparency and equal opportunity. Advocate for legitimate rights of land users so they are better able to enter into voluntary transactions related to land and other natural resources with investors.</li> <li>• <b>Promote voluntary transactions.</b> Reform legal frameworks to secure property rights and promote voluntary transactions that increase access to land and resources</li> </ul>

Resource Conflict and Displacement	
	and provide the foundations for restitution. Support legislation that enables markets, and levels the playing field so all people can defend their rights and make economic decisions in their best interest.
<b>Rights Awareness and Empowerment</b>	<ul style="list-style-type: none"> <li>• <b>Increase awareness of rights, benefits, and recourse.</b> Strengthen the capacity of government, media, and civil society to inform people of their land tenure and property rights (LTPR), legal recourse, opportunities for assistance, and procedures for accessing benefits under land-related programs.</li> <li>• <b>Improve advocacy and negotiation.</b> Strengthen the capacity of civil society organizations and less powerful interest groups to better understand, articulate the interests, and negotiate the land and property rights of vulnerable and marginalized populations.</li> <li>• <b>Build conflict awareness.</b> Increase understanding among male and female government officials, leaders of civil society organizations, and community leaders of the importance and benefits of providing women and vulnerable groups with tenure security in the wake of conflict to both secure livelihoods and reduce landlessness.</li> <li>• <b>Support social networking.</b> Strengthen social networks to improve the economic and social conditions of society's poorer segments, including their ability to settle into new communities (e.g., associations of repatriated citizens returning home after a conflict can organize, lobby, and negotiate for land restitution through resettling vacated properties/ settling on new lands made available by the state or community).</li> </ul>
<b>Conflict and Dispute Resolution</b>	<ul style="list-style-type: none"> <li>• <b>Promote access to justice.</b> Provide training and build capacity to expand the reach of justice (e.g., creating legal aid clinics in rural areas). Enable and empower individuals and groups to take advantage of these services before resorting to violence. Provide a fair, affordable, and impartial judiciary to hear claims, settle grievances, and provide fair recompense and legal recourse within a reasonable period.</li> <li>• <b>Synchronize formal/informal dispute resolution.</b> Clarify and formalize relationship between informal and customary dispute resolution mechanisms and the formal judicial process, including stipulating when decisions under customary regimes will be recognized by the state, and when customary options must be exhausted before filing with the formal system.</li> <li>• <b>Validate/expand alternative dispute resolution.</b> Identify and strengthen existing local and informal dispute resolution mechanisms considered broadly legitimate. Train informal arbitrators and mediators on relevant statutes and procedures.</li> <li>• <b>Sponsor dispute resolution forums.</b> Sponsor facilitated forums of community, private sector and government stakeholders involved in disputes surrounding LTPR to ensure all voices are heard and problems are clearly understood by leaders and decision makers so that root causes of grievances can be effectively addressed.</li> <li>• <b>Provide restitution and compensation.</b> Develop and exercise equitable, transparent, and effective land and property restitution and compensation procedures to settle grievances and resolve conflict over land and related resources.</li> <li>• <b>Strengthen judicial capacity.</b> Educate law students and train judiciary to improve efficiency, fairness, and transparency of formal land dispute resolution institutions. Expand capacity of prosecutors'/defenders' offices.</li> </ul>
<b>Restitution, Redistribution, and Consolidation</b>	<ul style="list-style-type: none"> <li>• <b>Conduct evictions with social safeguards.</b> Train magistrates, legal workers, civil society, and administrative authorities in legally correct procedures for eviction that respect international obligations and due process rights. Provide grants to legal aid organizations to defend rights of groups and individuals facing eviction against abuse and unscrupulous action.</li> <li>• <b>Comply with international resettlement standards.</b> Establish state procedures to resettle populations involuntarily displaced by public takings in line with</li> </ul>

Resource Conflict and Displacement	
Resource Conflict and Displacement	<p>international resettlement standards, e.g., the World Bank's OP 4.12. Policies should include prompt, adequate, and effective compensation of assets and livelihoods lost by takings, assistance for relocation, provision of appropriate health and education facilities and services, and assistance to regain an equivalent level of well-being.</p> <ul style="list-style-type: none"> <li>• <b>Resettle displaced populations.</b> Offer voluntary resettlement to populations displaced by natural disasters, resource conflict, and climate change, including refugees, displaced transhumant groups, and internally displaced populations.</li> <li>• <b>Support participatory relocation plans.</b> Consult with affected populations and potential receptor sites prior to relocation to determine relocation options, risks, and unintended consequences. Conduct environmental impact assessments to determine how relocation of a population would affect natural resources.</li> <li>• <b>Formalize secondary and tertiary rights.</b> Support programs to record and formalize secondary and tertiary rights often held by women and vulnerable populations. Design resettlement and post-conflict land allocation efforts to recognize the role of secondary rights to land and natural resources (e.g., land rights that women derive from husbands or usufruct to forest products held by communities).</li> <li>• <b>Facilitate single purpose committees.</b> Facilitate the creation of ad hoc or single purpose committees, councils, and support groups to address constraints to women and vulnerable groups maintaining or regaining rights in land through restitution, redistribution, or consolidation programs.</li> <li>• <b>Remove impediments constraining resettlement.</b> Work with government and stakeholders to design resettlement programs that eliminate normative, procedural, and legal constraints to women and other vulnerable groups that participate fully and exercise their rights to land and natural resources.</li> </ul>
Rights Delivery and Administration	<ul style="list-style-type: none"> <li>• <b>Secure records.</b> Take adequate measures, including digitization and redundant records systems, to secure public records such as mineral concessions, contracts, and titles to avoid their destruction or loss during conflict or natural disaster and make such records available at reasonable cost to the public.</li> <li>• <b>Reconstruct property records.</b> Reconstruct public infrastructure and/or records destroyed by conflict where necessary and justified.</li> <li>• <b>Invest in land information systems.</b> Develop a land information system including a multi-purpose cadaster to provide objective, unbiased evidence to resolve disputes and assist planners and the judiciary with managing competing resource claims.</li> <li>• <b>Build capacity for land surveying/demarcation.</b> Build the capacity of government and private sector for surveying and demarcating public and private land accurately to prevent future conflicts.</li> <li>• <b>Formalize rights.</b> Formalize the rights of users of common pool resources and real property through rights registration, conventions, or contracts to clarify and secure rights, and provide the legal basis for enforcement to prevent and mitigate conflict. Connect these rights in law to physical land and property, using GIS information and land rights mapping, attached to landholding records to validate ownership.</li> </ul>
Resource Use Management	<ul style="list-style-type: none"> <li>• <b>Support participatory land use planning.</b> Train students and land use planners in the theory and practice of participatory land use planning, and the key laws pertaining to jurisdictional authority, land use plans, and zoning regulations for purposes of resettlement and consolidation planning. Provide on-the-job training in drafting and implementing plans and regulations in an effort to prevent disputes.</li> <li>• <b>Support assessments and strategic planning.</b> Conduct social and environmental analyses to determine the likely impacts of public and private land takings and associated economic and social costs of these impacts, including the potential for unleashing conflict before takings occur.</li> </ul>

- **Develop early warning systems.** Improve early warning and early action systems to mitigate land conflict precipitated by flooding, drought, and other significant climate change events.

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# 2.0 WEAK GOVERNANCE

		CONSTRAINTS					
		Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing (Land) Markets	Unsustainable Natural Resources Management and Biodiversity Loss
INTERVENTIONS	Institutions and Governance						
	Legal and Regulatory Framework						
	Rights Awareness and Empowerment						
	Conflict and Dispute Resolution						
	Restitution, Redistribution, and Consolidation						
	Rights Delivery and Administration						
	Resource Use Management						

## 2.1 LTPR ISSUE

In the 21<sup>st</sup> Century, ensuring the proper functioning of institutions through which land and property rights are distributed, negotiated, assured, and managed constitutes a fundamental responsibility of government. Yet in nearly every country in the world, contemporary governments are predated by indigenous societies practicing customary systems that regulate the land and property rights of their community members through rules governing access and rights of usufruct. In some countries such as Ghana, these earlier customary systems are recognized in statutory law. In other countries, such as the Central African Republic, they are not. This issue, however, is not unique to Africa and confronts indigenous communities' customary systems worldwide. Our own common law system in the US is an outgrowth of customary tenure systems.

Governments as well as traditional authorities use their separate spheres of influence to give rights to land and negotiate contestation over land and property. Neither statutory nor customary laws always produce superior outcomes, and while one system has greater levels of trust and legitimacy than the other, which one varies over space and time. Customary systems may be better at meeting most local needs in a timely and cost-effective way, having evolved through centuries of practice. Where customary systems regulate use of land and natural resources in ways that sustain the health of local ecologies, formal legal systems can allow the introduction of new practices that might damage or undermine local institutions and ecologies. For its part, statutory law may be better at protecting the rights of women and vulnerable groups if set in legal frameworks and enforced. Customary law and practice often place women in a subordinate position to men with respect to property and inheritance, which nearly always contradicts a country's constitution and legal framework.

Statutory and customary law can also both contribute to quality of governance in positive and negative ways, and all too often the two fail to really interact or provide mutual support. Secure and equitable land tenure and property rights (LTPR) regimes require legitimate, transparent, and accountable institutions that are effective and sufficiently resourced. National governments strengthen tenure relationships when they enact laws, promulgate and enforce regulations, adjudicate conflict, establish and reform institutions, and inform and consult with citizens. Customary systems also consist of rules and codes of conduct, which can change over time; they also adjudicate conflict and inform and consult with citizens. Because customary law is derived from cultural norms and values, easier to understand, less complicated, speedier, less expensive, and friendlier to the community from where it emerged—and thus receives better rates of compliance—customary law may be said to do a better job of delivering justice. However, because customary norms and institutions tend to conserve older values that are more patriarchal and privilege the rights of men, statutory law may be better at guaranteeing rights and equality.

In striving to improve compliance with law and deliver justice more broadly and speedily, governments may devolve certain areas of the law to the jurisdiction of customary systems but not always seamlessly or without conflict or contradiction. Their coexistence faces two huge challenges: systems are evolving and frequently contradict each other (as a result, governments sometimes or often try to impose statutory tenure on top of customary tenures); and finding ways, at least for a time, to give people the choice to use one and/or the other—whichever is most useful. Regardless of the context, incomplete, corrupt, or biased implementation of law (whether customary or statutory) can contribute to economic decline and conflict, thus providing impetus for systems of coexistence that promote flexibility, adaptability, tenure security, and improved governance.

#### **SUB-ISSUES**

**Lack of transparency, participation, and accountability.** Governments are often legal “owners” of land but allocate it in ways that create harm for traditional users or customary rights holders. They may enact laws and promulgate regulations and decrees that illegitimately abridge the rights in land and natural resources of individuals, vulnerable groups, and communities. They may make decisions in an arbitrary manner—susceptible to corruption or bias—and allocate or expropriate land in response to short-term relationships of power, rather than public good. In addition, they all too often lack transparency, participation, and accountability. Customary systems typically give preference to the rights of men in matters relating to LTPR. Because customary systems evolved out of a single ethnic or religious group, they tend not to have any provisions for protecting the rights of minorities. Precedent relies on memory and oral transmission; customary systems may not value precedent in the same way that formal systems do, and traditional courts that do not have written laws can lack uniformity and face difficulty in tracking decisions. Traditional systems

are typically patriarchal and channel voice and participation through conventions that favor the interests of men and the older generation.

**Inequitable treatment of women under customary tenures.** Certain governments continue to resist extending guarantees of equal rights to own, use, and transfer land and property to women. Others recognize these rights under law, but the laws are not well enforced. Customary laws that regulate rights, duties, and obligations typically vest these in fathers and husbands to the detriment of wives, widows, and divorcees. For example, in the context of inheritance rights, customary law typically vests the right to inherit property in the family of the deceased husband, while formal laws often seek to ensure women receive a share of joint estates. Gender equity, inclusiveness, and equal treatment usually require changing traditional practices, a process that can entail considerable cultural resistance and commitment via policy, law, and advocacy to overcome.

**Weak capacity and authority.** In developing countries, formal law often coexists with systems of customary law, and social or religious norms that draw legitimacy from non-state polities. Customary tenure regimes tend to be unwritten, variable, and may or may not be recognized by national law. Formal systems can suffer from low capacity, lack of trained professionals, and limited resources allocated to maintaining—let alone upgrading, extending, or strengthening—these systems. Newer, formal state systems often prove ineffective in clarifying and allocating rights in land and resolving disputes over land and property in areas where customary systems prevail. Infringements of the modern nation-state as well as conflict, population growth, poverty, disease, and other factors have eroded local, customary, and indigenous institutions that govern LTPR. Urban migration, conflict, climate change and other forces can further erode customary systems while weak state institutions fail to provide effective legitimate authority. In conflict settings when both the state and customary systems are feeble and warlords prevail, the interests of women and vulnerable groups in particular can be broadly and substantially curtailed or neglected.

**Plurality of statutory and customary tenure systems.** Formal legal systems fall primarily within one of three traditions: common law, civil law, or Islamic jurisprudence. Governments in developing countries incompletely implement these systems due to limited resources and capacity, lack of public acceptance, lack of political will, and ineffective implementation. As a result, customary regimes continue to fill the political space and run in parallel as laws are not implemented, and services are not otherwise delivered. To the extent that national governments incompletely or unfairly map, record, and adjudicate land and property rights, the uneducated, uninformed, and less influential either remain unaware or are unable to exercise them, and rely on customary systems instead. Governments may also fail to acknowledge the role of customary tenures in statutory law, and develop policy and legal frameworks that run counter to culturally accepted norms and traditions. Due to weak capacity to deliver, the result is often overlapping jurisdictions, where neither government nor customary systems prevail. State-backed efforts to concentrate power or failure to advance well-intended interventions—such as devolution of authority, decentralization of governance, or gender-equitable property laws—are often the consequence of weak government capacity and means to deliver. Customary law and practice helps to fill the void when statutory laws and regulations are imperfectly implemented. However, the intermingling of weak statutory and customary systems often creates legal plurality and tenure insecurity.

