This product is part of ARD, Inc.’s international work in land tenure and property rights. It forms part of
a 3-volume set on the subject.

VOLUME 1. LAND TENURE AND PROPERTY RIGHTS FRAMEWORK

VOLUME 2. LAND TENURE AND PROPERTY RIGHTS REGIONAL REPORT

2.1 East and Central Africa
[East Africa: Congo DR, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Somalia, Sudan, Tanzania, and Uganda; Central Africa: Burundi and Rwanda]

2.2 Southern Africa
[Angola, Lesotho, Malawi, Mozambique, Namibia, South Africa, Zambia, and Zimbabwe]

2.3 West Africa
[Benin, Cape Verde, Ghana, Guinea, Liberia, Mali, Nigeria, Senegal, and Sierra Leone]

2.4 East and Southeast Asia
[East Asia: East Timor, Indonesia, Mongolia, and the Philippines; Southeast Asia: Cambodia, Laos, Myanmar, and Vietnam]

2.5 Near East Asia and North Africa
[Near East Asia: Egypt, Iraq, Jordan, Lebanon, West Bank/Gaza, and Yemen; North Africa: Morocco]

2.6 South Asia
[Afghanistan, Bangladesh, India, Nepal, Pakistan, and Sri Lanka]

2.7 The Balkans and the Caucasus
[The Balkans: Albania, Bosnia and Herzegovina, Croatia, Kosovo, Republic of Macedonia, and Serbia and Montenegro; The Caucasus: Armenia, Azerbaijan, and Georgia]

2.8 Central Asia
[Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan, and Uzbekistan]

2.9 Eastern Europe
[Belarus, Bulgaria, Moldova, Romania, and Ukraine]

2.10 The Caribbean, Central America, and North America
[The Caribbean: Dominican Republic, Haiti, and Jamaica; Central America: El Salvador, Guatemala, Honduras, Nicaragua, and Panama; North America: Mexico]

2.11 South America
[Bolivia, Brazil, Colombia, Ecuador, Guyana, Paraguay, and Peru]

VOLUME 3. LAND TENURE AND PROPERTY RIGHTS ASSESSMENT TOOLS


Implemented by:
ARD, Inc.
P.O. Box 1397
Burlington, VT 05402
LAND TENURE AND PROPERTY RIGHTS

VOLUME I: FRAMEWORK

JULY 2007

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.
CONTENTS

ACRONYMS AND ABBREVIATIONS ............................................................................ iii
PREFACE .................................................................................................................... v
1.0 INTRODUCTION ................................................................................................... 1
2.0 A FRAMEWORK FOR LAND TENURE AND PROPERTY RIGHTS ............ 5
3.0 OVERARCHING THEMES FOR LAND TENURE AND PROPERTY RIGHTS .... 7
   3.1 UNDERSTANDING THE EVOLUTION OF LAND TENURE AND PROPERTY RIGHTS ........ 7
   3.2 PROPERTY RIGHTS AND ECONOMIC GROWTH ....................................................... 7
   3.3 PROPERTY RIGHTS AND GOVERNANCE .................................................................. 8
   3.4 PROPERTY RIGHTS, LAND, AND NATURAL RESOURCES MANAGEMENT ..................... 8
   3.4 PROPERTY RIGHTS, EQUITY, AND POVERTY REDUCTION ........................................ 9
   3.5 PROPERTY RIGHTS AND GENDER .......................................................................... 10
   3.6 PROPERTY RIGHTS AND HIV/AIDS ......................................................................... 11
   3.7 PROPERTY RIGHTS, INDIGENOUS PEOPLES, AND MINORITIES ................................. 11
   3.8 PROPERTY RIGHTS AND NATURAL DISASTERS ..................................................... 12
   3.9 URBAN AND PERI-URBAN PROPERTY RIGHTS ......................................................... 12
4.0 VISUALIZING THE UNIVERSE OF LAND TENURE AND PROPERTY RIGHTS ...................................................................................................................... 15
   4.1 CATEGORIES OF LTPR CONSTRAINTS .................................................................... 17
      4.1.1 Violent Conflict/Post-conflict Instability ............................................................... 17
      4.1.2 Unsustainable Natural Resources Management and Biodiversity Loss ............ 17
      4.1.3 Insecure Tenure and Property Rights ................................................................. 18
      4.1.4 Inequitable Access to Land and Natural Resources ........................................... 19
      4.1.5 Poorly Performing Land Markets ...................................................................... 21
      4.1.6 Cross-cutting Themes ...................................................................................... 21
   4.2 LTPR INTERVENTIONS .......................................................................................... 22
5.0 METHODOLOGY FOR ASSESSING LTPR CONSTRAINTS AND INTERVENTIONS ..................................................................................................................... 29
   5.1 LEVEL 1: COUNTRY-SPECIFIC LTPR THEMES AND DONOR INTERVENTIONS REPORT .......................................................... 30

VOLUME I: LAND TENURE AND PROPERTY RIGHTS FRAMEWORK i
# Table of Contents

5.2 LEVEL 2: COUNTRY-specific LTPr RANKINGS AND MAPS .......................................................... 30

5.3 LEVEL 3: LTPr PRE-ASSESSMENT TOOL ................................................................................ 30

5.4 LEVEL 4: LTPr ASSESSMENT TOOL ..................................................................................... 31

6.0 LTPr INTERVENTIONS AND SEQUENCING ........................................................................ 33

6.1 SEQUENCING=CONTENT, SCALE, TIMING, AND ORDERING ........................................ 33

6.2 WHEN TO CONSIDER SEQUENCING .............................................................................. 33

6.3 WELL-FORMED OBJECTIVES WILL DRIVE SEQUENCING ........................................... 33

6.4 SUSTAINING RESULTS AND SEQUENCING OF LTPr INTERVENTIONS ...................... 34

6.5 SEQUENCING TOOLS AND MAXIMS ................................................................................ 35

7.0 LTPr EDUCATION AND TRAINING STRATEGY ................................................................ 37

7.1 LTPr EDUCATION AND TRAINING METHODS ................................................................... 37

7.2 LTPr EDUCATION AND TRAINING MATERIALS ................................................................. 38

7.3 LTPr EDUCATION AND TRAINING AUDIENCES ............................................................... 38

7.4 LTPr REGIONAL CENTERS OF PRACTICE ........................................................................ 38

8.0 LTPr KNOWLEDGE MANAGEMENT .................................................................................... 41

GLOSSARY OF COMMON LAND AND LAND TENURE TERMS ........................................... 43
ACRONYMS AND ABBREVIATIONS

BASIS  Broadening Access and Strengthening Input Systems
CAPRI  System-wise Program on Property Rights and Collective Action
CGIAR  Consultative Group on International Agriculture and Research
DFID   UK Department for International Development
EGAT   Economic Growth, Agriculture, and Trade Bureau
FAO    United Nations Food and Agricultural Organization
IFPRI  International Food Policy Research Institute
KM     Knowledge Management
LRMT   Land Resources Management Team
LTC    University of Wisconsin Land Tenure Center
LTPR   Land Tenure and Property Rights
RDI    Rural Development Institute
USAID  United States Agency for International Development
The demand to address property rights issues is increasing from both United States Agency for International Development (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 resources 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 tenure.

