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What is Tenure Security? Why does it matter?

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Land Tenure and Property Rights Issues and
Best Practices Workshop

30 September 2014



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Formal v. informal systems

- Land is governed in different ways:
 - By government (formal statutory/constitutional systems)
 - By non-state actors (customary systems; social/family tenure)
 - Informally but not through a traditional governance system (informal settlements)
 - When systems overlap this can create uncertainty for people and insecurity



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What IS customary land tenure?

- Devolved governance systems managed by local leaders – often through social/family arrangements
- May provide high levels of security
- Exists in many parts of the world
- What are the strengths/weaknesses of these systems?
 - **They are the primary source of legitimacy for most people in the developing world**
 - They can provide sufficient security
 - However, increasingly under pressure, driving insecurity
 - They can also be discriminatory and
 - They evolve over time if not blocked by legislation



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Examples of *legitimate** customary property rights

**Legitimacy – recognition and respect of a property right by key (often local) stakeholders – is a key element of good land governance*

| <i>Actor</i> | <i>Type of rights</i> |
|---|--|
| <i>Community (historical and current)</i> | <i>Possession</i> |
| <i>Council of elders</i> | <i>Management rights</i> |
| <i>Household heads</i> | <i>Management rights at HH level; Use rights</i> |
| <i>Household members</i> | <i>Use rights</i> |



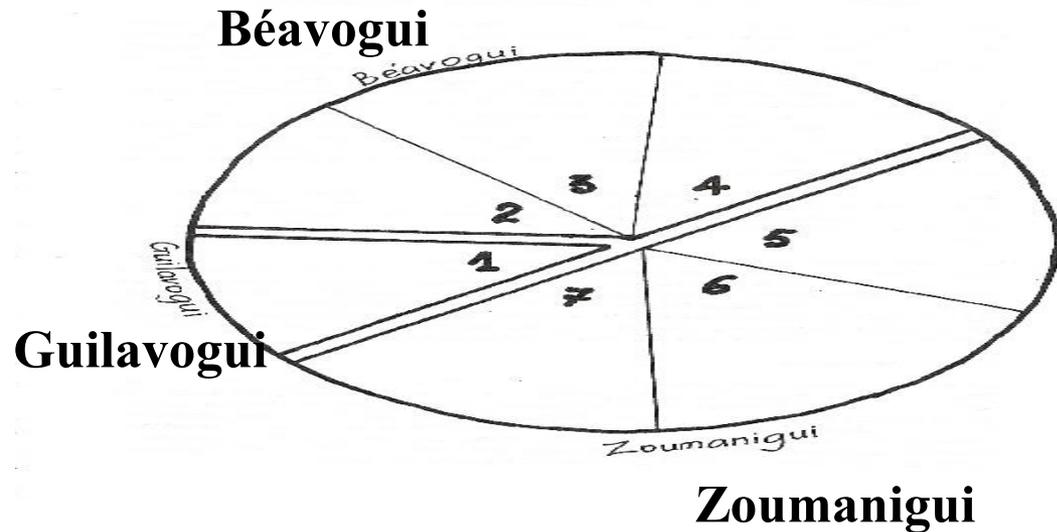
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An example of customary natural resource property governance from Guinea

The Property System

In Sogoloou village property rights apply to 7 defined areas held by 3 founding families





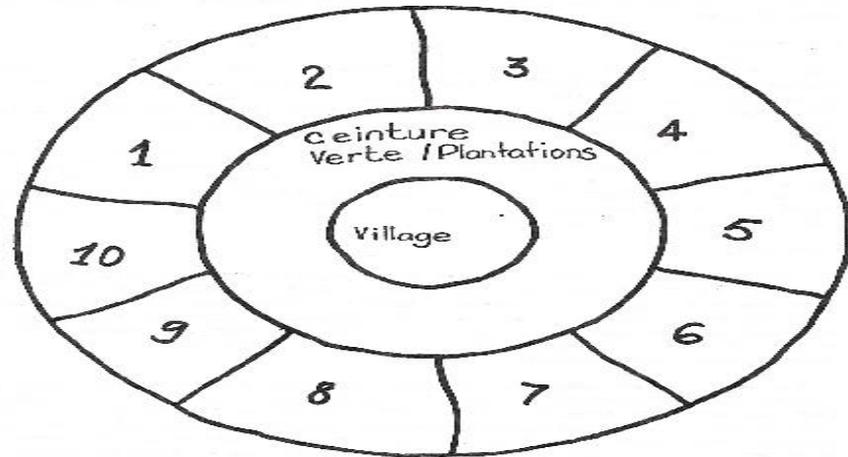
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All village residents must conform to management decision regardless of property rights

The Management System

Each year a **Council of Elders** representing all three families determines the date and location for rice production based on 10-year rotation, as well as the opening and closing dates for palm oil harvesting.