## 2.2 VOLUNTARY GUIDELINES WITH RESPECT TO INDIGENOUS PEOPLES AND COMMUNITIES

Part 3, Section 9 of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* provides guidance on tenure relations with indigenous peoples and other communities with customary tenure systems, language includes the following:

1. “State and non-state actors should acknowledge that land, fisheries and forests have social, cultural, spiritual, economic, environmental and political value to indigenous peoples and other communities with customary tenure systems.
2. Indigenous peoples and other communities with customary tenure systems that exercise self-governance of land, fisheries and forests should promote and provide equitable, secure and sustainable rights to those resources...Effective participation of all members, men, women and youth, in decisions regarding their tenure systems should be promoted through their local or traditional institutions...Where necessary, communities should be assisted to increase the capacity of their members to participate fully in decision-making and governance...
3. States should provide appropriate recognition and protection of the legitimate tenure rights of indigenous peoples and other communities with customary tenure systems...Information on any such recognition should be publicized in an accessible location...and in applicable languages.
4. Where indigenous peoples and other communities with customary tenure systems have legitimate tenure rights to the ancestral lands...States should recognize and protect these rights. Indigenous peoples and [such]...communities...should not be forcibly evicted from such ancestral lands.
5. States should consider adapting their policy, legal and organizational frameworks to recognize tenure systems of indigenous peoples and...customary tenure systems...There should be full and effective participation of all members or representatives of affected communities, including vulnerable and marginalized members, when developing policies and laws...
6. States should protect indigenous peoples and other communities with customary tenure systems against the unauthorized use of their land, fisheries and forests by others...Where tenure rights...are formally documented, they should be recorded with other public, private and communal tenure rights to prevent competing claims.
7. States and other parties should hold good faith consultation with indigenous peoples before initiating any project or before adopting and implementing legislative or administrative measures affecting the resources for which the communities hold rights...
8. States should respect and promote customary approaches used by indigenous peoples and other communities with customary tenure systems to resolving tenure conflicts.”

## 2.3 ILLUSTRATIVE INTERVENTIONS

The range of possible interventions relevant or applicable to this particular issue constraint can be quite broad depending on circumstances, and the need in any policy context to carefully adapt, target, sequence and nuance interventions according to institutional context and need. The interventions cited below are thus generalized and illustrative. The reader is further encouraged to review interventions for other constraint

categories as well as a single intervention can be relevant to multiple constraints, particularly in contexts when multiple constraints across columns of the matrix are present or when of bundle of interventions across rows is required. Issues and interventions should thus be addressed holistically rather than concentrating on a single column or row.

	Weak Governance
<b>Institutions and Governance</b>	<ul style="list-style-type: none"> <li>• <b>Strengthen civil society.</b> Expand the capacity and role of civil society in advocacy, promoting good governance and assisting government with community mobilization for service delivery. Train organizations in laws and regulations governing LTPR and avenues for advocacy and redress.</li> <li>• <b>Support administrative devolution.</b> Empower local government and communities to support transition to regional and sub-regional control over land administration and land use management through legislative, regulatory, and institutional reforms.</li> <li>• <b>Facilitate decentralization and local governance.</b> Support transition to local control over land governance and resolve land-related problems by empowering and strengthening local institutions including land boards, land commissions, and traditional leaders. Promote transparent and participatory decision making that strengthens collaboration between local government and these bodies to clarify and enforce rights.</li> <li>• <b>Comply with international protocols and voluntary guidelines.</b> Build government capacity to follow <i>Voluntary Guidelines</i> with respect to indigenous peoples and customary systems, <i>International Labor Organization Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries</i>, <i>Convention on Biological Diversity</i>, and <i>United Nations Declaration on the Rights of Indigenous Peoples</i> that seek to respect basic human rights and promote accountable, transparent, and good governance.</li> <li>• <b>Promote elections of local leaders.</b> Endorse democratic elections of chiefs, the legitimate authority of tribal councils, gender inclusivity, and accountability to state institutions.</li> </ul>
<b>Legal and Regulatory Framework</b>	<ul style="list-style-type: none"> <li>• <b>Harmonize land tenure with national policy.</b> Harmonize land tenure reform with other national priorities, such as pro-poor policies, women’s rights, and Millennium Development Goals. Design the reform in a manner sensitive to men’s and women’s conditions and constraints and explicitly recognize the potential contribution of strengthened land rights to poverty reduction and good governance as elaborated upon in the <i>Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests</i>.</li> <li>• <b>Support advocacy to improve governance.</b> Identify and train leaders of citizen and other stakeholder associations in laws and regulations governing LTPR so that civic leaders can help raise public awareness, mobilize demand for legal reform, and improve governance of land and related natural resources.</li> <li>• <b>Formalize customary institutions.</b> Build on socially legitimate local principles, rules, institutions, and practices for governing land allocation and land use management and formally recognize these in statutory law.</li> <li>• <b>Strengthen credibility of government and local authority.</b> Review and revise all laws and regulations related to land and property allocation, secondary rights, and family law and inheritance to ensure they grant equal rights and access to land for all citizens. Strengthen government’s capacity to implement such laws to improve the credibility of government and traditional authority.</li> </ul>
<b>Rights Awareness and Empowerment</b>	<ul style="list-style-type: none"> <li>• <b>Strengthen the judiciary.</b> Provide training for magistrates, judges, and prosecutors in laws and regulations governing LTPR (for both customary and statutory systems)</li> </ul>

Weak Governance	
<p><b>Conflict and Dispute Resolution</b></p>	<p>to improve understanding and effectiveness of implementation in rights governance.</p> <ul style="list-style-type: none"> <li>• <b>Improve participatory governance.</b> Strengthen the capacity of government and civil society to consult with stakeholders, inform them of their rights, and encourage their participation in tenure reforms and related project interventions. Raise awareness of formal and informal dispute resolution systems among women, community members, and other stakeholders to resolve disputes and increase confidence in local institutions.</li> <li>• <b>Publicize procedures.</b> Support government to provide information on rights and the steps necessary to claim, formalize, or enforce rights to land and natural resources. Use local language, user-friendly formats, and information channels everyone can access.</li> <li>• <b>Promote transparency and rights awareness.</b> Raise awareness and build capacity of civil society organizations to support the promotion of transparency in land administration, particularly among women, the poor, illiterate, and other vulnerable populations. Build government and civil society capacity to inform the public of their rights in restitution, redistribution, and consolidation programs and means of redress.</li> <li>• <b>Strengthen governance through stakeholder forums.</b> Create mediated multi-stakeholder negotiation platforms where interest groups can voice concerns, negotiate rights in land, and reach compromise solutions on spatial and temporal rights to resources when planning for land use management and public land takings.</li> <li>• <b>Promote community dialogue.</b> Foster community dialogue to raise awareness of the importance and benefits of ensuring women and men equivalent participation in decision-making bodies and agencies tasked with managing land, property, and resource rights.</li> </ul>
<p><b>Restitution, Redistribution, and Consolidation</b></p>	<ul style="list-style-type: none"> <li>• <b>Strengthen the Judiciary.</b> Train magistrates, judges, and prosecutors in laws and regulations governing LTPR to improve knowledge and adjudication of cases. Support a fair and impartial judiciary, courts, and magisterial systems to serve all populations better, with particular attention to the underserved.</li> <li>• <b>Broaden access to legal assistance.</b> Provide grants and training to legal assistance groups to improve legal recourse and the effectiveness of conflict/dispute resolution, particularly for those who are disadvantaged economically or in terms of power. Such will improve rights delivery and legal recourse while strengthening the credibility of governance systems.</li> <li>• <b>Decentralize or localize dispute resolution.</b> Support decentralized, effective, and locally accepted approaches to dispute resolution to broaden access to justice via a combination of formal and alternative dispute resolution (ADR). Work with local government to develop or strengthen ADR systems that are fair and transparent, promote accountability, and are accessible to women and those who are economically disadvantaged or socially marginalized.</li> <li>• <b>Support civil society monitoring.</b> Build civil society organization capacity to provide early warning and assess, monitor, document, and report conflicts to the appropriate government institutions.</li> </ul>
<p><b>Restitution, Redistribution, and Consolidation</b></p>	<ul style="list-style-type: none"> <li>• <b>Use open and participatory processes.</b> Implement restitution, redistribution, and consolidation programs through a participatory and open process that takes into account the full spectrum of rights and their equitable application to prevent biased implementation due to neglect, disregard, abandonment, or unscrupulous action. Encourage participatory planning and governance of such programs to improve transparency, accountability, and effectiveness.</li> <li>• <b>Strengthen rights to communal lands.</b> Support community titling programs and community governance interventions that strengthen and broaden tenure security on</li> </ul>

Weak Governance	
Rights Delivery and Administration	<p>communal lands. Encourage reforms that lead to the development of open and effective land markets that secure rights and interests of communities and investors.</p> <ul style="list-style-type: none"> <li>• <b>Promote group ownership models.</b> Promote participatory land use planning, co-management models, conservancies, associations, and land market solutions that promote good local governance, market solutions, and improved management of land and natural resources, particularly in situations where individual holdings are too small and fragmented to support viable or sustainable use.</li> <li>• <b>Formalize rights.</b> Take advantage of restitution, redistribution, and consolidation programs to record and formalize rights.</li> </ul>
Rights Delivery and Administration	<ul style="list-style-type: none"> <li>• <b>Institute downward accountability.</b> Restructure land administration institutions to be downwardly accountable to local institutions, landholders, and other stakeholders. Develop systematic linkages and increase information sharing between state, informal, and local structures to improve the evenness of implementation.</li> <li>• <b>Formalize rights to enable good governance.</b> Build government capacity to register, map, or otherwise formalize rights to land and natural resources to help clarify and secure rights, and provide the legal basis for enforcement. Record usufruct and secondary rights through registration and formal or informal contracts to secure rights and provide for effective governance.</li> <li>• <b>Make records transparent and accessible.</b> Establish and implement cost-effective procedures to create publicly accessible cadaster, with provisions for citizens who are illiterate or lack technical knowledge. Review land registry, cadaster, titling, and other procedures to remove bias in the administration of land rights, and ensure consistency with laws that allow all women and men to register or hold title to land. Build checks and balances into the system to ensure good governance and consider incentives to keep registries up to date. Consider new mobile technologies that help extend the reach of rights delivery systems to underserved populations.</li> <li>• <b>Streamline administration.</b> Clarify mandates and responsibilities within and between government agencies and parastatals, and reengineer processes related to land and property rights to make them more efficient. Identify points of collaboration, train staff, and institute incentives that reward collaboration.</li> <li>• <b>Build public trust in government institutions.</b> Provide land administration staff and agencies with the skills, service training, and resources to improve rights delivery and strengthen the public's trust in land administration systems.</li> </ul>
Resource Use Management	<ul style="list-style-type: none"> <li>• <b>Practice participatory land use planning.</b> Engage stakeholders in participatory land use planning that balances local, regional, and national priorities, and recognizes and negotiates among competing interests.</li> <li>• <b>Strengthen common property management.</b> Utilize and strengthen the governance of community titling, co-management models, trusts, conservancies, and other forms of group ownership to improve resource stewardship of common pool resources, and resultant benefits.</li> <li>• <b>Monitor tenure impacts.</b> Support the establishment of tenure observatories or research programs that monitor land tenure systems in diverse national, regional, and local contexts for their effectiveness, efficiency, and equity. Contribute to evidence-based knowledge and understanding of the impact of tenure reform on food security, governance, and environmental sustainability.</li> <li>• <b>Pilot equity sharing/group ownership models.</b> Use community titling and co-management options to reinforce the stewardship potential of common pool natural resources and deter overexploitation. Promote community-based resource use planning, co-management models, conservancies, trusts, and other mechanisms that promote good local governance and management of productive and common pool resources.</li> </ul>

## Weak Governance

- **Support social assessments and monitoring.** Undertake environmental and social assessments to monitor the impact of land tenure reform and governance systems, particularly in high-risk contexts including buffer zones, biodiversity-rich landscapes, high potential areas subject to land and resource grabbing, and “no-go” areas that are off limits to infrastructure development and resource extraction.

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# 3.0 INSECURE TENURE AND PROPERTY RIGHTS

		CONSTRAINTS					
		Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing (Land) Markets	Unsustainable Natural Resources Management and Biodiversity Loss
INTERVENTIONS	Institutions and Governance						
	Legal and Regulatory Framework						
	Rights Awareness and Empowerment						
	Conflict and Dispute Resolution						
	Restitution, Redistribution, and Consolidation						
	Rights Delivery and Administration						
	Resource Use Management						

## 3.1 LTPR ISSUE

Secure property rights can be created either in law or through customary arrangements. More secure rights in law have little meaning unless they relate individuals, communities, or legal entities to distinct pieces of property with boundaries clearly delineated. Securing property rights is made more difficult when powerful interests intervene to take control of land or when people are displaced or divested of property as a result of conflict—in particular, women and vulnerable groups. Land can be a source of conflict when access is threatened or when interventions such as formalization bring latent disputes or multiple claims to the surface, but can be offset by conflict mitigation and land dispute resolution. As LTPR interventions, particularly

formalization, can be costly, “secure enough” is preferred to “absolute security” but requires legal and land administration systems that accommodate different needs, interests, and affordability.