- Secure property rights are a critical component of economic development and social stability. Inappropriate property rights policies and institutional structures that are not synchronized with economic, political, and environmental realities can undermine growth, erode natural resource bases, and catalyze violent conflict. Insecure and non-negotiable property rights are some of the critical factors limiting economic growth and democratic governance throughout the developing world. Conversely, strong property rights systems, which are viewed as legitimate, transparent, and negotiable, can lead to increased investment and productivity, political stability, and better resource management.

- In development programming, property rights are most frequently dealt with in the context of land reforms and land tenure reform. Programming decisions made in a variety of sectors that take land tenure into consideration can have profound impacts on land use and management, agricultural systems, and associated natural resources management.

- Too often, land tenure and property rights reforms are measured in terms of outputs rather than impacts (e.g., measuring the number of land titles which have been issued as opposed to focusing on market performance and investment increases, reduced conflicts, or improved 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.

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 reforms, 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 Community of Practice on Land has been created by USAID in Washington to serve as a hub of information sharing. In addition, the Land Resources Management Team has been formed within the USAID/Economic Growth, Agriculture, and Trade (EGAT) Bureau to coordinate issues of land tenure and property rights programming with other USAID bureaus and operating units.

In October 2004, USAID awarded ARD, Inc., of Burlington, Vermont a two-year task order, Awareness Framework: Property Rights and Natural Resources Management, under the Broadening Access and Strengthening Input Systems (BASIS) indefinite quantity contract. The task was to develop a land tenure and
property rights framework, a common vocabulary, and a set of tools that could be used to help guide USAID through future property rights programming.

ARD formed a virtual team of land tenure and property rights professionals from three organizations: ARD, the Rural Development Institute (RDI), and the University of Wisconsin Land Tenure Center (LTC). Each member brought to the team strong experiences in the major areas of property rights and development programming. The team consisted of Safia Aggarwal (ARD), David Bledsoe (RDI), Jennifer Brown (RDI), Renee Giovarelli (ARD), Peter Hetz (ARD), Kathrine Kelm (ARD), Susana Lastarria-Cornhiel (University of Wisconsin LTC), Mark Marquardt (ARD), Robert Morin (ARD), Ryan Roberge (ARD), and Michael Roth (ARD, formerly of LTC).

This virtual team met regularly over the course of one and half years to develop the Land Tenure and Property Rights Framework and tools:

- **Volume 1: Land Tenure and Property Rights Framework.** A conceptual tool for examining land tenure and property rights categories, constraints and interventions in USAID development programming. This volume includes a glossary of commonly used land tenure and property rights terms.

- **Volume 2: Land Tenure and Property Rights Regional Report.** This report includes the Country-specific Land Tenure and Property Rights Themes and Donor Interventions, and a database on land tenure and property rights for each presence country. The data is drawn from bilateral and multilateral literature sources. Also included in this report are Land Tenure and Property Rights Rankings and Ranking Maps for specific USAID presence countries. Rankings are an expert assessment of major land tenure and property rights issues and constraints in USAID programming countries around the world, and an illustration of those matters within “regional neighborhoods” (USAID programming regions).

Regional reports:

2.1 East and Central Africa

   [East Africa: Congo DR, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Somalia, Sudan, Tanzania, and Uganda; Central Africa: Burundi and Rwanda]

2.2 Southern Africa

   [Angola, Lesotho, Malawi, Mozambique, Namibia, South Africa, Zambia, and Zimbabwe]

2.3 West Africa

   [Benin, Cape Verde, Ghana, Guinea, Liberia, Mali, Nigeria, Senegal, and Sierra Leone]

2.4 East and Southeast Asia

   [East Asia: East Timor, Indonesia, Mongolia, and the Philippines; Southeast Asia: Cambodia, Laos, Myanmar, and Vietnam]

2.5 Near East Asia and North Africa

   [Near East Asia: Egypt, Iraq, Jordan, Lebanon, West Bank/Gaza, and Yemen; North Africa: Morocco]

2.6 South Asia

   [Afghanistan, Bangladesh, India, Nepal, Pakistan, and Sri Lanka]

2.7 The Balkans and the Caucasus

   [The Balkans: Albania, Bosnia and Herzegovina, Croatia, Kosovo, Republic of Macedonia, and Serbia and Montenegro; The Caucasus: Armenia, Azerbaijan, and Georgia]

2.8 Central Asia

   [Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan, and Uzbekistan]
2.9 **Eastern Europe**  
[Belarus, Bulgaria, Moldova, Romania, and Ukraine]

2.10 **The Caribbean, Central America, and North America**  
[The Caribbean: Dominican Republic, Haiti, and Jamaica; Central America: El Salvador, Guatemala, Honduras, Nicaragua, and Panama; North America: Mexico]

2.11 **South America**  
[Bolivia, Brazil, Colombia, Ecuador, Guyana, Paraguay, and Peru]

- **Volume 3: Land Tenure and Property Rights Assessment Tools.** A collection of instruments that can be used by USAID missions to expand upon land tenure and property rights themes in their respective countries and determine how these contribute to or impede development programming. These materials include both an LTPR pre-assessment tool and an LTPR assessment tool. Both of these are aimed to standardize the format and content addressed in USAID property rights assessments and facilitate development of potential programming in this area.

This team was also afforded the opportunity to meet with both USAID’s Community of Practice on Land and the Land Resources Management Team on various occasions. These meetings were used to critique and improve the different editions of the LTPR Framework and associated tools. In addition, various renditions of this framework and tools were used to steer land tenure and property rights assessments in four of USAID programming countries—Ethiopia, Kosovo, Angola, and Kyrgyzstan.

The task order was managed and supervised by Dr. Gregory Myers. For more information or technical assistance, please contract Dr. Gregory Myers, Senior Land Tenure and Property Rights Specialist EGAT/Natural Resources Management/Land Resources Management Team, USAID. Within ARD contact Peter E. Hetz, phetz@ardinc.com or Michael Roth, mroth@ardinc.com, Senior Associates for Land, Environment, and Natural Resources.
1.0 INTRODUCTION

Land is arguably one of the most important assets for people throughout the world. This is particularly true for the rural and urban poor, where land may form the most significant part of their asset base. Land is also the foundation for a wide range of cultural and social identities: it is a cornerstone of economic activity and regularly serves as the basis for institutional development; it is the underpinning for markets (credit, real estate, labor, rental contracts, and agriculture production); and it is almost impossible to divorce from natural resources management.