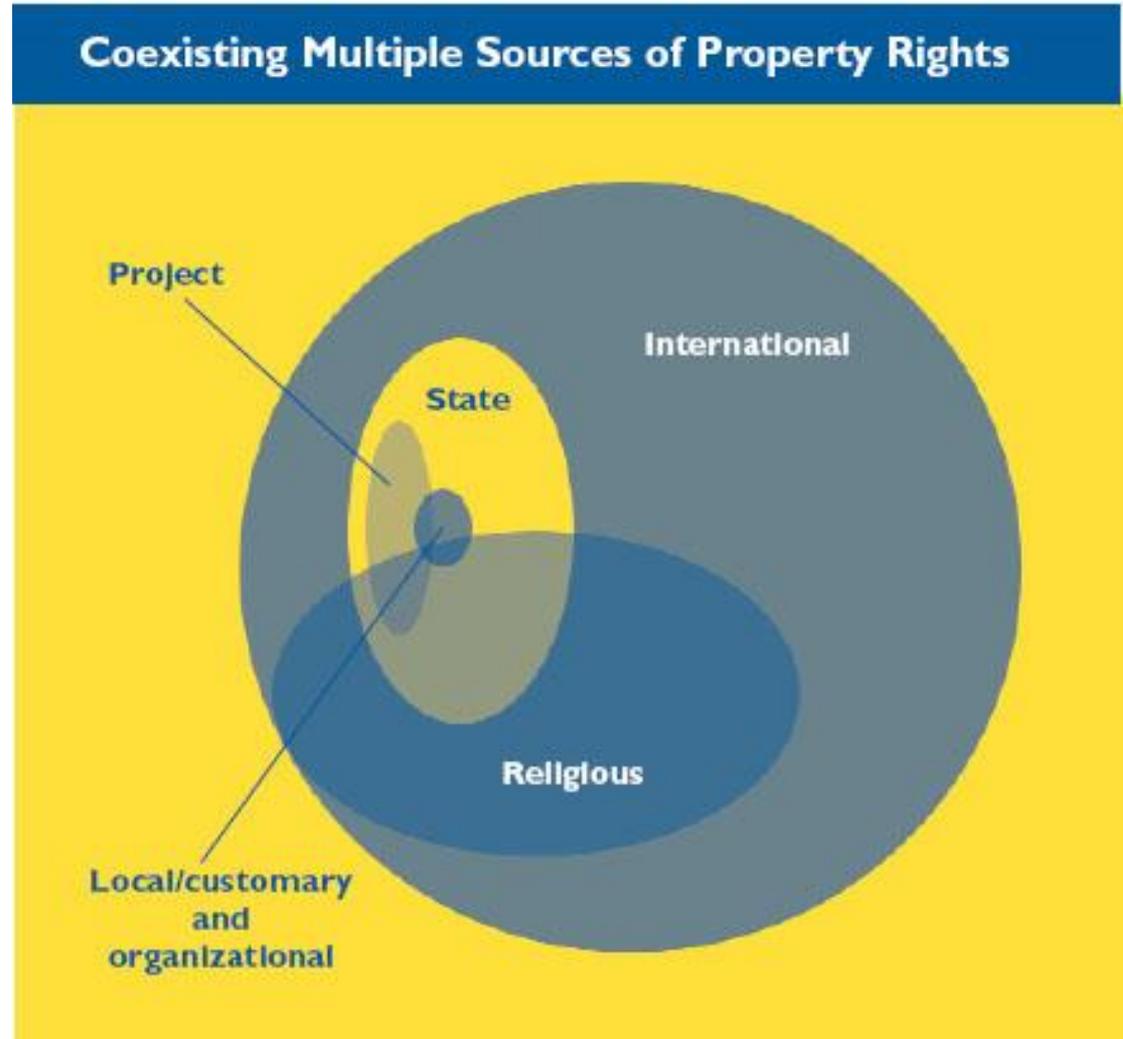




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What is legal pluralism?





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Concerns around legal pluralism

- Multiple land governance systems co-exist
- May be well or poorly coordinated; in the latter case, insecurity and conflict may arise.
- What might this mean if you are a farmer or a slum dweller?
 - You may be perfectly secure if no one is likely to evict you or assign your rights to others OR
 - You may face massive insecurity and cannot protect your claims or your access to land/resources
 - Or you may live with some level of insecurity between these extremes
 - Insecurity decreases incentives for long-term, costly investment



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What makes tenure secure?

- Any tenure right has the potential to be insecure
- Security = an expectation that you can use land/resources for a period of time (it's a subjective perception)
- Free from unreasonable interference from outsiders
- Ability to reap benefits of labor and capital invested, either in use or when leased or rented to another
- **Secure tenure creates positive incentives to:**
 - **Invest**
 - **Conserve**
 - **Protect**
 - **Maintain security (prevent conflict)**



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What factors contribute to tenure insecurity?

- Corruption/poor governance
- Legal Pluralism
- Ambiguous/missing legal/regulatory frameworks
- Lack of information and documentation
- Lack of government capacity to administer land rights/access/manage processes
 - Lack of professional service providers
 - Lack of enforcement capacity
- Rising demand for land (large-scale land acquisitions)



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Best practice: shoot for “secure enough” tenure

- You may be “secure enough” with:
 - Public recognition of customary or indigenous rights
 - Certificates that secure the rights to use or manage resources
 - Community-managed titling process
 - More formal strategies such as land titling or creating public land registries
- Secure enough for what? Reduced conflict, investment, better management
- USAID programming can move people from less secure to secure enough



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Secure land tenure/property rights contribute to development objectives:

- Critical part of an enabling environment AND
- Often necessary, if not sufficient, condition to help achieve development outcomes:
 - Enhance food security
 - Reduce conflict
 - Address global climate change
 - Empower women
 - Improve governance and human rights



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Key questions

- What makes tenure secure?
- What contributes to tenure insecurity?
- What are some examples of overlapping rights, contradictory rules, and competing authorities?
- How do specific events/trends – such as rising demand for land/resources, urbanization, disasters, climate change – highlight or interact with tenure concerns?