Tenure security is thus represented by a full set of use and transfer rights; the ability to enforce those rights against claims of others; of sufficient duration to recoup labor and capital invested; and assurance that the benefits are attainable as a *necessary* condition for enhanced investment, productivity, and jobs. However, for tenure security to be *sufficient* for fulfillment of US government Strategic Objectives, there is further need for supporting governance institutions, rights awareness, political stability, and investment opportunities.

Insecure tenure and property rights discourages good land stewardship, investment in land improvements, and conservation. Further insecurity may encourage users to extract as much from the land as possible in the near term, whether through forage, timber, water, or minerals, to maximize their individual (or group) gain before resources are depleted by others.

### **SUB-ISSUES**

**Land disputes, overlapping claims, and land-related conflict.** Land is a major source of conflict in the developing world. Overlapping claims and insecure tenure and property rights increase the likelihood of conflict over land and may exacerbate the consequences in terms of loss of life and property. In multiple or overlapping tenure regimes (i.e., customary vs. statutory, primary vs. secondary, pre-conflict vs. post-conflict), competing claims can lead to violence and conflict if effective dispute resolution mechanisms do not exist. Claims registries, alternative dispute resolution (ADR), legal aid, land tribunals, and improved access to the courts can help mediate and adjudicate land disputes before they escalate into full-blown conflict. In post-conflict or post-disaster situations, victims and returnees may require assistance in replacing missing documentation or reestablishing legitimate claims to land and property they previously had to abandon.

**Inadequate security for fixed-place land investment.** Security of tenure provides a foundation for investment in land, be it for commercial development, infrastructure, agricultural productivity, or environmental protection. Landholders and potential investors require reasonable assurance that they will reap the benefits of labor and capital invested, particularly for land improvements with multi-year benefit streams such as buildings, irrigation, orchards, land conservation measures, and infrastructure. In the absence of secure tenure, perverse incentives may motivate producers to reap as much as they can in the near term because their future use or access is uncertain. Tenure insecurity in this case can result in destructive forms of agriculture, such as slash-and-burn, rather than encouraging sustainable land and resource management.

**Infrastructure development and informal settlements upgrading.** High population growth and increasing rural to urban migration increases demand for infrastructure, housing, and public service provision, particularly in peri-urban areas or on the fringe of planned cities. These problems are exacerbated by landlessness, settlement of refugees and IDPs, or rural decline—often influenced by war, conflict, or climate shocks. As governments and citizens struggle to address basic human needs in the near term, tenure regimes and long-term planning are often overlooked, resulting in urban sprawl; squatter settlements; substandard housing; and inadequate roads, utilities, and waste management. Upgrading informal settlements requires investment in land use planning, rights clarification and formalization, investment in public services, and incentives for construction and refurbishment of existing housing and commercial building stock. Community members themselves can do much of this work when policies are supportive. Public takings should be used sparingly and with provision; due process; and prompt, adequate, and effective compensation.

**Insecure tenure for women and vulnerable groups.** In many developing countries, women, ethnic minorities, youth, and other vulnerable groups experience insecure access to and rights over land and

property because of discrimination derived from political, cultural, or socioeconomic factors. Often, rural, pastoral, and indigenous populations are unaware of their legal rights and have difficulty seeking legal redress. In other instances, the legal framework gives the wealthy, urban, literate, and well-connected preferential treatment. This reality exposes vulnerable populations to land takings and exploitation by outsiders. Furthermore, in some parts of the world, the social disruption caused by HIV/AIDS has been so severe that it has broadly affected the security of people's rights in land. In the context of weak property rights and lack of written wills and testaments, widows and other dependents of AIDS victims are often left landless or forced to sell their land and assets below market value to survive.

**Weak or poorly functioning land administration systems.** Weak land administration systems and public institutions create opportunities for manipulation, corruption, and exploitation of land and resource rights—particularly when aggravated by lack of transparency, accountability, and good governance. Individuals with greater economic or political power may exploit these weaknesses, sometimes playing one off against the other, to maintain or increase their control over land and property. Without effective systems to register and verify claims, whether through titles and cadastral records or legitimate customary institutions, struggles for rights in land can devolve into contests of power. When the absence of rule of law undermines the impartial enforcement of rights, women and other vulnerable groups are often subject to exclusion, discrimination, and loss of assets and livelihoods.

**Lack of government legitimacy.** Governments are responsible for providing many land-related services including but not limited to land registration, titling, transfer, planning, zoning, mapping, valuation, taxation, land use regulation, and legal enforcement. When government lacks legitimacy because of widespread graft, disputed elections, expired mandates, or ethnic or religious divisions, those public institutions responsible for administering land rights and managing land use become weak or irrelevant resulting in a myriad of problems: failure to register land transactions, avoidance of property taxes, or matters taken into their own hands when disputes arise rather than seeking mediation through established judicial channels.

**Land grabbing.** In recent years, some developing world governments have sold or leased large tracts of productive land to foreign governments or commercial interests in pursuit of agricultural growth, food/energy security, or conservation. Poor, subsistence farmers and pastoralists are sometimes displaced by or fail to benefit from such development because they lack political power, information awareness, or access to justice. What is needed is a win-win situation that both promotes commercial investment and improves the incomes and livelihoods of those affected. If carried out in a fair and transparent manner following participatory and transparent methods, and with either adequate compensation provided to those affected or with opportunities for collaborative contracting between communities and investors, the worst problems of large-scale land acquisition can be avoided or minimized. However, expropriation executed in a clandestine, violent, haphazard, or incomplete manner can harm resident populations.

## 3.2 ILLUSTRATIVE INTERVENTIONS

The range of possible interventions relevant or applicable to this particular issue constraint can be quite broad depending on circumstances, and the need in any policy context to carefully adapt, target, sequence and nuance interventions according to institutional context and need. The interventions cited below are thus generalized and illustrative. The reader is further encouraged to review interventions for other constraint categories as well as a single intervention can be relevant to multiple constraints, particularly in contexts when multiple constraints across columns of the matrix are present or when of bundle of interventions across rows

is required. Issues and interventions should thus be addressed holistically rather than concentrating on a single column or row.

Insecure Tenure and Property Rights	
Institutions and Governance	<ul style="list-style-type: none"> <li>• <b>Strengthen civil society advocacy.</b> Expand the capacity and role of civil society in advocating secure tenure rights for all men and women and for stronger protections where they are vulnerable.</li> <li>• <b>Facilitate devolution to local authorities and communities.</b> Encourage and support the transition to local control over land allocation, land administration, and land dispute resolution. Promote transparent, inclusive, and participatory decision making that strengthens collaboration between local government and community leaders as they clarify, secure, and enforce rights.</li> <li>• <b>Establish fair and impartial judiciary.</b> Provide a fair and impartial judiciary, courts, and magisterial systems accessible to underserved populations in terms of location, cost, and complexity of procedures. Strengthen their capacity to secure and defend property rights for all citizens, in particular the poor and disadvantaged.</li> <li>• <b>Support access to justice.</b> Support the capacity of civil society and government to strengthen investor and community rights and engagement to strengthen tenure security, broaden access to resources, and enable rights enforcement.</li> <li>• <b>Streamline overlapping institutional responsibilities.</b> Clarify and streamline overlapping institutional mandates—particularly between government ministries—over jurisdictional responsibilities for granting land concessions to establish clear authority and to improve efficiency and democratic governance to serve communities and investors better.</li> </ul>
Legal and Regulatory Framework	<ul style="list-style-type: none"> <li>• <b>Support land tenure reform.</b> Clarify and formalize rights to increase land tenure security including rights of usufruct; ability to bequeath, lease, or sell land and property; ability to mortgage; ability to exclude others; freedom from excessive taxation, public intervention, or land use conditions imposed by the state; fair and adequate compensation from damage or takings; and rights of sufficient duration to fully recoup investments of labor and capital, in particular for long-term investments. Make sure efforts to formalize these primary rights recognize and accommodate secondary rights held by others (e.g., right of ways for pastoral groups to access grazing and water).</li> <li>• <b>Formalize rights for women and improve enforcement.</b> Clarify and formalize important legal rights for women to strengthen ownership, provide legal recourse, and ensure fair and equitable allocation including the right to inherit land from husbands or bequeath land to children. Include the rights to inherit, buy, sell, own, transfer, lease, and offer land as collateral, independent of relationships to men. Include the right to enter freely into contracts, and the right to joint titling of land acquired during marriage.</li> <li>• <b>Harmonize statutory and customary tenure systems.</b> Clarify and harmonize the relationship between statutory law and customary lands, including stipulating when decisions under customary regimes are backed by the state. Strengthen linkages between legal systems to improve dialogue, promote adaptation and integration, and reduce contradictions.</li> <li>• <b>Strengthen capacity and regulation.</b> Establish and enforce the legal and regulatory framework for the transparent public allocation and management of land rights, including procedures for public land takings. Increase the skills and capacity of administrators, elected officials, and the judiciary and traditional dispute resolvers in delivering and enforcing statutory and customary rights in land held by local communities, and in applying law relevant to securing those rights.</li> <li>• <b>Provide for participatory community demarcations/registrations.</b> Establish</li> </ul>

Insecure Tenure and Property Rights	
Rights Awareness and Empowerment	<p>the legal and regulatory framework for the formalization of community rights in common property. Build on socially legitimate local principles, rules, institutions, and practices for formalizing land allocation and management, but ensure legal safeguards that promote good governance to help mitigate against abuse or neglect by traditional leadership.</p> <ul style="list-style-type: none"> <li>• <b>Strengthen security of leasing contracts.</b> Support broad rights in law that give individuals and communities rights to lease out or lease in land. Develop and support the application of legal or notarized contracts between lessor and lessee clearly spelling out terms and conditions of the lease agreement. Protect the rights of the landlord against land claims by the lessee, land mismanagement, or failure to provide the payment agreed upon. Also, strengthen the rights of tenants and sharecroppers to benefits stipulated in the contract and protect against evictions and other forms of unlawful action on the part of the landlord. Provide for legal recourse in the event of disagreement over contract terms and conditions.</li> </ul>
Rights Awareness and Empowerment	<ul style="list-style-type: none"> <li>• <b>Strengthen civil society advocacy.</b> Increase the capacity of nongovernmental organizations, including female civil society leaders, to help secure rights in land and property through networking, advocacy, negotiation, and leadership training and implementation of outreach programs.</li> <li>• <b>Raise awareness through community outreach.</b> Provide public with information on their rights: how to record, claim, and protect them; and legal, financial, and social, support available through public/donor-supported programs to help improve rights understanding and delivery. Use non-technical terms, local languages, accessible formats, and the information channels used by different segments of society.</li> <li>• <b>Support empowerment programs.</b> Empower and enable individuals and communities to participate in programs aimed at strengthening land and property rights, participating in legal forums, and leveling the playing field in negotiations with government and investors.</li> </ul>
Conflict and Dispute Resolution	<ul style="list-style-type: none"> <li>• <b>Facilitate dispute resolution forums.</b> Sponsor facilitated forums of community, business, and government stakeholders involved in disputes surrounding LTPR to ensure problems are correctly articulated and clearly understood to provide redress. Improve information sharing among state and local judicial structures, devolving authority where possible. Establish protocols for the review of local decisions by the state to capture feedback on impact and correct problems of uneven application, legal and regulatory gaps, or unintended consequences.</li> <li>• <b>Strengthen advocacy for women and vulnerable groups.</b> Build the capacity of civil society organizations to effectively communicate, negotiate, mediate, and advocate for the rights of women and vulnerable groups in formal and alternative dispute resolution.</li> <li>• <b>Remove impediments to accessing justice.</b> Stamp out corruption that leads to conflict, land grabbing, and tenure insecurity. Clarify and strengthen judicial procedures for hearing and settling cases involving land disputes, ensuring they are timely, fair, and transparent. Promote neutral third party mediation or arbitration as a tool to manage conflict. Provide legal assistance to those with less power, wealth, or technology to secure or defend their rights against more powerful interests.</li> <li>• <b>Support conflict mapping and monitoring.</b> Maintain a national database on formally and informally resolved land disputes. Identify conflict hot spots and common dispute types through conflict mapping and other forms of monitoring to help design conflict/dispute resolution strategies. Consider application of cloud, mobile phone, and other solutions to report, update, and monitor conflicts.</li> <li>• <b>Mitigate disputes via boundary demarcation/adjudication.</b> Strengthen the capacity of government and traditional leaders to resolve boundary disputes between</li> </ul>