**Land tenure** is the institutional (political, economic, social, and legal) structure that determines how individuals and groups secure access to land and all resources contained on it. For our purposes, *land* is used here to include most fixed natural resources associated with land (trees, minerals, pasture, and water), in essence, land resources. The basic rules of land tenure define how property rights (of use, control, and transfer) are to be allocated within societies. Land tenure relationships are often defined through statutory or customary law. They may be well defined in these systems or they may be ambiguous and open to misinterpretation and exploitation. Land (and natural resources) tenure is central to sustainable natural resources management. Land tenure may also have both spatial and temporal dimensions and can be differentially impacted by gender, ethnicity, class, and political affiliation.

**Property rights** refer to a bundle of rights on the use, control, and transfer of assets, including land. When we speak about property rights in the context of land, we are largely referring to property rights associated with the “immoveable” property on land. Property rights are social conventions that reflect agreement among people about how these assets are held, used, and exchanged. This includes the right to occupy, enjoy and use; to restrict others from entry/use; to dispose, buy, or inherit; to develop or improve; to cultivate; to sublet; to realize financial benefits; and to access services in association with land. Property rights can also include ideas and designs (copyrights, patents, and intellectual materials) as well as rights over “moveable property,” for example, cars, cows, mobile homes, and wildlife. Property rights are the broader foundation for economic growth.

The terms land tenure and property rights will be used to refer to the rights that individuals, communities, families, firms, and other corporate or community structures hold in land, water, forestry, wildlife and, in some cases, mineral resources. Property rights and tenure arrangements may range from private (or semi-private) to leasehold, community, group, shareholder, or other types of corporate rights. Property rights systems include mechanisms to resolve disputes, defend rights, and administer or manage land resources.

Whether legally defined by a statutory structure or conferred by customary practice, *land and natural resource tenure* is the relationship of people and groups with respect to land and related natural resources. **Tenure institutions** define how property rights to land and natural resources are allocated, used, and managed within society. **Tenure systems** define who can hold and use resources, for what length of time, and under what conditions.

**Security of tenure** is the perception by people that rights to land will be recognized by others and protected in the event of specific challenges. Providing security of tenure and property rights have become major tools in the arena of economic growth, social development, poverty alleviation, and natural resources management. Security of tenure can be provided from a variety of sources: it may stem from community and the special groups that form within it (water users, pasture management, and farmer groups); or it can stem from special resource user groups (special districts organized around key assets), or from government and legal institutions within government. Authoritarian regimes can be perceived as sources of security in the absence of
democratic state authority during conflict and post-conflict situations. Therefore, we should not think of tenure as strictly formal or informal, but acknowledge it as a broader range of systems.

Tenure security has become an essential part of a large programmatic push aimed at investment in land, agricultural production, sustainable natural resources management, and moving toward market economies. Increasingly, efforts are focused on trying to multiply the effects of secure tenure and property rights from multiple sources. For several decades, efforts to provide secure tenure and property rights have specifically focused on land law, land titling and registration, land administration, and the redistribution or restitution of land. More recently, these interventions have examined ways to multiply the sources of secure land tenure and property rights to result in both economic growth and sustainable natural resources management.

Land policy is the tool employed by governments and supported by donors to outline a set of goals, and measures aimed at meeting objectives related to land tenure, land use, land management, property rights, and land administration structures. Land policy has very clear and direct links to agricultural policy and production and to natural resources policy and sustainable natural resources management. There are many international examples of situations where poorly-executed land policy has led to natural resources degradation. More recently, development practitioners and conservationists have begun to examine the combined impacts of land, agriculture, and natural resource management policy (forests, water, minerals, pasture, etc.) on biodiversity conservation (especially outside of protected areas) and in buffer zones and conservation landscapes or large ecosystems.

Different land tenure systems have their advantages and disadvantages.

- **Customary systems** facilitate social cohesion, but they may not be able to withstand increasing pressure on land and resources both from within the community and from the outside.

- **Private land ownership** may put land to the most economically efficient use, but it often excludes the poor and limits state land management options.

- **Public land ownership** may withhold land for conservation purposes or land management and facilitate equal access to prime locations, but it may lead to bureaucratic inactivity and corruption.

More recently, efforts to manage and mitigate conflict are pushing land tenure and property rights security to the fore.

A number of donors have engaged in reviews of experience and comparative analyses of land tenure policy in order to understand lessons learned. These lessons are helping to shape a new land policy consensus that rests on five principles.

1. Secure land tenure can improve the welfare of the poor.

2. The exchange and redistribution of land is central to aiding land access by productive but land-poor producers, as well as the eventual development of financial markets that rely on the use of land as collateral.

3. Governments have a **major** role to play in promoting and contributing to the clarification and enforcement of land tenure and property rights.

4. There are links between population growth, environmental stress, ethnic clashes, violent conflict, and the use/abuse of natural resources that have their origins in insecure land tenure and property rights.

5. The recognition of customary rights to land resources and the devolution of management authority to local levels is crucial to sustainable natural resources management.

For obvious reasons, USAID recognizes the ongoing need to understand 1) how land tenure shifts as societies move through various stages of democratization and economic growth, and, in some cases, from
war to peace; and 2) how these shifts require different land tenure and property rights regimes that will lead to further economic growth, sustainable natural resource management, good governance, and political stability.

To provide security, land tenure and property rights must:

- Be of sufficient number and duration to provide incentives for investment/inputs;
- Have some way of assuring the holder that rights will be recognized and enforced at low costs; and
- Be accompanied by mechanisms that allow for adjustment/variation in a changing environment.

There is a growing body of evidence in countries where USAID and others have provided support to strengthened property rights that demonstrates a relationship between measurable successes in economic investment and growth, transition to democratic government, and improved use of natural resources. Lessons that are emerging from USAID investments include:

- Property rights and institutions that are inconsistent with economic, political, and environmental realities can undermine growth, erode sustainable resource management, and promote violent conflict. Conversely, property rights systems that are viewed as legitimate, transparent, and negotiable lead to increased investment, political stability, and sustainable resource use.

- There is a sequence of land tenure interventions that will lead to stronger and more efficient property rights systems. Policy and program interventions that are introduced out of sequence can lead to under-investment and resource degradation, or worse, violent conflict among property owners or users.

The growing awareness of the importance of tenure and property rights in economic and social development is creating the need for analytical tools that enable USAID to identify, evaluate, and monitor the issues, and accordingly design appropriate interventions. Unfortunately, past land tenure and property rights (LTPR) assessments tended to be narrowly focused and often determined by the specialized and specific skill sets of individuals recruited to conduct them. As a result, content varied widely from assessment to assessment. Without standard templates, methodologies, and tools to guide pre-design or post-implementation activities, assessment and evaluation products varied widely in consistency and depth. They seldom connected LTPR issues and constraints adequately with existing programs, nor did they provide clear recommendations. Often, the work did not, or could not, prioritize interventions.