Insecure Tenure and Property Rights	
	local communities and other communities, concession holders, and protected areas to mitigate conflict, particularly in situations where risk of escalation into violent conflict exists.
Restitution, Redistribution, and Consolidation	<ul style="list-style-type: none"> <li>• <b>Develop restitution/compensation regulations.</b> Where appropriate, establish and implement procedures to restitute original lands, resettle to equivalent lands, or otherwise compensate for lost rights to land and resources. Provide support for town and country planning or land use planning to guide consolidation and resettlement plans, as well as update land demarcations and land record registries in the context of land redistribution.</li> <li>• <b>Provide compensation for involuntary takings.</b> Establish state procedures to resettle populations involuntarily displaced by public takings that are in line with international resettlement standards, such as the World Bank's OP 4.12 (also used by the Millennium Challenge Corporation). These policies should include prompt, adequate, and effective compensation of assets and livelihoods lost by takings, assistance for relocation, provision of appropriate health and education facilities and services, and assistance to regain an equivalent level of well-being.</li> <li>• <b>Use participatory processes.</b> Implement restitution, redistribution, and consolidation programs through a participatory and open process. Take into consideration equity protections and engagement of all those affected.</li> <li>• <b>Establish land and property valuation standards.</b> Develop impartial methodologies for determining fair and just valuation of land and property as a basis for determining compensation when restitution is provided.</li> </ul>
Rights Delivery and Administration	<ul style="list-style-type: none"> <li>• <b>Formalize and document individual rights.</b> Register, map, or otherwise record local rights to land and natural resources to help clarify, adjudicate and secure rights. Include rights of secondary and tertiary resource users such as women, forest dependent communities, and pastoralists. Provide information on the steps necessary to formalize, claim, or enforce land and property rights, using local language, user-friendly formats, and information channels the affected use.</li> <li>• <b>Formalize group/customary rights.</b> Undertake community land demarcations to register rights of indigenous groups and communities under the representation of an elected body. Inform efforts to map or register customary regimes with a thorough understanding of the full set of rights held to land and resources on community/indigenous land, the social and economic importance of these rights, and how laws and traditional norms affect people's ability to exercise them.</li> <li>• <b>Improve land administration processes.</b> Review and streamline land administration agencies' capacity and operating performance to implement land delivery services in a timely and affordable manner with an eye toward customer satisfaction.</li> <li>• <b>Establish land cadaster.</b> Establish a database that is simple, accurate, and can be maintained without significant external support. Digitize existing paper documents, such as titles and contracts, and integrate into the centralized database. Review land registry, cadaster, titling, and other administrative procedures to increase transparency and operating efficiency, combat risk of corruption, and ensure consistency with laws and regulatory framework.</li> <li>• <b>Support land/geographic information systems.</b> Develop information systems accessible to national and local stakeholders. Establish protocols and standards to systematically maintain and update titles when rights are transferred. Take advantage of spatial technologies, such as GIS and GPS, and mobile technology to simply and accurately capture, record, and disseminate data.</li> </ul>

	Insecure Tenure and Property Rights
Resource Use Management	<ul style="list-style-type: none"> <li>• <b>Undertake participatory land use planning.</b> Establish or strengthen integrated land use planning in urban and rural areas. Balance local, regional, and national priorities via a participatory land use management process that engages all stakeholders, and negotiates among competing interests and among environmental and social constraints. Strengthen capacity to use zoning in urban planning to achieve and manage sustainable resource use over time.</li> <li>• <b>Pilot equity sharing/group ownership models.</b> Use community titling and co-management options to reinforce the stewardship potential of common pool natural resources and deter overexploitation. Promote community-based resource use planning, co-management models, conservancies, trusts, and other mechanisms that promote good local governance and management of productive and common pool resources.</li> <li>• <b>Improve environmental monitoring.</b> Invest in capacity to conduct rigorous and quality research on managing physical resources, land tenure relations, land and resource use, land use productivity, and social and economic dynamics for predicting land and natural resource use and degradation by individuals, communities, governments, and enterprises.</li> <li>• <b>Increase use of spatial technology.</b> Use GIS, GPS, and satellite imagery to facilitate cost-effectively the recording of the rights of diverse users over time, and their relationship to natural resource health, and climate change.</li> </ul>

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# 4.0 INEQUITABLE ACCESS TO LAND AND NATURAL RESOURCES

		CONSTRAINTS					
		Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing (Land) Markets	Unsustainable Natural Resources Management and Biodiversity Loss
INTERVENTIONS	Institutions and Governance						
	Legal and Regulatory Framework						
	Rights Awareness and Empowerment						
	Conflict and Dispute Resolution						
	Restitution, Redistribution, and Consolidation						
	Rights Delivery and Administration						
	Resource Use Management						

## 4.1 LTPR ISSUE

Inequitable access to land and natural resources contributes to impoverished livelihoods and income inequality in both rural and urban settings. Over time, major geopolitical and historical forces, such as colonialism and nationalization have skewed the distribution of rights in society, as has poorly implemented

land formalization procedures. In many communities, social status restricts access to land for certain groups. People may also suffer reduced access as a result of population growth, conflict, and displacement. Extreme inequality is often associated with a highly skewed wealth distribution that contributes to landlessness. Broadening land access enables the poor to maintain sustainable livelihoods and smaller agricultural land holdings tend to be more productive per hectare than larger ones. Broadly distributed access to land has been found to be associated with increased economic growth among rural poor in developing countries, resulting in broad-based reduction in poverty and human development. In many countries, where colonial pasts have led to concentrated land holdings, social justice also lends legitimacy to public programs aimed at broadening land access and increasing asset and income equality. High levels of landlessness can lead to violent conflict, particularly when coupled with skewed land distribution or lack of off-farm employment opportunities. Secure rights to land empower communities and families, and enable them to take charge of their future.

### **SUB-ISSUES**

**Landlessness and land scarcity.** For most people, land is a fundamental asset for securing wealth, income, and a livelihood. Without access to land for habitation, production, and conservation of natural resources, populations are vulnerable to poverty and economic shocks. In the developing world, many households are plagued by landlessness created by colonialism, large-scale land acquisition, or public land takings that sometimes deprive them of their land and resources. High population growth coupled with limited land availability also creates landlessness, forcing rural populations to migrate to urban centers or neighboring countries in search of employment and income. Many of these people end up in urban slums and informal settlements with very poor living conditions. Since more land cannot be “created” and population continues to grow, the inevitable result is landlessness and increasingly smaller and fragmented land holdings. This reality puts more pressure on the natural resources that sustain human existence and increases competition for scarce land, which often leads to disputes and violent conflict.

**Fragmented or small land holdings.** Population growth and limited land availability often leads to small, fragmented or uneconomical land holdings, particularly for the rural poor. This phenomenon forces people to move onto marginal or degraded lands that are difficult to cultivate, are prone to disaster, and yield low and risky returns. At some point, the quality and size of land holdings are no longer sufficient to support household requirements adequately; one or more family members then must migrate to other areas in search of land or off-farm employment. Excessively fragmented land holdings can also result in production inefficiency if the household or family cannot take advantage of economies of scale in factor, input, or product markets, or must spend more time travelling from one micro-parcel to another. In urban settings, fragmented land holdings are difficult and/or costly to administer and present challenges to developing infrastructure. To mitigate the negative aspects of land fragmentation, some governments are pursuing land consolidation programs, in part because of market failures that enable voluntary consolidation.

**Inequity created by state concessions or land allocations.** The creation of state farms and collectives in Eastern Europe and the former Soviet Union undermined or destroyed customary land management and took away individual and community rights once held. While privatization, farm restructuring, and land reform programs have sometimes successfully broadened land access, there are also examples of misguided or hasty efforts to privatize, provide land titles, and formalize ownership that have either failed in intent or resulted in a new class of land elites who captured the land and assets intended for rightful beneficiaries. The same can be said for mineral and timber concessions and the construction of dams that divest poor people of assets or local use rights, displace populations, and/or fail to provide for well-planned and executed resettlement programs and compensation schemes. Poorly executed programs and state interference provide

the opportunity for corruption and land acquisition by powerful individuals and entities. Empowering communities, individuals, and local legal entities with more secure rights to trade and lease land provides an alternative strategy to support leasing contracts. Open auctions of leasehold and concession rights may lessen problems related to corruption.

**Gender inequality within customary systems.** Within customary systems, land and resource rights are largely defined by social status, patronage, and reciprocity. Consequently, people of lesser status—often women, youth, and recent arrivals to communities—receive insecure or limited rights to the best quality land. In some cultures, women are not allowed to own land and may only gain access to land for habitation or production through marriage, a risky situation because their land rights may be lost if their husband dies or divorces them. In addition, inheritance rights for women and children are often nonexistent or difficult to exercise, with the land more commonly inherited by older male relatives. Although statutory law may protect the rights of these vulnerable groups, the application of customary rules and norms at the local level may usurp those rights.

**Displacement and natural disasters.** Conflict and natural disasters that displace populations distort access as people must struggle to reassert their old but legitimate claims, or establish new ones in receiving communities. The degradation of natural resources resulting from prolonged drought, floods, and global climate change hit the marginal lands upon which many of the most vulnerable depend hardest, decreasing productivity and often forcing relocation. Other drivers of displacement include population growth and land use conversion, such as transformation from pastoral to agricultural use; or economic development activities, such as coastal tourism or urban development. Public takings for infrastructural development (roads, business centers, dams for hydroelectric power) have also resulted in displacement and loss of assets and livelihoods for the people involved, because of lack of formal rights to protect those with legitimate claims, and weak state revenue to enable payment of compensation.

**Informal urban settlements.** The United Nations estimates that by 2030, nearly five billion people will be living in urban areas. Urban populations are growing rapidly, with about half the urban growth accounted for by urban migration from rural areas. As population growth progresses in primarily agricultural societies, young people are forced to leave home in search of wage labor because they lack access to adequate land to support a subsistence livelihood. Shantytowns, urban slums, and makeshift settlements house over one-third of urban residents in developing countries. Urban migration is both a symptom and a contributor to the poverty that drives the proliferation of informal settlements that ring the major cities of developing countries. For example, the Kibera and Mathare slums of Nairobi, Kenya are inhabited by hundreds of thousands of rural to urban migrants who come in search of a way to support themselves when rural livelihoods are no longer sustainable.

**Large-scale land acquisition. Increases in large scale land acquisitions (purchase or lease)** in an attempt to address food security, and high food and energy prices is a growing global concern. The growing demand for cheap consumer goods, affordable food, and biofuels has led to an unprecedented number of reported (although not always substantiated) cases of “land grabbing”. For those residing on the land and obtaining livelihoods from it, the result can be displacement and loss of assets and food/income security. However, in light of growing food insecurity and low and diminishing land productivity, there is growing need for win-win solutions that both promote commercial investment while improving the incomes and livelihoods of those affected. If carried out in a fair and transparent manner following participatory and transparent methods, and with either adequate consultation and compensation provided to those affected or with opportunities for collaborative contracting between communities and investors, problems of large-scale

land acquisition can be avoided or minimized. Investment can be good for both the community and investor, and for the country's food and energy security at large, but require proper delineation of communal lands, securing rights first, building bridges between community members and investors via capacity building, awareness raising, and dialogue. While communities have land and labor, investment provides opportunities for capital investment, improved infrastructure, and transfer of knowledge and innovation. Despite enormous challenges, there are also enormous opportunities if win-win solutions can be developed and expanded upon, and people allowed to benefit from the opportunities created.

## **4.2 VOLUNTARY GUIDELINES WITH RESPECT TO LAND CONSOLIDATION AND OTHER READJUSTMENT APPROACHES**

Part 4, Sections 13-15 of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* provides guidance on land readjustment including land consolidation, restitution, and redistributive reforms involving the physical redistribution of land and property holdings include the following language:

1. “Where appropriate, States may consider land consolidation, exchanges or other voluntary approaches for the readjustment of parcels or holdings to assist owners and users to improve the layout and use of their parcels or holdings...States should ensure that all actions are consistent with their obligations under national and international law, and...voluntary commitments...These approaches should be used to coordinate the preferences of multiple owners and users in a single legitimate readjustment.
2. Where appropriate, States may consider encouraging and facilitating land consolidation and land banks in environmental protection and infrastructure projects to facilitate the acquisition of private land for such public projects, and to provide affected owners, farmers and small-scale food producers with land in compensation...
3. Where fragmentation of smallholder family farms and forests into many parcels increases production costs, States may consider land consolidation and land banks to improve the structure of those farms and forests...Measures should be developed to protect the investment of land consolidation by restricting the future subdivision of consolidated parcels.
4. Any individuals, communities or peoples likely to be affected by a project should be contacted and provided with sufficient information in applicable languages. Technical and legal support should be provided. Participatory and gender-sensitive approaches should be used taking into account rights of indigenous peoples.

### **RESTITUTION**

1. Where appropriate...States should consider providing restitution for the loss of legitimate tenure rights to land, fisheries and forests. States should ensure that all actions are consistent with their existing obligations under national and international law and...voluntary commitments.
2. Where possible, the original parcels or holdings should be returned to those who suffered the loss, or their heirs, by resolution of the competent national authorities. Where the original parcel or holding cannot be returned, States should provide prompt and just compensation in the form of money and/or alternative parcels or holdings, ensuring equitable treatment of all affected people.

3. States should develop gender-sensitive policies and laws that provide for clear, transparent processes for restitution. Information on restitution procedures should be widely disseminated in applicable languages. Claimants should be provided with adequate assistance, including through legal and paralegal aid, throughout the process....

### **REDISTRIBUTIVE REFORMS**

1. ...States may consider allocation of public land, voluntary and market based mechanisms as well as expropriation of private land, fisheries or forests for a public purpose.
2. Redistributive reforms may be considered for social, economic and environmental reasons...where a high degree of ownership concentration is combined with a significant level of rural poverty attributable to lack of access to land, fisheries and forests respecting...the rights of all legitimate tenure holders. Redistributive reforms should guarantee equal access of men and women to land, fisheries and forests.
3. Where States choose to implement redistributive reforms, they should ensure that the reforms are consistent with their obligations under national and international law, and voluntary commitments....follow the rule of law and be implemented according to national laws and procedures. States should facilitate the development of consultations...on the redistribution, including balancing the needs of all parties, and on the approaches to be used...The financial and other contributions expected of beneficiaries should be reasonable...Those who give up their tenure rights...should receive equivalent payments without undue delay.
4. Where States choose to implement redistributive reforms, they should clearly define the objectives of reform programs and indicate land exempted from such redistribution. The intended beneficiaries, such as families including those seeking homegardens, women, informal settlement residents, pastoralists, historically disadvantaged groups, marginalized groups, youth, indigenous peoples, gatherers and small-scale food producers, should be clearly defined.
5. When redistributive reforms are being considered, States may, if so desired, conduct assessments on the potential positive and negative impacts that those reforms could have on tenure rights, food security and the progressive realization of the right to adequate food, livelihoods and the environment...
6. States should implement redistributive reforms through transparent, participatory and accountable approaches and procedures. All affected parties should be accorded with due process and just compensation according to national law...All affected parties, including disadvantaged groups, should receive full and clear information on the reforms, including through gender-targeted messages. Beneficiaries should be selected through open processes, and they should receive secure tenure rights that are publicly recorded. Access to means of resolving disputes should be provided for under national law.”

## **4.3 ILLUSTRATIVE INTERVENTIONS**

The range of possible interventions relevant or applicable to this particular issue constraint can be quite broad depending on circumstances, and the need in any policy context to carefully adapt, target, sequence and nuance interventions according to institutional context and need. The interventions cited below are thus generalized and illustrative. The reader is further encouraged to review interventions for other constraint categories as well as a single intervention can be relevant to multiple constraints, particularly in contexts when multiple constraints across columns of the matrix are present or when of bundle of interventions across rows

is required. Issues and interventions should thus be addressed holistically rather than concentrating on a single column or row.

	Inequitable Access to Land and Natural Resources
<b>Institutions and Governance</b>	<ul style="list-style-type: none"> <li>• <b>Strengthen constitutional and statutory rights.</b> Strengthen rights to land and natural resources through constitutional amendments, in particular for women and vulnerable groups.</li> <li>• <b>Support devolution of authority.</b> Support the transition to local control over land and natural resources and the identification of local solutions to promoting equitable access. Promote transparent and inclusive decision making that strengthens collaboration between local government and community leaders as they clarify and enforce an equitable distribution of rights to land and resources.</li> <li>• <b>Empower local governance.</b> Promote democratic elections of chiefs, the authority of tribal councils, gender inclusivity, and accountability to state institutions as means of broadening access to land and resources by empowering local governance.</li> <li>• <b>Promote fair and impartial judiciary.</b> Provide a fair and impartial judiciary, courts, and magisterial systems accessible to underserved populations in terms of location, cost, and complexity of procedures.</li> <li>• <b>Reduce or eliminate overlapping jurisdictions.</b> Streamline overlapping institutional mandates to reduce ambiguity, improve operating efficiency and governance, and prepare for devolution of authorities related to allocation of land.</li> </ul>
<b>Legal and Regulatory Framework</b>	<ul style="list-style-type: none"> <li>• <b>Strengthen rights regulation and enforcement.</b> Strengthen the capacity of the judiciary, courts, magisterial systems, and traditional leaders to clarify and protect property rights for all citizens. Enact laws and establish implementing regulations that provide clear processes for expropriation of land and eviction that protect women and vulnerable groups and provide for prompt, adequate, and effective compensation. Recognize in law the principle of a local community's right to free, prior, and informed consultation prior to public land takings.</li> <li>• <b>Augment privatization of public lands.</b> Augment ongoing transitions from state ownership to private property rights with laws, regulations, and procedures that assure transparent processes and equitable opportunities.</li> <li>• <b>Comply with international protocols and voluntary guidelines.</b> Build government capacity to follow <i>Voluntary Guidelines</i> with respect to indigenous peoples and customary systems, <i>International Labor Organization Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries</i>, <i>Convention on Biological Diversity</i>, and <i>United Nations Declaration on the Rights of Indigenous Peoples</i> that seek to respect basic human rights and promote accountable, transparent, and good governance.</li> <li>• <b>Strengthen the judiciary.</b> Train magistrates, judges, and prosecutors in laws and regulations pertaining to land and resource access to enable uniform understanding of laws and regulations and better adjudication of cases dealing with conflict.</li> <li>• <b>Enable community group registration/title.</b> Establish the legal and regulatory framework for formalization of community rights, if so desired by affected members of the community. Build on socially legitimate local principles, rules, institutions, and practices for formalizing land allocation and management to ensure equity.</li> </ul>
<b>Rights Awareness and Empowerment</b>	<ul style="list-style-type: none"> <li>• <b>Educate people on land policy options.</b> Provide the public with information on land reform options and strategies/mechanisms to broaden access to land and resources, in terms of both quantity and quality. Inform people of legal support available. Use non-technical terms, local languages, accessible formats, and the</li> </ul>

Inequitable Access to Land and Natural Resources	
	<p>information channels used by target communities.</p> <ul style="list-style-type: none"> <li>• <b>Strengthen accountability of community leaders.</b> Reinforce systems of accountability between local leaders and their constituents, particularly women and other vulnerable groups that facilitate broadening access to land and resources.</li> <li>• <b>Strengthen civil society advocacy.</b> Increase the ability of nongovernmental organizations, including female civil society leaders, to help secure access to land and resources through training in networking, advocacy, negotiation, and leadership. Raise awareness and build capacity of civil society organizations on promoting transparency in land administration, including land allocation and other mechanisms that affect access to land and natural resources.</li> </ul>
<b>Conflict and Dispute Resolution</b>	<ul style="list-style-type: none"> <li>• <b>Promote participatory dispute forums.</b> Sponsor facilitated forums of community and government stakeholders involved in disputes surrounding access to land and natural resources to ensure that all voices are heard, and that key leaders and decision makers understand the root causes of grievances.</li> <li>• <b>Strengthen dispute resolution and legal aid.</b> Raise awareness of formal and informal dispute resolution systems among women, community members, and other stakeholders with inequitable access to land and resources. Train community leaders in ADR methods and ensure they understand the importance of secondary rights holders, particularly women and vulnerable groups. Support organizations providing legal assistance to those with less power, wealth, or technology in securing access.</li> <li>• <b>Engage civil society in early warning.</b> Build the capacity of civil society organizations to provide early warning on problems arising over inequitable access, and assess, monitor, document and report resulting conflicts.</li> </ul>
<b>Restitution, Redistribution, and Consolidation</b>	<ul style="list-style-type: none"> <li>• <b>Institutionalize eviction processes.</b> Provide training for magistrates and legal workers in the proper means for eviction according to the law. Provide grants to legal aid groups that defend the rights of groups and individuals facing eviction.</li> <li>• <b>Support state land redistribution.</b> Encourage states to devolve rights to government-held land to address problems of landlessness and encourage more vibrant markets.</li> <li>• <b>Settle displaced populations.</b> Offer voluntary settlement to populations displaced by resource conflict, climate change, and other natural acts, including refugees, displaced transhumant groups, and IDPs.</li> <li>• <b>Provide compensation for involuntary takings.</b> Establish state procedures to resettle populations involuntarily displaced by public takings that are in line with international resettlement standards, such as the World Bank's OP 4.12 (also used by the Millennium Challenge Corporation). These policies should include prompt, adequate, and effective compensation of assets and livelihoods lost by takings, assistance for relocation, provision of appropriate health and education facilities and services, and assistance to regain an equivalent level of well-being.</li> <li>• <b>Establish land banks.</b> Establish land banks to hold and manage public land, often in the transition to private ownership. Such programs may hold land in reserve for returning populations or to accommodate population growth. They are often intended to keep land in productive use while in transition, but risk consolidation of state land ownership without adequate built-in safeguards. Land may eventually be distributed to the private sector through land grants, auctions, sales, or concessions.</li> </ul>
<b>Rights Delivery and Administration</b>	<ul style="list-style-type: none"> <li>• <b>Build capacity for land surveying and demarcation.</b> Build capacity of government institutions responsible for surveying and demarcating land. Utilize general boundary approaches and surveying technology (aerial/satellite photography and GPS recorders) that improve the feasibility and affordability of demarcating small parcels held by smallholders who might otherwise be neglected by more expensive and labor-intensive methods.</li> </ul>

Inequitable Access to Land and Natural Resources	
Resource Use Management	<ul style="list-style-type: none"> <li>• <b>Make records accessible.</b> Establish and implement procedures to create and maintain a public cadaster, with provisions for citizens who are illiterate or lack technical knowledge. Enable them to use this information about who owns land and where to advocate for a more equitable distribution.</li> <li>• <b>Institute downward accountability.</b> Restructure land administration institutions to be downwardly accountable to landholders, land users, and other stakeholders.</li> <li>• <b>Formalize land holdings.</b> Register, map, or otherwise record rights to land and natural resources and common pool resources to help clarify and secure access rights and secondary rights, and provide the legal basis for enforcement. Ensure efforts to formalize rights in land recognize and accommodate secondary rights held, such as use rights in community land and women’s access to resources on land owned by their husbands.</li> <li>• <b>Remove administrative bias.</b> Review land registry, cadaster, titling, and other procedures to remove bias in the administration of land rights, and ensure consistency with laws that allow all men and women to register land or have equal access to it.</li> </ul>
	<ul style="list-style-type: none"> <li>• <b>Document settlement patterns.</b> Support state and civil society institutions that demarcate and document local settlement patterns and resource use rights to prevent the illegal displacement of local communities living in the vicinity of forest concessions or protected areas.</li> <li>• <b>Pilot equity sharing/group ownership models.</b> Use community titling and co-management options to reinforce the stewardship potential of common pool natural resources and deter overexploitation. Promote community-based resource use planning, co-management models, conservancies, trusts, and other mechanisms that promote good local governance and management of productive and common pool resources.</li> <li>• <b>Provide incentives for conservation.</b> Develop incentive-based mechanisms to prevent overexploitation of natural resources in ways that reduce smuggling, poaching, and illegal harvesting; and draw production into formal chains of custody. Protect legal access and use of resources, while penalizing illegal exploitation.</li> <li>• <b>Promote equity sharing models.</b> Promote participatory land use planning, co-management models, conservancies, and other mechanisms that promote asset pooling to improve land use productivity, resource conservation, or broadened access to government services.</li> </ul>

## 4.4 READINGS

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# 5.0 POORLY PERFORMING LAND MARKETS

		CONSTRAINTS					
		Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing (Land) Markets	Unsustainable Natural Resources Management and Biodiversity Loss
INTERVENTIONS	Institutions and Governance						
	Legal and Regulatory Framework						
	Rights Awareness and Empowerment						
	Conflict and Dispute Resolution						
	Restitution, Redistribution, and Consolidation						
	Rights Delivery and Administration						
	Resource Use Management						

## 5.1 LTPR ISSUE

Making land markets perform better over the long term is a major development objective; poorly performing land markets constrain economic growth and fail to serve the poor. In developing countries, land markets involving property sales and mortgages are generally limited to the business districts and wealthy residential neighborhoods of large cities. Formal systems featuring a legal framework governing property rights and land use planning and management rarely exist in poor sections of cities, and are even less common in rural areas, where informal and customary tenure systems are the norm. In poorly performing land markets, commercial and residential property has high vacancy rates, and there is little investment in new construction; productive

land lies idle or underused. However, while land sales and mortgaging may be rare in rural areas, land markets are nonetheless commonplace via land giving and borrowing, and land rentals and sharecropping. Bequeathing of land assets are also an important mechanism for intergenerational transfers.

Land markets that thrive and encourage investment require a legal and institutional framework that provides for transparent transactions; accurate and accessible market information; ease of access for buyers, sellers, and lessors/lessees; mortgage financing; and tenure security. Establishing these conditions can be a long, complex, and politically charged process. Nevertheless, trustworthy institutions are needed to develop and administer an efficient and accurate registry of property rights and a transparent and accessible legal framework and judiciary. Effective land markets also need specialists, such as notaries, real estate brokers, bankers, lawyers, assessors, and surveyors. In much of the rural developing world, taking the first step toward establishing land markets—creating private tenure and alienable rights—can challenge existing customary and statutory systems. Indeed, given the complexity, and potential for missteps along the way, policymakers and scholars continue to debate how governments should promote markets in land.

### **SUB-ISSUES**

**Low incidence of land leasing and sharecropping contracts.** In developing country contexts where states and customary authorities are reluctant to fully allow land market sales due to lack of trust, land grabs, and distressed sales, freehold property rights are often extremely rare. However, alternative mechanisms do exist, such as land use contracts, short- and long-term leases, sharecropping, land giving/borrowing/pledging, and entrusting that are equally if not more important than land sales. Unfortunately, these types of land transactions are often underused, mostly related to fears of not getting land or property back at the end of the contract period. In many places, such transactions take place only within the family or clan, not with outsiders be they investors or members of other clans. The result can be a lower land value due to collusion and lack of competition, inability to sell assets upon wanting to leave the community, and inadequate incentives to participate in fixed-place investment out of concern about ability to recoup the investment price.

**Lack of a mortgage market.** In countries where property rights are weak or insecure, individuals and business interests may find it difficult or impossible to obtain mortgage financing. The perceived value of property may be undervalued because the legal and institutional framework does not allow land to be freely bought, sold, or leased. Even if land and property transactions are permitted, financial institutions may not allow land to be collateralized because the owner or seller cannot demonstrate clear title. As a result, a major asset category is lost as a source of investment. Some development economists have argued that “poor” countries remain poor because they lack individual property rights and systematic land titling. Therefore, a large amount of potential capital remains in the informal economy, making it undervalued and underused. Countries that have strong land and property markets allow individuals and businesses to obtain loans against the real value of the property. This source of capital, coupled with secure property rights, creates incentives for further investment in construction, infrastructure, productivity, and resource conservation.

**Inaccurate or unavailable market information.** Imperfect market information constrains land markets in developing countries in a number of ways. For example, poorly functioning registries limit the accessibility and usefulness of title information where it exists, and predominantly oral systems of recording rights in land may skew or limit access where titles have not been established. Obtaining accurate land values for previously unsold land, upon which multiple parties hold rights poses even greater challenges. Imperfect information also creates opportunities for overlapping claims and corruption whereby multiple titles to the same property are given to rent-seeking individuals. Discrimination against the poor and other groups with weak bargaining power, and rent-seeking by land administration officials and elites are among the many undesirable outcomes

of opaque land market transactions. A chief cause of this opacity is the complex legal frameworks governing land use and land administration that exist in many countries. Legal complexity lends scope to the affluent and well-educated members of society who are best able to use it to their own advantage.