This effort provides USAID with a conceptual framework and the tools to strengthen the understanding of LTPR themes within agency programming. Its goal is to increase the effectiveness of tenure and property rights in land and related policy and program interventions. The concepts, tools, and methodologies mentioned here are not static. As the LTPR Framework and associated tools are works in progress, they will require frequent use, redevelopment, and modification in the face of national experience and global land tenure change.
2.0 A FRAMEWORK FOR LAND TENURE AND PROPERTY RIGHTS

The LTPR Framework addressed here focuses primarily on land and the impacts that land tenure reforms and land policy have on property rights and natural resources management.

The LTPR Framework has the following components:

1. LTPR Framework: This framework is a conceptual tool that connects categories of key land and natural resource tenure and property rights with a set of LTPR policy and program interventions. It is designed to provide a structure for the finite universe of LTPR programming concerns, subsequent constraints, and interventions needed in a given country and context.

2. LTPR Glossary: The LTPR Framework includes a glossary of land tenure and property rights terminology. Since terminology is often confused when exchanging ideas about land policy and tenure interventions, the glossary is aimed at providing a common vocabulary. The glossary is a compilation of terms gathered from eight different sources of frequently cited international references.

3. Country-Specific LTPR Themes and Donor Interventions Report: This report contains a snapshot of contemporary LTPR themes in each USAID presence country, gathered from the literature and, in some cases, augmented by expert opinion. This is a general overview of the prevailing state of play regarding LTPR and donor efforts in more than 80 countries.

4. Country-Specific LTPR Rankings and Maps: The LTPR Framework includes a ranking tool of land tenure and property rights themes and sub-themes that can be used by USAID to examine the literature, experiences, trends, and lessons learned in LTPR reform internationally. The ranking tool is applied by experts to rank the severity of land tenure and property rights in USAID presence countries. The results of this ranking exercise are used to illustrate regional and international LTPR maps using the results of the ranking tool. (Volume 2)

5. LTPR Assessment Tools: These tools guide USAID mission efforts to review and/or analyze land tenure and property rights themes and constraints in their respective countries. These include guidelines and methodologies for two assessment exercises: (1) a relatively short exercise that can be used by missions to pre-assess LTPR themes and prepare for a more intensive assessment exercise; and (2) a full LTPR assessment tool that provides the means to assesses LTPR themes in a country thoroughly, with the results aimed at either design or analysis of interventions associated with USAID programming efforts.

6. LTPR Sequencing Strategy: The sequencing strategy connects the assessment of LTPR themes and interventions to questions of appropriate timing and phasing of tenure reform support. These have particular relevance in the context of severe political and economic shocks (including conflict
and natural disasters) and where the timing of specific LTPR interventions are influenced by the broader geo-political, economic, and natural environment.

7. **LTPR Education and Training:** the development of a LTPR education and training strategy is imperative to USAID efforts aimed at strengthening the knowledge, capacity, and understanding of USAID programmers and their implementing partners in all aspects of LTPR. This strategy must both look within and outside of USAID to determine how and where resources can best be channeled to create and augment a cadre of LTPR development practitioners to support our understanding of the role that LTPR plays in development programming goals and objectives.

8. **LTPR Knowledge Management Strategy:** at the heart of LTPR programming within USAID is a set of information that consists of assessment results, LTPR country profiles and ranking of issues, research, policy studies, and lessons learned to serve as the foundation for LTPR development within the Agency. This information must be managed and systematically augmented, rendered easily accessible, and regularly reviewed to support the growth of best practices within the US Government’s development portfolio. A knowledge management strategy is essential to maintaining the efficacy of the LTPR tools that support USAID development planning.
3.0 OVERARCHING THEMES FOR LAND TENURE AND PROPERTY RIGHTS

3.1 UNDERSTANDING THE EVOLUTION OF LAND TENURE AND PROPERTY RIGHTS

Land tenure and property rights exist in a historical and development continuum; they most often build on customary rights and evolve into systems when applied within the context of a nation state. If development programming is to address LTPR issues, problems, and constraints effectively, then, at the most fundamental level, we need to understand the origins and evolution of property rights.

Many of today’s LTPR assessments focus imperfectly on the economic and/or environmental impacts of land tenure reforms and/or changes to property rights systems. Any singular emphasis belies the political, social, and cultural origins of property rights and the importance of these rights to cultural and social identities. In addition, much of the emphasis has ignored the role that occupying powers have played in the introduction and establishment of property rights. Often these systems were perversely constructed, being highly discriminatory in favor of the controlling power and a few elite. The systems they introduced were maintained by force, and they reduced efficiency and undermined equity.

All rights, including rights to property, are defined by legal provisions or by rules under customary or religious law. These rule systems sometimes work in parallel, and sometimes they work in contradiction. Because societies have different attitudes and beliefs over the ownership and management of property, land and natural resources, property rights systems vary.

Problems related to conflict over land and resources use, natural resource degradation, insecure livelihoods, and poverty are all the result of weak property rights institutions and/or the unequal distribution of property rights within society. Past failures to develop and acknowledge land and natural resources property rights have resulted in conflict and inequity in land and natural resource access, use, and security of tenure.

3.2 PROPERTY RIGHTS AND ECONOMIC GROWTH

A cornerstone of economic development that has emerged in particular over the last thirty years, is the role that secure property rights plays in economic growth. Societies adopt property rights when growing population densities increase the demand for land, leading to rising land values. This transition can also be stirred by the adoption of modern technology and growth spurred by trade.

Secure property rights have a direct correlation with increased incentives for individuals and households to invest labor and other resources in land. On the one hand, if property rights are insecure (that is, not well defined or easily enforced), individuals and families will be obliged to spend time and resources defending their land. They will be reluctant to invest too much time, money, or materials into something over which
they have no security. On the other hand, if people perceive their property rights to be secure, they will use land and real estate to enter formal markets. Without secure land tenure, the growth of the financial sector remains constrained because land transactions do not happen easily and the costs are higher.

Ineffective land market development and high transaction costs can also impede access to land by many, most particularly the poor. And while the poor without land often have access to micro-credit, the absence of a land market deters small and medium enterprise development. These issues regularly frustrate the formation and growth of the private sector.

3.3 PROPERTY RIGHTS AND GOVERNANCE

The control of land resources has been a traditional source of political and economic power. The more tightly land is controlled by the government or elites, the less people are empowered to invest and make decisions. There is a natural correlation between the ability of individuals and/or groups to hold land and feel secure in their property rights and feel empowered to be a steward of these resources. In many instances, an individual’s sense of identity is inextricably linked to the rights held through the historical occupation, stewardship, and/or ownership of land.

Local governance models, efforts to decentralize government, and local development activities are predicated on the sense of empowerment that is derived from and fortified by democratic reform, participation, and greater local accountability. In most instances, secure land tenure and property rights can be said to contribute to better local government formation and local revenue generation from taxation, and is, therefore, linked to fiscal decentralization. In land-based economies, a stake in land leads to a stake in governance. At the same time, taxation on land resource use and ownership is dependent upon an accurate record of ownership and a land/resource valuation/assessment system.

Throughout history, almost all governments have possessed the authority to supersede private and customary rights through expropriation. Governance systems can be challenged (sometimes violently) when the acquisition of land and land resources is not for the public benefit, is unclear, or is unregulated. The absence of a procedure, the abuse of due process, or the failure to provide fair compensation can seriously undermine the security of individual property rights. Perhaps this is nowhere more evident than in evolving urban and peri-urban areas, particularly in those areas inhabited by the poor.

3.4 PROPERTY RIGHTS, LAND, AND NATURAL RESOURCES MANAGEMENT

Natural resources management programming around the world has increasingly demonstrated that sustainable natural resources management is best achieved when land and natural resource tenure and property rights are recognized and easily enforced. For sustainable natural resources management to succeed, the property rights associated with these resources must be recognized within the cultural, social, and ecological context and negotiated and incorporated within the law.

Property rights over land and associated natural resources prove successful when enforcement of the rights is cost-effective and perceived to be in the best interest of the individual and the community. Sustainable forest management, water conservation and management, wild fish stock management, watershed management, wildlife management, and biodiversity conservation are all predicated on the same principle—by ensuring security of tenure and property rights, people are more liable to embrace and invest in activities that benefit them (and, by association, the ecosystem and society) over the long-term. Natural resources property rights include: those who have access to them; the extent to which management of them can be practiced; and those who are excluded or alienated from them. Many of these rights are affected by land tenure, and, subsequently, security of tenure should lead to sustainable natural resources management. Sustainable management of land...
and natural resources is associated with longer investment horizons, best prompted through security of tenure.

Present day experience with property rights and natural resources management however is characterized by four major components:

1. **The recognition of indigenous and other community-based rights.** This is, in essence, the acknowledgement and adoption of common property rights (not individual property rights) within land and natural resources administration and statutory law.

2. **Devolution of authority and management control over land resources to communities.** These shifts in authority and institutions are embracing combinations of private property, private ownership, and private management along with community management of land and common pool resources (pasture, forests, wild fisheries, wildlife, and conservation areas). These systems of management are typically first based on customary law, then based on the recognition of local governance structures, and finally realized in contemporary policy and legislation.

3. **The biology/ecology of the resource itself and the level at which it has to be or can be managed.** Resource use limits have traditionally been set after years of generally sustainable human resource exploitation and evolution. More frequently, in the face of human population growth, destroyed traditions, and increasing demand on finite resources, disappearing traditional natural resources management techniques must be combined with resource modeling and carrying capacity to determine how property rights can best serve resource management objectives.

4. **The role of market forces in the economic benefits that can be derived from sustainable management of these resources.** There is a growing body of evidence to suggest that community-managed land resources can enhance the economic flow to communities as well as to the state—in revenue, taxes, and jobs. This trend is juxtaposed with the older practice of licensing resource rights to an elite few with destructive and short-term investment approaches. (Interestingly, investments in land and sustainable natural resources management on the part of communities tend to be higher than their government counterparts.)

Each one of these components has a corresponding set of contemporary challenges, making it consistently hard to predict the environmental outcomes of changing LTPR regimes on sustainable natural resources management. But the general trend in sustainable natural resources management programming, in regard to these four components, originates with the development of property rights (traditional or modern) that are secured through modern law and decentralized, supportive natural resources management institutions.

One of the more complex examples of property rights is when a natural resource moves. Wildlife (mammal, avian, and fish) is an example of a resource over which land (and water) rights holders can have no rights, temporary/seasonal rights, or full rights, under customary law. Seldom are these rights acknowledged under any statutory law. The international experience has been that either the state owns them, ostensibly for the public good or that no one owns them. There is an increasingly strong call for these property rights to be devolved to communities and local authorities, under statutory law, and managed through “user groups” operating as associations and coordinated through national bodies, as needed.

### 3.4 PROPERTY RIGHTS, EQUITY, AND POVERTY REDUCTION

The poorest of the poor are frequently those that lack access to land tenure and property rights. Putting land in the hand of the poor is a way to move them out of poverty. Equitable distribution of land can generally also spur economic development. Our understanding of the history of property rights suggests that countries with more egalitarian distribution of land have historically tended to achieve higher levels of economic growth.
There have been massive land reform and land redistribution programs throughout the world, as governments attempt to realize the benefits associated with the provision of secure access to land and natural resources to the poor. Other approaches to this problem rely upon markets to move assets to the poor; however, market-led efforts vary in their success. Some of these reforms end up benefiting a narrow elite, and, thus, deepen pre-existing inequalities.

Development practitioners also recognize that providing people with access to land is not sufficient; they need assistance to make effective use of the land. For many of the world’s poor, land is a key element of household wealth and the primary means for generating livelihood. Because land makes up a relatively large share of many peoples’ household assets, giving secure property rights to land and natural resources that they already possess should help to increase their potential wealth and status. And as noted earlier, with greater security of tenure, people tend to make more productive use of their land and labor. People have an incentive to invest in and use land and natural resources in a sustainable manner. Greater tenure security can make rural citizens, in particular, less reliant on wage labor and less susceptible to economic, political, and natural “shocks.”

Land can also provide access to economic opportunity. With clear and enforceable land rights, opportunities to possess and inherit land, and confidence in conflict resolution mechanisms, secure property rights can have extensive social and economic effects on the poor. Security of tenure has been linked with investments in land, land transactions, and, in some cases, the production of marketable surplus. It has been shown to improve the social and economic status of citizens and contribute to a collective identity. Secure tenure is increasingly seen as a tool for the creation of land markets and, along with micro-finance schemes, assistance to the poor to gain access to capital and credit.

Secure land and property rights can also lead to poverty prevention. Specifically, if land and property rights are insecure, they may not be recognized by the state during government schemes of resettlement, creation of protected areas, development of dams, or concessions to extractive industry. In such cases, communities or individuals lacking secure land and property rights may not be adequately compensated when dispossessed of their rights. Displaced individuals and communities that are unable to defend their rights may fall into new situations of poverty, when they may have been able to cope in the past.

3.5 PROPERTY RIGHTS AND GENDER

When land resources tenure and property rights are addressed, they are often approached in terms of household, not individual, rights to land. For many years, the assumption was that if a household had rights to land, then all members of that household have benefited equally. In fact, women often have fewer rights to land than men within a household, and their limited rights are regularly subordinate to those of men. Depending on the norms governing household decision-making, women may not fully participate in the economic and social benefits of household landownership if they do not share formal property rights over the land and natural resources. Only legally and socially recognized property rights (including ownership) can assure women access to control over land-based earnings.