**Exclusivity and displacement.** Land markets may perform in ways that benefit the well-to-do at the expense of smallholders, women, and other vulnerable groups. Factors that cause bias in favor of the wealthy and powerful include information and power asymmetries in negotiating transactions and contracts, discrimination, illiteracy, and poverty. Creating a more fair and equitable land and property rights system requires that all individuals regardless of socioeconomic status, race, gender, or individual beliefs receive equal and transparent access to available and accurate land market information. This is far from the case in most of the developing world. As international pressures to invest in land in developing countries have grown, the tension between market-oriented reforms and principled respect for customary rights has grown. The process of designing and implementing policies governing land must find ways to recognize and protect customary rights while assisting communities to enter into those market transactions that they find appealing.

**Tenure insecurity and growth of unplanned development.** Investors require secure ownership for their purchase and investment. Absence of sufficient usufruct, transfer and exclusion rights along with rights assurance lowers the price that buyers and renters are willing to pay and reduces investment in land and land market transactions. This real or perceived uncertainty discourages investment, transactions, and land use management. Poorly functioning land markets may therefore lead to a loss of investment potential and poor economic performance. Increasing rural-urban migration and peri-urban sprawl creates a loss of open spaces and public areas. Informal settlements capture these open spaces and apply pressure to overworked sanitation and natural resources. Unplanned development leads to inadequate or inefficient infrastructure and overexploitation of resources in the surrounding area.

## 5.2 VOLUNTARY GUIDELINES WITH RESPECT TO MARKETS

To address the above issues, Part 4, Section 7 of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* states includes the following language:

1. “Where appropriate, States should recognize and facilitate fair and transparent sale and lease markets as a means of transfer of rights of use and ownership of land, fisheries and forests...and ensure that all actions are consistent with their existing obligations under national and international law, and...voluntary commitments...”
2. States should facilitate the operations of efficient and transparent markets to promote participation under equal conditions and opportunities for mutually beneficial transfers of tenure rights which lessen conflict and instability; promote the sustainable use of land, fisheries and forests and conservation of the environment; promote the fair and equitable use of genetic resources associated with land, fisheries and forests in accordance with applicable treaties; expand economic opportunities; and increase participation by the poor. States should take measures to prevent undesirable impacts on local communities, indigenous peoples and vulnerable groups that may arise from, inter alia, land speculation, land concentration and abuse of customary forms of tenure...
3. States should establish policies, laws and regulatory systems and agencies to ensure transparent and efficient market operations, to provide non-discriminatory access, and to prevent uncompetitive practices. States should simplify administrative procedures in order to avoid discouragement of market participation by the poor and the most vulnerable.

4. States and other parties should ensure that information on market transactions and information on market values are transparent and widely publicized...
5. States should establish appropriate and reliable recording systems...that provide accessible information on tenure rights and duties in order to increase tenure security and to reduce the costs and risks of transactions. States should establish safeguards to protect legitimate tenure rights of spouses, family members and others who are not shown as holders of tenure rights in recording systems...
6. State and non-state actors should adhere to applicable ethical standards...
7. Given the importance of small-scale producers for national food security and social stability, States should ensure that when facilitating market operations of tenure transactions, they protect the tenure rights of small-scale producers.”

### **5.3 VOLUNTARY GUIDELINES WITH RESPECT TO INVESTMENT**

To address the above issues, Part 4, Section 7 of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* provides the following includes the following:

1. “All forms of transactions in tenure rights as a result of investments in land, fisheries and forests should be done transparently in line with...sectoral policies and be consistent with the objectives of social and economic growth and sustainable human development focusing on smallholders.
2. Responsible investments should do no harm, safeguard against dispossession of legitimate tenure right holders and environmental damage, and should respect human rights...
3. States should, with appropriate consultation and participation, provide transparent rules on the scale, scope and nature of allowable transactions in tenure rights....
4. States should provide safeguards to protect legitimate tenure rights...from the risks that could arise from large-scale transactions.... Such safeguards could include introducing ceilings on permissible land transactions and regulating how transfers exceeding a certain scale should be approved...
5. States and other parties should hold good faith consultation with indigenous peoples before initiating any investment project affecting the resources for which the communities hold rights...
6. States should make provision for investments involving all forms of transactions of tenure rights, including acquisitions and partnership agreements...with those whose tenure rights, including subsidiary rights, might be affected. States and other relevant parties should inform individuals, families and communities of their tenure rights, and assist to develop their capacity...
7. When investments involving large-scale transactions of tenure rights...are being considered, States should strive to make provisions for...prior independent assessments on the potential positive and negative impacts...States should ensure that...legitimate tenure rights and claims, including those of customary and informal tenure, are systematically and impartially identified...

Contracting parties should provide comprehensive information to ensure that all relevant persons are engaged and informed in the negotiations...The negotiation process should be non-discriminatory and gender sensitive.”

## 5.4 ILLUSTRATIVE INTERVENTIONS

The range of possible interventions relevant or applicable to this particular issue constraint can be quite broad depending on circumstances, and the need in any policy context to carefully adapt, target, sequence and nuance interventions according to institutional context and need. The interventions cited below are thus generalized and illustrative. The reader is further encouraged to review interventions for other constraint categories as well as a single intervention can be relevant to multiple constraints, particularly in contexts when multiple constraints across columns of the matrix are present or when of bundle of interventions across rows is required. Issues and interventions should thus be addressed holistically rather than concentrating on a single column or row.

	Poorly Performing Land Markets
Institutions and Governance	<ul style="list-style-type: none"> <li>• <b>Decentralize land market regulation.</b> Decentralize regulation of land sales to local governments and other designated local land governing bodies, and improve market information and transaction records. Capture and formalize land transactions by clarifying and consistently applying simplified procedures for leasing and selling of land.</li> <li>• <b>Support local land governance bodies.</b> Support establishment and operation of land boards, village committees, and other local government bodies given authority for allocating lands and overseeing land transfers and resultant distribution of payments.</li> <li>• <b>Monitor and prosecute corruption.</b> Build government technical capacity to identify corruption. Establish simple, standardized, and transparent tax and customs procedures. Work with governments to validate tax receipts and expenditures.</li> </ul>
Legal and Regulatory Framework	<ul style="list-style-type: none"> <li>• <b>Revise legal framework and capacity for transactions.</b> Enact laws, promulgate regulations, and provide due protection and other incentives to promote land transfers—buying, selling, leasing, inheriting and mortgaging—and improve land market performance under both formal and customary legal systems. Such actions may include adequate provisions to guard against distressed sales and asymmetrical information that may unfairly put at risk the poor and disadvantaged. Support the development of a cadre of land professionals (surveyors, notaries, realtors) needed for the establishment and growth of a land market.</li> <li>• <b>Strengthen women’s transfer rights.</b> Clarify and formalize in law important legal rights for women to inherit, buy, sell, own, transfer, lease, and offer land as collateral—independent of relationships to men. Enable women to take advantage of land markets and contribute to economic growth.</li> <li>• <b>Facilitate land use/rental contracts.</b> Identify and address legal barriers to transactions and support development of contracts to formalize terms and conditions of those transactions and to protect the rights of buyers, sellers, and lessors. Help strengthen magistrates, public notaries, and local courts to validate and enforce such contracts, arbitrate grievances, and decide appropriate legal redress.</li> <li>• <b>Enable community land grants/concessions.</b> Create the enabling legal and institutional framework for local communities to grant and allocate concessions to third party users (including investors) of communally held land and resources, and assist communities in collecting and distributing the resultant income/benefits.</li> </ul>
Rights Awareness and Empowerment	<ul style="list-style-type: none"> <li>• <b>Raise awareness of land market risks/opportunities.</b> Raise awareness of laws and regulations concerning markets in land and natural resources, the potential benefits derived therefrom, legal recourse once transactions are entered into, and the legal risks involved (e.g., including loss of family land, distressed sales, or unscrupulous action on the part of lessor or lessee).</li> <li>• <b>Lower the costs of market information dissemination.</b> Increase access to</li> </ul>

	Poorly Performing Land Markets
	<p>information on land availability, value, sales, and leasing with appropriate levels of disaggregation (e.g., urban versus rural, by region, or by agro-ecological zone). Create a formal land valuation process. Increase access to accurate market information and publicize to limit information asymmetries and exploitation.</p> <ul style="list-style-type: none"> <li>• <b>Provide skills and literacy training.</b> Provide land market information, as well as training in financial literacy and negotiation skills to help the poor navigate and use land and financial market structures to improve land husbandry, productivity, and value. Provided training in development of business plans and crop/livestock budgeting to improve resource use efficiency and farm income.</li> </ul>
<p><b>Conflict and Dispute Resolution</b></p>	<ul style="list-style-type: none"> <li>• <b>Mediate conflict.</b> Mediate conflict among communities, individuals, and investors over land ownership, access and transfer. Establish or strengthen community land boards or other local structures to resolve issues related to land sales, leasing, inheritance, and disagreements over terms and conditions of land use, rental, or sharecropping contracts.</li> <li>• <b>Regularize/formalize land takings.</b> Recognize customary rights in statutory law and spell out responsibilities related to land transfers between communities and government. Ensure public takings are fully transparent and within the limits of law, and that any takings for public goods and investment subscribe to principles of transparency; due process; and prompt, adequate, and effective compensation.</li> <li>• <b>Strengthen access to justice.</b> Strengthen capacity and reach of the judiciary to mediate conflicts over transfers of property between communities, individuals, and investors. Provide grants to legal aid groups that assist the poor and vulnerable in land disputes.</li> <li>• <b>Support early dispute detection.</b> Build civil society capacity to identify disputes between investors and local communities, and resolve at early stages. Build government and private sector awareness of potential conflicts associated with land markets, and options for conflict resolution.</li> <li>• <b>Provide legal aid to women and vulnerable groups.</b> Facilitate broad access to formal and informal bodies that preside over land-related disputes through support for community paralegals and subsidized legal assistance. Provide specific support to indigenous groups, women's groups, and other vulnerable populations.</li> </ul>
<p><b>Restitution, Redistribution, and Consolidation</b></p>	<ul style="list-style-type: none"> <li>• <b>Establish land banks.</b> Establish land banks to hold and manage public land, often in transition to private ownership. Such programs may hold land in reserve for returning populations or to accommodate population growth. They are often intended to keep land in productive use while in transition, but risk consolidation of state land ownership without built-in safeguards. Land may eventually be distributed to the private sector through land grants, auctions, sales, or concessions.</li> <li>• <b>Support asset pooling and leasing.</b> Support land holding companies whereby smallholders with uneconomical and fragmented land holdings pool their assets in a land holding company, which leases larger blocks of land to larger-scale interests.</li> <li>• <b>Strengthen leasing contracts.</b> Encourage land leasing, rental, and sharecropping contracts that clarify lessor/lessee rights, benefits, and obligations; and incentivize their execution (e.g., by reducing risk of asset loss by lessor, and providing institutions [public notaries, land courts] to validate contracts and ensure compliance).</li> </ul>
<p><b>Rights Delivery and Administration</b></p>	<ul style="list-style-type: none"> <li>• <b>Build capacity of real estate professionals.</b> Improve the schooling or provide training to professionals engaged in land markets (i.e., lawyers, judges, real estate brokers, assessors, surveyors, and notaries specializing in transfer of land titles).</li> <li>• <b>Facilitate land market development.</b> Strengthen institutions responsible for maintaining a complete and accurate land registry as a foundation for improving land market transactions. Provide support for land demarcation, mapping, survey, land rights registration, and land records management at all levels. Make the registry</li> </ul>

Poorly Performing Land Markets	
	<p>accessible to the public and keep fees affordable to encourage recording of transfers within the system. Improve land market information and limit extra-legal transfers. Support land inventories and/or valuation to determine or validate sale price, contract value, or collateral worth. Support public notaries and access to justice to validate and regularize contracts, settle grievances, and increase contract assurance.</p> <ul style="list-style-type: none"> <li>• <b>Determine appropriate valuation/fees.</b> Regularize fees paid for land transactions based on formally adopted land valuation methodology and market information appropriate to the country's economic status. Post this information publicly and encourage citizens to report requests for bribes.</li> <li>• <b>Value community resources.</b> Determine fair market value of community land and natural resources to promote fair compensation of affected communities when access rights are limited or taken away, or to set rates when land and property is leased to outsiders.</li> <li>• <b>Strengthen Information systems.</b> Reinforce the institutional and technical capacity of land registries, cadaster, and land information systems.</li> </ul>
Resource Use Management	<ul style="list-style-type: none"> <li>• <b>Develop/exercise zoning.</b> Use zoning regulations, land use controls, covenants, or nuisance rules to improve land market performance and natural resources management (NRM).</li> <li>• <b>Levy a land tax to increase land use intensity.</b> Levy taxes to improve the performance of land markets by discouraging inefficient land use while encouraging the transfer of land from inefficient to more efficient users.</li> <li>• <b>Support participatory land use planning.</b> Train municipal government authorities and private sector in land use planning methodology and real estate development. Engage a broad spectrum of stakeholders—especially women and vulnerable groups—in the development, implementation, and monitoring of participatory land use plans to strengthen land use planning and facilitate land market development.</li> <li>• <b>Pilot equity sharing/group ownership models.</b> Use community titling and co-management options to reinforce the stewardship potential of common pool natural resources and deter overexploitation. Promote community-based resource use planning, co-management models, conservancies, trusts, and other mechanisms that promote good local governance and management of productive and common pool resources.</li> <li>• <b>Develop protected areas/easements.</b> Employ protected areas and easements to improve land markets by increasing the value of surrounding land and preventing overdevelopment.</li> <li>• <b>Support public-private partnerships.</b> Work with the host government to develop proposals for public-private partnerships that promote well-planned land market development in environmentally sensitive areas, such as coastal areas with high potential for ecotourism.</li> </ul>

## 5.5 READINGS

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# 6.0 UNSUSTAINABLE NATURAL RESOURCES MANAGEMENT/ BIODIVERSITY LOSS

		CONSTRAINTS					Unsustainable Natural Resources Management and Biodiversity Loss
		Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing (Land) Markets	
INTERVENTIONS	Institutions and Governance						
	Legal and Regulatory Framework						
	Rights Awareness and Empowerment						
	Conflict and Dispute Resolution						
	Restitution, Redistribution, and Consolidation						
	Rights Delivery and Administration						
	Resource Use Management						

## 6.1 LTPR ISSUE

Degradation and overuse of land and natural resources often result from weak tenure regimes and unstable or ineffective governance systems. In many cases, competing and conflicting claims to common pool natural resources are the root causes of resource loss. Rights to land in a particular place may be held by individuals, groups, or the state and vary from rights in natural resources—trees, minerals, water. Nevertheless, the allocation and management of land rights by governing institutions, whether formal or customary, play an important role in the sustainability of natural resource use, and protection of a country's biodiversity. The sustainable management of natural resources requires coherent and effective tenure regimes. By clarifying multiple and overlapping rights to common pool natural resources, resource management can be dramatically improved. Clarification, recognition, and formalization of resource rights provide a foundation for productive and sustainable natural resource use, and underpin state efforts at biodiversity conservation. The expectation of enduring and stable rights in land and resources encourages the sustainable use as well as investment in sound management of natural resources; insecure rights undermine resource stewardship.