Women with strong property rights are less likely to become economically vulnerable in their old age or in the event of the loss of or divorce from a spouse. For widows, landownership may be one of the few vehicles through which women can elicit economic support from their children in the form of labor contributions to agricultural production, cash, or in-kind transfers. Land is a particularly critical resource for a woman in the event that she becomes a de facto household head as a result of male migration, abandonment, divorce, or death. Independent property rights under these circumstances can mean the difference between dependence on natal family support and the ability to form a viable, self-reliant, female-headed household. This is a particularly critical issue where human immunodeficiency virus/acquired immune deficiency syndrome is prevalent. Indeed, women’s property rights (particularly over land) within marriage may afford them greater claims on the disposition of assets upon divorce or death of their husband.
In addition to the direct economic benefits of landownership, property rights may serve to empower women with the community and society at large. There is a positive relationship between the amount of assets (including land) that a woman possesses at the time of marriage and the shares of household expenditures devoted to food, education, health care, and children’s clothing. Greater household equity and strong property rights are reflected in more positive household investments.

Often there are many barriers to prevent women from translating formal land rights into economic benefits. There are gender-specific social norms that restrict women’s economic activities and decision-making roles. They regularly face discrimination in the markets for land, labor, and capital. Any LTPR intervention must go beyond household-level rights to individual rights and the impact gender has on those LTPR rights (and vice versa). Understanding the relative position of women and men in a society, however, the issues of wealth distribution within the family, and norms related to ownership of land and property cross-cuts all LTPR assessments.

### 3.6 PROPERTY RIGHTS AND HIV/AIDS

The effects of HIV/AIDS on the livelihoods of rural households are widely documented, most particularly in African countries. Most available documentation suggests that HIV/AIDS is increasing the extent of land dispossession, jeopardizing property rights, and negatively impacting the livelihoods, in particular, those of rural families. The fact remains, however, that very little work has been done on the effects of the pandemic on land tenure and property rights. A 2003 think tank, convened in Pretoria, South Africa, offered the following: “What we do know is that the effects of HIV/AIDS are unevenly distributed and fall most severely on the poorest and most marginal members of society who are most vulnerable to losing, forfeiting, or alienating their land rights as a result of sickness or death within their families and households…At the same time, the pandemic may encourage shifts to new forms of tenure, e.g., rental or increased land sales, as well as new patterns of cropping and land use. The pandemic is bringing the negative impacts of aspects of customary law on the livelihoods of women and children into sharp focus. Across the region, the land rights of women and children are becoming ever more vulnerable to dispossession by patrilineal kin on the death of male household heads.”

### 3.7 PROPERTY RIGHTS, INDIGENOUS PEOPLES, AND MINORITIES

Indigenous peoples are gaining attention in development programming and, more particularly, in law. This is in part because their cultures are fast disappearing, in part because conflicts over land resources characterize the relation of indigenous groups to outsiders, in part because they are “custodians” with loosely understood property rights over some of the world’s largest and richest biochemical reserves, and in part because they are often the relatively benign inhabitants of some of the world’s most spectacular, remnant ecosystems.

Under any one of these circumstances, property rights are central to the plight of the indigenous communities that are considered minorities within a country, and that are being assimilated into the dominant culture. Indigenous rights to land resources, understood as property rights to collective or communal ownership, are embedded in the rights of indigenous peoples to self-determination. Donor policies call for actions to examine indigenous and minority property rights as part of development programming, particularly over land. Many of these policies have been constructed in the face of competing pressures on indigenous land resources from government and private development interests.

National economic growth and development efforts often ignore indigenous visions of land and development in favor of short-term economic goals that usually involve intensive resource extraction. Indigenous peoples commonly prioritize self-sufficiency and food security over production for the market, and they are guided by the social values of stewardship, equity, and reciprocity. Ironically, there are considerable examples of donors, supporting small-scale projects that promote indigenous peoples’ rights on the one hand, while supporting broad national land reforms that result in the dispossession of indigenous peoples on the other.
In the face of the displacement and the lack of recognition of customary land and property rights of these groups, one of the most significant advances of recent years has been the use of new geomatic technologies to map indigenous land use systems and land claims. There has been general acceptance that participatory mapping is a powerful tool that can assist indigenous communities to secure land rights, develop communal management systems embedded in customary law and traditional ecological knowledge, and deal with government, planners, and investors on a more equal basis. In addition, communal land tenure systems are gaining favor as a means to secure environmental services and values. While communal land tenure has historically been seen as an obstacle to development, new experiences challenge these conclusions. A number of international donor agencies have adopted programs to promote indigenous land rights, turning the communal land tenure and indigenous land rights into a contemporary issue. These programs focus on the legalization of customary property rights to land resources and the decentralization of authority, management and government services.

Indigenous people and minorities, however, are not the same. There is sufficient recent evidence from all regions of the globe that nation states have always struggled with issues of property rights and minorities. In fact, most conflicts that arise over land and property rights can be directly attributed to the struggles inherent in dominant minority or majority populations over less dominant populations. These struggles are often historical and complex, but they inevitably revolve around property rights defining resource access and use. Long-standing conflicts involving minorities can only have their resolution when property rights are secured equally within the law, and enforced equally by government authorities without discrimination.

### 3.8 Property Rights and Natural Disasters

One of the more dramatic and powerful natural disasters in history, the 2004 tsunami, has recently brought issues of property rights and land to the fore. How do hundreds of thousands of survivors of a natural disaster reestablish rights to land and property in the absence of any formal system? In the face of huge needs in a post-disaster response, proving ownership, determining individual vs. household land rights, access to land, land distribution, and redistribution become major issues.

The majority of the world’s poor live in areas that are the most susceptible to disasters. These same people are also often resident in areas with no formal land tenure, registration, or cadastre. Governments are faced with the challenge of developing and enforcing property rights when the costs of establishment and enforcement far outweigh the immediate advantages. Too often poor areas do not form part of a state land titling and registration system. Decisions that are taken during post-disaster response either can set the tempo for secure land tenure and associated property rights and investment, or they can sow the seeds of conflict and insecurity and deter investment, thus, perpetuating cycles of poverty in disaster-prone areas. Yet, these same disasters that wipe out huge areas can also open the door for mapping and land use planning that would not otherwise be cost effective and feasible.

### 3.9 Urban and Peri-Urban Property Rights

Urban land tenure and property rights remain a key issue internationally. Millions of urban dwellers in developing countries live without adequate security of tenure or property rights. Reports from the United Nations expect this group to reach 1.5 billion by 2020. In urban and peri-urban areas, the costs of access to legal land and housing are high and are rising faster than incomes. In some cases, informal settlements outnumber legally-planned developments and are increasing more rapidly. Governments are finding themselves in danger of losing control over urban development.

The complexities of LTPR systems, especially within urban and peri-urban settings are overwhelming. In an effort to address land and property rights security, many governments and international funding agencies have taken the route of providing individual land titles, either within informal settlements or in locations to which settlers are relocated. The intent is to provide high levels of security and property rights in a form that
will enable poor households to obtain access to services and to lift themselves out of poverty. The evidence that this is an effective approach is inconclusive. While many households may want to obtain titles, they are not able to afford them or those that seek title are subject to rent seeking. Others are reluctant to use their title deeds as collateral for commercial loans, anxious that they may lose their land if they forfeit on a bank loan.

There are also significant drawbacks to titling programs which have not been adequately advertised and supported. Some of these drawbacks include huge profits to owners who sell their plots as soon as informal tenure is granted. Titling can also result in the eviction of tenants or the imposition of higher rents. Other downsides include the expansion or new development of unauthorized settlements by groups hoping formal titles will also be awarded to new areas. This can place a burden on land registries and result in a distortion of property prices caused by the purchasing of newly formalized settlements by opportunists speculating in land markets. In all instances, the poor are the losers.

In other cases, some governments have used titling programs as an excuse to evict informal settlers from prime inner-city sites and grant them titles on plots outside the city, far from sources of livelihoods and services. It is also expensive for governments to grant titles to settlers on private land, where market values may approach affluent country levels.

The primary objective of peri-urban and urban tenure policy should be to insure all households against forced eviction. This need not involve public sector agencies losing long-term control or private landowners losing their land. Poor people need to be embraced by a property rights system that gives them due notice and reasonable options for alternative accommodation. These options must help improve access to livelihoods, services, and credit, usually in that order.

Much of the more recent work on these issues suggests a phased approach to LTPR in urban/peri-urban situations, with efforts focused on stop-gap and medium-term measures. One size does not fit all. Urban and peri-urban LTPR must help to:

- Provide basic short-term security of tenure for all households in slums and unauthorized settlements;
- Survey all extra-legal settlements, identifying those subject to environmental hazards (for example, floods or landslides);
- Identify areas required for strategic public purposes;
- Offer residents in these areas the option to relocate to sites close to existing livelihood opportunities and services;
- Designate non-legal settlements as entitled to medium-term forms of tenure, with increased rights but not necessarily full titles; and
- Encourage governments to support the establishment and expansion of community-based or commercial financial institutions that are willing to offer loans without requiring land as collateral.
4.0 VISUALIZING THE UNIVERSE OF LAND TENURE AND PROPERTY RIGHTS

Land tenure and property rights are concerned with the big questions of access to land and natural resources, the distribution of those rights within society, the security of tenure held by various individuals and groups over these resources, and the sustainability of their use. The LTPR Constraint Analysis and Intervention Matrix, presented in Figure 4.1, is an illustration of the various themes and constraints associated with land tenure and property rights intersected by a set of possible land tenure and property rights interventions.

As land is a main factor for economic production in most countries where USAID operates, it will be the main focus of this matrix. The term land tenure is considered to be a subset of the broader topic related to property rights. For the most part, land tenure will refer to the ways in which individuals or groups acquire access to land, the rights they hold, and the ways they defend those rights. Property rights to natural resources are an important component of land tenure, as most decisions made over land have a direct and often immediate impact on natural resources management and property rights. Biodiversity is impacted because the global diversity of plant and animals is affected, in part, by decisions and actions taken about land.

The LTPR “Matrix” is an illustration of a fairly complex but finite set of land tenure and property rights themes, constraints and interventions. It is designed to capture the universe of these issues. It is not meant to be read sequentially from left to right, nor from top to bottom. It is meant to provide a menu of constraints and interventions that need to be considered within the realm of land tenure and property rights programming. The LTPR Matrix and the set of tools that accompany the LTPR Framework are designed to improve understanding of LTPR through a rigorous set of analyses and assessments that lead to design, intervention, and impact.
FIGURE 4.1: LTPR Constraint Analysis and Interventions “Matrix”

<table>
<thead>
<tr>
<th>LTPR CONSTRAINTS</th>
<th>Violent Conflict/Post-conflict Instability</th>
<th>Unsustainable Natural Resources Management/Biodiversity Loss</th>
<th>Insecure Tenure and Property Rights</th>
<th>Inequitable Access to Land and Natural Resources</th>
<th>Poor Land Market Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Key Institutional Arrangements</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conflict or Dispute Resolution</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legal and Regulatory Framework</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Redistribution</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Land Administration</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Land Use Management and Conservation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The matrix is comprised of five categories of land tenure and property rights themes and potential constraints: 1) violent conflict and post-conflict instability; 2) unsustainable natural resources management and biodiversity loss; 3) insecure tenure and property rights; 4) inequitable access to land and natural resources; and 5) poorly performing land markets.

The **LTPR Matrix** also illustrates six categories of policy and program interventions: 1) key institutional arrangements; 2) conflict or dispute resolution; 3) legal and regulatory framework; 4) redistribution of land or natural resources within society; 5) land administration and the specific mechanisms and agencies used to implement land policy; and 6) enabling and strengthening sustainable land use management and conservation.

Individual cells of the table represent critical intersections between constraints and interventions. Yet neither the x or y axis suggests sequence, nor are column themes or rows of interventions to be interpreted in a linear manner. Both categories, while depicted as distinct, are, in practice, interconnected, and both can be selected and addressed from this broad array.

Under each heading of the LTPR categories are cells that include historical, cultural, political, economic, and social nuance. This nuance provides depth and complexity to these categories. For example, “Violent Conflict/Post-conflict Instability” in itself is generic, but when the focus is a constraint dealing with displaced persons or the restoration of rule of law in a conflict or post-conflict situation, this category takes on practical dimensions for LTPR policy and program development.
Each LTPR intervention represented by horizontal rows in Figure 4.1 is cross-cutting and has general relevance across all five LTPR vertical categories. However, the types of tools that can be employed within each intersection will often be specific. Some interventions bear repetition as a response to multiple LTPR themes and constraints. For example, with respect to “Key Institutional Arrangements,” restoration of rule of law is a necessary precondition to resolving problems of conflict and political instability. Without some demonstrable commitment to the establishment of rule of law, LTPR reforms will find no traction. Conversely, working at the level of a given LTPR programming constraint, e.g., “Insecure Land and Property Rights,” all six intervention categories offer a set of interventions that can be employed, depending on a specific thematic constraints analysis.

4.1 CATEGORIES OF LTPR CONSTRAINTS

LTPR constraints in developing or transitional countries usually fall within one or more of the following five categories of the matrix.

4.1.1 Violent Conflict/Post-conflict Instability

This category includes political instability and lack of governance in conflict situations, post-conflict situations, and situations where conflicts arise between social and ethnic groups over land and resources. Violent conflict, in this category, is defined as conflict over access and use of land and natural resources that results in death. It may be large-scale, catastrophic, and far-reaching, as witnessed by the genocide of Rwanda and eastern Democratic Republic of the Congo, or insidious, as seen globally in the numerous small-scale but persistent deaths resulting from clan and ethnic squabbles over land, land boundaries, and land access. In all conflict or post-conflict situations, tenure and property rights are dominated by demands for security, peace, and protection. At a national scale, these issues evolve into public demands for reestablishment of rule of law and the commitment to reform. In essence, these are pre-conditions for moving forward with the creation and enforcement of a broader legal and regulatory framework that will positively impact land tenure and property rights and set the stage for transformational development. At a local scale, matters associated with rule of law are more narrowly interpreted to focus on reestablishment of land rights, adjudication of those rights, adoption of conflict resolution systems, and restoration of security.