### SUB-ISSUES

**Insecure, poorly defined, or inadequate land rights.** Private, limited access ownership of land typically leads to better environmental protection and regeneration of resources. By linking efforts to improve and conserve land with the possibility of benefiting financially or otherwise from those actions, rights holders have incentives to use land and resources wisely. Land users who have insecure rights are less likely to defend property against competing claims, encroachment, or eviction. Unequivocal security of tenure is essential for those investing in environmental remediation. Without a firm expectation of reaping the rewards of long-term investment in environmental conservation, few are willing to take proactive measures.

**Destruction of traditional stewardship institutions.** A complex web of interlinked processes and factors causes environmental degradation. Among these are poorly performing institutions. Increasingly, research demonstrates that policies that do not take account local or customary institutions contribute both to poverty and to environmental degradation. Formal recognition of communal property rights and participatory clarification of group rights can be a mitigating factor. Where local property rights are ignored, few protections or guidelines remain to promote environmental sustainability, particularly in situations where communities and communal land and forests are remote and where government oversight and management is weak. With rare exception, the most appropriate approach is to shape incentives that favor the interests of traditional and local natural resource users who have a long-term interest in the sustainability of resource use.

**Lack of transparency and accountability.** Countries have seen great natural resource and biodiversity loss resulting from unregulated or uncontrolled commercial exploitation such as illegal logging, charcoal production, or granting of mining or logging concessions in critical ecosystems or human settlements. They have also seen the overexploitation of natural resources by governments (including military) to extract revenues for personal ends, to finance violent conflicts, or both. Government concessions to timber and mining companies that lack transparency and due diligence serve both to undermine governance and the rule of law as well as sustainable natural resources management (NRM). These actions in turn may displace resource users who rely upon minerals and non-timber forest products for their livelihood and well-being.

**Unregulated externalities.** Unregulated mining, logging, and overharvesting of non-timber forest products can all lead to environmental degradation. The problem is enabled and encouraged by sometimes spectacular

and short-term rewards for investors—particularly during commodity booms, but also by state complicity and failure to enforce environmental regulations. Communities that depend on use of local natural resources, and lack recognized and formalized rights, often disproportionately bear the costs of irreparable land degradation once rich in biodiversity.

**Environmental shocks and inability of tenure institutions to cope.** External environmental forces such as climate change induced variability in weather patterns wreak havoc on both customary and statutory tenure regimes. Coastal flooding, severe droughts and floods, and other symptoms of global warming trigger adjustments in the value of land and other natural resources. Shocks linked to climate change will invariably destabilize governance and property rights regimes, spur the evolution of tenure arrangements in unforeseen ways, and open the door for powerful interests to expand their claims on land and other natural resources. Responses to climate change, such as carbon sequestration policies and programs, may profoundly alter formal and customary institutions of governance and property rights. In some cases, promising mitigation initiatives like reduced emissions from deforestation and forest degradation in developing countries (REDD+) may lead to the expropriation of land and other natural resources from poor and vulnerable peoples.

**Difficult tradeoffs between promoting conservation and providing for community needs.** Indigenous peoples’ territorial rights arise by virtue of traditional occupation and indigenous forms of tenure rather than from grants, formal recognition, or registration by the state. Their historic use and marketing of timber or non-timber forest products, wildlife, livestock, ecotourism, agricultural products, payment for environmental services, and other revenue-generating activities can be threatened by demarcation of protected areas by the state. In extreme cases, communities can be evicted from their land, and their access to natural resources cut off. In this era of climate change, pastoralists and forest dwellers are especially vulnerable to often well-intentioned efforts to conserve the world’s last remaining areas of high biodiversity.

## **6.2 VOLUNTARY GUIDELINES WITH RESPECT TO PUBLIC LAND, FISHERIES AND FORESTS**

To address the above issues, Section 8 of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* states includes the following:

1. “Where States own or control land, fisheries and forests, they should determine the use and control of these resources in light of broader social, economic and environmental objectives...”
2. Where States own or control land, fisheries and forests, the legitimate tenure rights of individuals and communities...should be recognized, respected and protected, consistent with existing obligations under national and international law, and...to voluntary commitments....
3. Noting that there are publicly-owned land, fisheries and forests that are collectively used and managed...States should, where applicable, recognize and protect such publicly owned [resources]...and their related systems of collective use and management...
4. States should strive to establish up-to-date tenure information on land, fisheries and forests...by creating and maintaining accessible inventories [that]...record the agencies responsible for administration as well as any legitimate tenure rights held by indigenous peoples and other communities with customary tenure systems and the private sector...

5. States should determine which of the land, fisheries and forests they own or control will be retained...by the public sector, and which...will be allocated [to]...others and under what conditions.
6. States should develop and publicize policies covering the use and control of land, fisheries and forests...and should strive to develop policies that promote equitable distribution of benefits...
7. States should develop and publicize policies covering...tenure rights...Local communities that have traditionally used the land, fisheries and forests should receive due consideration in the reallocation of tenure rights...Such policies should ensure that the allocation...does not threaten the livelihoods of people by depriving them of their legitimate access to...resources.
8. States have the power to allocate tenure rights in various forms, from limited use to full ownership. Policies should recognize the range of tenure rights and right holders. Policies should specify the means of allocation of rights, such as allocation based on historical use...
9. States should allocate tenure rights and delegate tenure governance in transparent, participatory ways, using simple procedures that are clear, accessible and understandable to all, especially to indigenous peoples and other communities with customary tenure systems...
10. To the extent that resources permit, States should ensure that competent bodies responsible for land, fisheries and forests have the human, physical, financial and other forms of capacity...
11. States should monitor the outcome of allocation programmes, including the gender-differentiated impacts on food security and poverty eradication as well as their impacts on social, economic and environmental objectives, and introduce corrective measures as required.”

### 6.3 ILLUSTRATIVE INTERVENTIONS

The range of possible interventions relevant or applicable to this particular issue constraint can be quite broad depending on circumstances, and the need in any policy context to carefully adapt, target, sequence and nuance interventions according to institutional context and need. The interventions cited below are thus generalized and illustrative. The reader is further encouraged to review interventions for other constraint categories as well as a single intervention can be relevant to multiple constraints, particularly in contexts when multiple constraints across columns of the matrix are present or when of bundle of interventions across rows is required. Issues and interventions should thus be addressed holistically rather than concentrating on a single column or row.

Unsustainable Natural Resources Management and Biodiversity Loss	
<b>Institutions and Governance</b>	<ul style="list-style-type: none"> <li><b>Streamline jurisdictional responsibilities.</b> Integrate and streamline overlapping institutional mandates to improve operating efficiency, and prepare for devolution of authorities related to the allocation and protection of land and natural resources to local governments and communities.</li> <li><b>Decentralize NRM to local governments and communities.</b> Decentralize NRM to democratically elected and accountable regional and local governments and traditional leaders. Build local governance capacity, ensure clear roles, and transfer all necessary authorities, including the collection and use of tax and user fee revenues.</li> <li><b>Strengthen civil society capacity.</b> Encourage development of civil society organizations that support governmental and community efforts to strengthen and clarify rights and improve management of biologically sensitive resources, including</li> </ul>

## Unsustainable Natural Resources Management and Biodiversity Loss

	<p>community-based NRM (CBNRM).</p> <ul style="list-style-type: none"> <li>• <b>Support interagency coordination.</b> Reinforce networking among jurisdictions, and between government and civil society. Use national forums to promote participation, communication, and coordination among stakeholders and to clarify relationships and accountability.</li> <li>• <b>Strengthen transnational NRM.</b> Establish intergovernmental management committees for ecosystems that cross national borders and support the development of common policies for biodiversity protection and sustainable management of natural resources.</li> <li>• <b>Encourage corporate social responsibility.</b> Engage companies in a participatory process to develop biodiversity policy statements in compliance with environmental laws. Encourage regional and bilateral dialogue and the development of public-private partnerships in support of biodiversity protection and sustainable NRM. Promote use of <i>Voluntary Guidelines with respect to Public Land, Fisheries and Forests</i>.</li> </ul>
<p><b>Legal and Regulatory Framework</b></p>	<ul style="list-style-type: none"> <li>• <b>Enact protected areas legislation.</b> Designate protected areas with legislation requiring community participation in boundary demarcation and meaningful consultation and negotiation of compensation/benefits with affected stakeholders.</li> <li>• <b>Reform forest and pasture law.</b> Enact legislation and implementing regulations to enable formalization of community rights to common forest and pasture lands through rights registration or contracts to reinforce the stewardship potential of common pool natural resources. Remove or amend law and regulations that encourage deforestation or discourage good land husbandry.</li> <li>• <b>Encourage sustainable agriculture.</b> Enact law and policy that promote sustainable yields, provide for environmental safeguards, and enforce environmental mitigation measures. Create tax incentives to reward commercial farms that follow sustainable agricultural practices and comply with environmental standards.</li> <li>• <b>Strengthen indigenous/customary rights.</b> Recognize international obligations related to indigenous and customary rights to land and the management of habitats and wildlife to conserve ecosystems, ecosystem services, and flora and fauna. Strengthen rights of indigenous peoples to environmentally sensitive resources and their capacity to manage those resources sustainably. Support CBNRM to improve local management of resources and to improve livelihoods of local communities.</li> <li>• <b>Enforce environmental protections.</b> Establish and enforce legal and regulatory frameworks that minimize environmental impact of agricultural and extractive industries. Harmonize environmental regulations across land, mining, water, pasture, and forest sectors to improve policy consistency and ease compliance.</li> </ul>
<p><b>Rights Awareness and Empowerment</b></p>	<ul style="list-style-type: none"> <li>• <b>Promote environmental awareness.</b> Raise awareness of impact of agricultural and extractive practices that degrade land, natural resources, and ecosystems among stakeholders at national and local levels. Promote cost-effective strategies for avoiding or mitigating negative impacts on biodiversity and NRM.</li> <li>• <b>Promote local biodiversity awareness.</b> Use media and consultation to inform members of indigenous and local communities, including women and vulnerable populations, of their rights and responsibilities—both under customary and statutory law—concerning the use of natural resources.</li> <li>• <b>Strengthen civil society monitoring/advocacy.</b> Build civil society capacity to monitor environmental conditions, detect illegal and destructive practices, and educate stakeholders on environmental stewardship.</li> </ul>

## Unsustainable Natural Resources Management and Biodiversity Loss

<p><b>Conflict and Dispute Resolution</b></p>	<ul style="list-style-type: none"> <li>• <b>Improve dispute resolution.</b> Educate judges, mediators, and stakeholders on environmental law and sustainability impact. Strengthen mechanisms for rapid resolution of disputes concerning environmental degradation and biodiversity protection.</li> <li>• <b>Create systems for just compensation.</b> Establish mechanisms to determine prompt, adequate, and effective compensation for land taken for concessions and protected areas to those who bear the direct cost or consequence from expropriation, easements, and pollution of natural resources.</li> <li>• <b>Provide legal aid to vulnerable groups.</b> Provide legal representation to users of environmental resources in rights arbitration systems.</li> <li>• <b>Monitor environmental impacts.</b> Put in place mechanisms for identifying and monitoring disputes stemming from the environmental impacts of extractive industries on resident communities.</li> </ul>
<p><b>Restitution, Redistribution, and Consolidation</b></p>	<ul style="list-style-type: none"> <li>• <b>Broaden access to assets/livelihoods.</b> Support land restitution, land and agrarian reform and privatization to redistribute land and property to landless groups who otherwise may turn to extraction of environmentally sensitive resources for their livelihoods. For populations residing on marginal and fragmented lands, support population resettlement schemes to reduce population pressure or equity sharing schemes (marketing cooperatives or company models) that help pool assets and improve land use management and productivity.</li> <li>• <b>Conduct ecosystem assessments.</b> Develop and support implementation of land assessment methods that include environmental externalities and ecosystem services in valuation.</li> <li>• <b>Support stakeholder engagement and consultation.</b> Where expropriation of lands is considered essential for the conservation of biodiversity, follow the principles of free, prior, and informed consultation to enable communities to negotiate the continuation of specific rights, compensation for damages, or a continuing share of any revenue.</li> <li>• <b>Purchase of protected areas for conservation.</b> Provide and implement legal provisions for the acquisition of rights to natural resources through lease, purchase, or donation. Establish protected areas and biodiversity resources to conserve biodiversity and sensitive ecological areas.</li> </ul>
<p><b>Rights Delivery and Administration</b></p>	<ul style="list-style-type: none"> <li>• <b>Strengthen common property rights.</b> Engage resident communities in the identification and registration of primary and secondary rights to commonly held resources, such as water, forest, and pasture.</li> <li>• <b>Support community concessions.</b> Create enabling legal and institutional framework for local communities to grant and manage licenses to third party users to exploit their common natural resources and land in return for rental income or shared benefits.</li> <li>• <b>Implement cadastral survey of protected areas.</b> Implement laws requiring the demarcation and cadastral survey of protected areas in consultation and negotiation of compensation or benefits with affected stakeholders.</li> <li>• <b>Enforce environmental regulations.</b> Create, implement, and enforce the legislative and regulatory framework for NRM in areas around concessions and large infrastructure projects.</li> <li>• <b>Recognize secondary and tertiary rights.</b> Consider primary and secondary rights in both statutory and customary regimes in the development of plans for benefit sharing or restitution and compensation due to environmental or natural resource degradation.</li> </ul>

## Unsustainable Natural Resources Management and Biodiversity Loss

### Resource Use Management

- **Conduct national planning.** Develop national environmental action plans and biodiversity conservation strategies to identify national priorities related to biodiversity and its conservation and allocate resources accordingly.
- **Establish buffer zones.** In negotiations between government and communities, define areas of land between different land uses or political jurisdiction as between community arable land and surrounding public forests. Support buffer zone interventions to promote protected area management and the rights of surrounding communities to protected area resources or to be protected from encroachment of wildlife from those areas.
- **Introduce conservation easements.** Establish mechanisms by which governments, communities, and user groups protect environmentally sensitive areas and species by imposing restrictions on use or harvest in exchange for payments, tax breaks, or increased tenure.
- **Zone environmentally sensitive areas.** Account for priority resource areas and ecosystems at risk in zoning plans. Exclude highly sensitive ecosystems and watersheds from logging and mining, and specify and enforce sustainable levels of extraction elsewhere.
- **Leverage co-management.** Increase local incentives to manage land and natural resources sustainably by developing and implementing joint agreements between the state and local communities.
- **Integrate land and water use planning.** Develop integrated land and water use management plans that protect ecosystem services and wildlife corridors, and recognize competing local, regional, and national interests.

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# ANNEX A: LAND TENURE AND PROPERTY RIGHTS MATRIX OVERLAY, SUMMARY TABLES

**TABLE A.I. LAND TENURE AND PROPERTY RIGHTS OVERLAY: CONSTRAINTS AND COMMON SUB-ISSUES**

Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing Land Markets	Unsustainable Natural resources management and Biodiversity Loss
<ul style="list-style-type: none"> <li>▪ Conflict arising from land and resource inequality</li> <li>▪ Tenure insecurity derived from competing or overlapping claims</li> <li>▪ Population displacement and institutional regress resulting from external shocks</li> <li>▪ Conflict among nomadic pastoralists and between pastoralists and sedentary farmers</li> <li>▪ Land and resource grabbing by investors, elites, and nation states</li> </ul>	<ul style="list-style-type: none"> <li>▪ Lack of transparency, participation, and accountability</li> <li>▪ Inequitable treatment of women under customary tenures</li> <li>▪ Weak capacity and authority</li> <li>▪ Plurality of statutory and customary tenure systems</li> </ul>	<ul style="list-style-type: none"> <li>▪ Land disputes, overlapping claims, and land-related conflict</li> <li>▪ Inadequate security for fixed-place land investment</li> <li>▪ Infrastructure development and informal settlements upgrading</li> <li>▪ Insecure tenure for women and vulnerable groups</li> <li>▪ Weak or poorly functioning land administration systems</li> <li>▪ Lack of government legitimacy</li> <li>▪ Land grabbing</li> </ul>	<ul style="list-style-type: none"> <li>▪ Landlessness and land scarcity</li> <li>▪ Fragmented or small land holdings</li> <li>▪ Inequity created by state concessions or land allocations</li> <li>▪ Gender inequality within customary systems</li> <li>▪ Displacement and natural disasters</li> <li>▪ Informal urban settlements</li> <li>▪ Large-scale land acquisition</li> </ul>	<ul style="list-style-type: none"> <li>▪ Low incidence of land leasing and sharecropping contracts</li> <li>▪ Lack of a mortgage market</li> <li>▪ Inaccurate or unavailable market information</li> <li>▪ Exclusivity and displacement</li> <li>▪ Tenure insecurity and growth of unplanned development</li> </ul>	<ul style="list-style-type: none"> <li>▪ Insecure, poorly defined, or inadequate land rights</li> <li>▪ Destruction of traditional stewardship institutions</li> <li>▪ Lack of transparency and accountability</li> <li>▪ Unregulated externalities</li> <li>▪ Environmental shocks and inability of tenure institutions to cope</li> <li>▪ Difficult tradeoffs between promoting conservation and providing for community needs</li> </ul>
<p><b>Crosscutting Constraints</b></p> <p>Gender / Women Vulnerability</p> <p>Ethnic and Socially Marginalized Populations</p> <p>Lack of Government and Community Capacity</p> 					

**TABLE A.2. LAND TENURE AND PROPERTY RIGHTS OVERLAY: INTERSECTION OF CONSTRAINTS AND INTERVENTIONS**

LAND TENURE AND PROPERTY RIGHTS THEMES AND CONSTRAINT CATEGORIES							
	Resource Conflict and Displacement	Weak Governance	Insecure Tenure and Property Rights	Inequitable Access to Land and Natural Resources	Poorly Performing Land Markets	Unsustainable Natural resources management and Biodiversity Loss	
<b>LAND TENURE AND PROPERTY RIGHTS INTERVENTIONS</b>	<b>Institutions and Governance</b>	Create political will Strengthen civil society Establish reconciliation commissions Establish/strengthen local or special purpose courts Comply with international treaties/standards	Strengthen civil society Support administrative devolution Facilitate decentralization and local governance Comply with international protocols and voluntary guidelines Promote elections of local leaders	Strengthen civil society advocacy Facilitate devolution to local authorities and communities Establish fair and impartial judiciary Support access to justice Streamline overlapping institutional responsibilities	Strengthen constitutional and statutory rights Support devolution of authority Empower local governance Promote fair and impartial judiciary Reduce or eliminate overlapping jurisdictions	Decentralize land market regulation Support local land governance bodies Monitor and prosecute corruption	Streamline jurisdictional responsibilities Decentralize NRM to local governments & communities Strengthen civil society capacity Support interagency coordination Strengthen transnational NRM Encourage corporate social responsibility
	<b>Legal and Regulatory Framework</b>	Strengthen awareness of customary law and rights of displaced peoples Clarify rights to enable legal recourse Remove scale bias in land law and policy Promote voluntary transactions	Harmonize land tenure with national policy Support advocacy to improve governance Formalize customary institutions Strengthen credibility of government and local authority	Support land tenure reform Formalize rights for women and improve enforcement Harmonize statutory and customary tenure systems Strengthen capacity and regulation Provide for participatory community demarcations and registrations Strengthen security of leasing contracts	Strengthen rights regulation and enforcement Augment privatization of public lands Comply with international protocols and voluntary guidelines Strengthen the judiciary Enable community group registration/title	Revise legal framework and capacity for transactions Strengthen women's transfer rights Facilitate land use/rental contracts Enable community land grants/concessions	Enact protected areas legislation Reform forest and pasture law Encourage sustainable agriculture Strengthen indigenous/customary rights Enforce environmental protections
	<b>Rights Awareness and Empowerment</b>	Increase awareness of rights, benefits, and recourse Improve advocacy and negotiation Build conflict awareness Support social networking	Strengthen the judiciary Improve participatory governance Publicize procedures Promote transparency and rights awareness Strengthen governance through stakeholder forums Promote community dialogue	Strengthen civil society advocacy Raise awareness through community outreach Support empowerment programs	Educate people on land policy options Strengthen accountability of community leaders Strengthen civil society advocacy	Raise awareness of land market risks/opportunities Lower the costs of market information dissemination Provide skills and literacy training	Promote environmental awareness Promote local biodiversity awareness Strengthen civil society monitoring and advocacy
	<b>Conflict and Dispute Resolution</b>	Promote access to justice Synchronize formal/informal dispute resolution Validate/expand alternative dispute resolution Sponsor dispute resolution forums Provide restitution and compensation Strengthen judicial capacity	Strengthen the judiciary Broaden access to legal assistance Decentralize or localize dispute resolution Support civil society monitoring	Facilitate dispute resolution forums Strengthen advocacy for women and vulnerable groups Remove impediments to accessing justice Support conflict mapping and monitoring Mitigate disputes via boundary demarcation/adjudication	Promote participatory dispute forums Strengthen dispute resolution and legal aid Engage civil society in early warning	Mediate conflict Regularize/formalize land takings Strengthen access to justice Support early dispute detection Provide legal aid to women & vulnerable groups	Improve dispute resolution Create systems for just compensation Provide legal aid to vulnerable groups Monitor environmental impacts

<b>Restitution, Redistribution and Consolidation</b>	<ul style="list-style-type: none"> <li>Conduct evictions with social safeguards</li> <li>Comply with international resettlement standards</li> <li>Resettle displaced populations</li> <li>Support participatory relocation plans</li> <li>Formalize secondary/tertiary rights</li> <li>Facilitate single purpose committees</li> <li>Remove impediments constraining resettlement</li> </ul>	<ul style="list-style-type: none"> <li>Use open and participatory processes</li> <li>Strengthen rights to communal lands</li> <li>Promote group ownership models</li> <li>Formalize rights</li> </ul>	<ul style="list-style-type: none"> <li>Develop restitution and compensation regulations</li> <li>Provide compensation for involuntary takings</li> <li>Use participatory processes</li> <li>Establish land and property valuation standards</li> </ul>	<ul style="list-style-type: none"> <li>Institutionalize eviction processes</li> <li>Support state land redistribution</li> <li>Settle displaced populations</li> <li>Provide compensation for involuntary takings</li> <li>Establish land banks</li> </ul>	<ul style="list-style-type: none"> <li>Establish land banks</li> <li>Support asset pooling and leasing</li> <li>Strengthen leasing contracts</li> </ul>	<ul style="list-style-type: none"> <li>Broaden access to assets and livelihoods</li> <li>Conduct ecosystem assessments</li> <li>Support stakeholder engagement and consultation</li> <li>Purchase of protected areas for conservation</li> </ul>	
	<b>Rights Delivery and Administration</b>	<ul style="list-style-type: none"> <li>Secure records</li> <li>Reconstruct property records</li> <li>Invest in land information systems</li> <li>Build capacity for land surveying/demarcation</li> <li>Formalize rights</li> </ul>	<ul style="list-style-type: none"> <li>Institute downward accountability</li> <li>Formalize rights to enable good governance</li> <li>Make records transparent and accountable</li> <li>Streamline administration</li> <li>Build trust in government institutions</li> </ul>	<ul style="list-style-type: none"> <li>Formalize and document individual rights</li> <li>Formalize group/customary rights</li> <li>Improve land administration processes</li> <li>Establish land cadaster</li> <li>Support land/geographic information systems</li> </ul>	<ul style="list-style-type: none"> <li>Build capacity for land surveying and demarcation</li> <li>Make records accessible</li> <li>Institute downward accountability</li> <li>Formalize land holdings</li> <li>Remove administrative bias</li> </ul>	<ul style="list-style-type: none"> <li>Build capacity of real estate professionals</li> <li>Facilitate land market development</li> <li>Determine appropriate valuation/fees</li> <li>Value community resources</li> <li>Strengthen information systems</li> </ul>	<ul style="list-style-type: none"> <li>Strengthen common property rights</li> <li>Support community concessions</li> <li>Implement cadastral survey of protected areas</li> <li>Enforce environmental regulations</li> <li>Recognize secondary/tertiary rights</li> </ul>
	<b>Resource Use Management</b>	<ul style="list-style-type: none"> <li>Support participatory land use planning</li> <li>Support assessments and strategic planning</li> <li>Develop early warning systems</li> </ul>	<ul style="list-style-type: none"> <li>Practice participatory land use planning</li> <li>Strengthen common property management</li> <li>Monitor tenure impacts</li> <li>Pilot equity sharing/group ownership models</li> <li>Support social assessments and monitoring</li> </ul>	<ul style="list-style-type: none"> <li>Undertake participatory land use planning</li> <li>Pilot equity sharing/group ownership models</li> <li>Improve environmental monitoring</li> <li>Increase use of spatial technology</li> </ul>	<ul style="list-style-type: none"> <li>Document settlement patterns</li> <li>Pilot equity sharing/group ownership models</li> <li>Provide incentives for conservation</li> <li>Promote equity sharing models</li> </ul>	<ul style="list-style-type: none"> <li>Develop/exercise zoning</li> <li>Levy a land tax to increase land use intensity</li> <li>Support participatory land use planning</li> <li>Pilot equity sharing/group ownership models</li> <li>Develop protected areas/easements</li> <li>Support public-private partnerships</li> </ul>	<ul style="list-style-type: none"> <li>Conduct national planning</li> <li>Establish buffer zones</li> <li>Introduce conservation easements</li> <li>Zone environmentally sensitive areas</li> <li>Leverage co-management</li> <li>Integrate land and water use planning</li> </ul>

**Crosscutting Constraints**  
**Gender / Women Vulnerability**  
**Ethnic and Socially Marginalized Populations**  
**Lack of Government and Community Capacity**



**U.S. Agency for International Development**

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

[www.usaidlandtenure.net](http://www.usaidlandtenure.net)