LTPR concerns also arise because conflict situations often involve considerable population movement, such as refugees entering neighboring countries and internally displaced persons needing to settle on land is already occupied. Post-conflict concerns often involve the return of refugees and internally displaced persons, reintegration of soldiers into society, resettlement, open land access resulting from de-mining, and the participant reconciliation. Returnees will want to reclaim land and property or be provided with compensation or alternative assets. Land tenure and property rights are so significant to the causes of conflict and so critical to post-conflict mediation that USAID’s Office of Conflict Management and Mitigation has produced a toolkit for intervention specifically related to land and conflict (USAID Office of Conflict Management and Mitigation, conflict@usaid.gov).

4.1.2 Unsustainable Natural Resources Management and Biodiversity Loss

This category refers to the constraints that arise from the poor use of land because of inequitable and unregulated access; from poorly defined, insecure, or inadequate LTPR; and from the absence of policy and rules that govern land use. These issues can also arise from the blatant disregard of land owners and land users for sustainable natural resources management and biodiversity in the face of exploitive enterprises and “get rich” mentalities. Too often, poorly defined, unrecognized, or absent land tenure and property rights results in deforestation, land degradation, and unsustainable use of land, water, forests, pasture, and other natural resources.
The most significant correlation between this category of LTPR concerns and the others in the matrix is that unsustainable land use can lead to land use conflict, loss of economic benefits from land, loss of biodiversity, and land degradation. Since unsustainable land and natural resources use often has its origins in insecure tenure and property rights and inequitable resource distribution, the vicious cycle of unsustainable natural resources use and biodiversity loss can lead to landlessness and conflict.

Unsustainable natural resources management has its origins within a broad spectrum of LTPR issues, yet almost without exception, natural resources management and biodiversity conservation programming worldwide has tended to ignore the role that LTPR plays in sustainability. Instead, conservation and development practitioners have concentrated on landscapes and land use classifications, planning and management systems, and inventories and assessments. More recently, the portfolio of interventions has been enlarged to include a focus on community natural resources governance systems and economic development. Community natural resources governance programming has begun to touch on customary and, in some cases, statutory land and property rights systems, but too many projects fail to examine the role of property rights in their programming. At present, none of the US statutory environmental regulations that guide USAID country or project natural resources management or biodiversity conservation includes an examination of LTPR constraints.

The sub-themes within this category are becoming bigger than the traditional natural resources management and conservation projects of the past. In the face of “mega” city developments, increasing rural-urban migration, and peri-urban sprawl, access to land and natural resources (including surface and ground water), loss of open spaces (public areas), and land degradation are becoming more significant. The ways in which secure tenure and property rights contribute to management of land and common pool resources in the face of population growth and poverty are also becoming more important. In addition, because of the growing importance of trans-boundary water resources to regional development and economic growth, the role of tenure and property rights with respect to conflict, equity, and resource management must be examined.

Thus, while most of the LTPR constraints in this matrix remain largely focused on land tenure, there is a need to emphasize the inter-connectedness of major LTPR issues that affect land policy and land reform alongside constraints to sustainability in agriculture, natural resources management, and biodiversity conservation. The subsequent tools that are used (LTPR interventions) to address unsustainable natural resources management need to move beyond land use planning and classification; they need to embrace a broader set of LTPR interventions that have been more conventionally aimed at tenure reform projects. Additional tools within the spectrum of LTPR interventions need to be designed to accommodate specific constraints facing natural resources access and use, biodiversity conservation, and ecological processes more fully.

### 4.1.3 Insecure Tenure and Property Rights

*Land or natural resource tenure* refers to the bundle of rights held in relation to a specific parcel of land and/or defined resource therein. This includes trees, pasture, water, mineral, buildings, and other immovable property. The bundle of rights includes, but is not limited to, the right to sell (or harvest), exclude others from, subdivide, mortgage, bequeath, and use (e.g., plant crops/trees, cut trees, bury dead, and construct homes) the land. *Property* refers to a collection of rights in the use and transfer (e.g., through selling, leasing, or inheriting) of a bundle of assets (natural and physical). This bundle, in the case of land or property, can be subdivided and passed on to others. For each right in the bundle, three dimensions are pertinent:

1. **Time** refers to the duration of the right, e.g., for how long has the right been granted?
2. **Space** is the geographical area or quantity of resource to which it applies, e.g., has the extent or size of the land and/or resource been described?
3. **Assurance** is the ability to protect that right, either within customary laws and structures or through the state.
Different rights (strands of the bundle) may be distributed in various combinations among natural and legal persons, groups, and units of government. Insecure tenure within a particular place and time is, thus, a consequence of too few rights, rights that are too limited in duration, and the inability to protect one or more of these rights from encroachment or exploitation by others. Rights to the resource may be obtained through customary tenure systems related to family or group membership. Still, the same piece of land can be subject to multiple claims that relate to the different ways in which it is used by different groups and individuals at different levels of time, intensity, duration, and use (for example, when crop farming in the rainy season is replaced with transhumant grazing during the dry season). Because these rules of access, allocation, and management of land are part of the social structure and value system of each group, there may exist a number of customary tenure systems in a given country.

These systems may also include common property or common pool resource arrangements. Common property refers to the distribution of property rights over resources in which a number of owners are co-equal in their right to use the resource. This does not mean that the co-owners are necessarily equal in respect to their ability to use the resource, nor does it suggest that the quantities of the resource each uses over a period of time are equal. Common property systems can also be dealt with through legally-sanctioned processes, such as allocation, purchase, lease, and concession. The reality of multiple resources on a given piece of land and seasonal resource use further complicates the analysis of tenure security. In each instance, tenure security must be defined according to whom, over what resources, and when. Many of the world’s transhumant populations face this challenge.

Land conflicts between social and ethnic groups can result in tenure insecurity if they are not resolved quickly and transparently. Conversely, high levels of land insecurity can result in violent conflict, as landholders attempt to protect their land rights from persons who take advantage of social and political situations where land and resource rights are not being enforced and protected.

Constraints that affect the security of LTPR can be divided into three basic types of property: state land, customary land, and individual title. There are numerous combinations and permutations on these three themes, but, fundamentally, insecurity of land and property rights tenure stems from a poorly defined, poorly enforced, or manipulated set of rights to land and resources that are related to these three land tenure regimes.

4.1.4 Inequitable Access to Land and Natural Resources

Access to land and natural resources relates to how a person or group enters and utilizes a physically defined area of land and the resources on it. These access and use rights are often distributed unequally among a population. The economic value of land and its natural resources is determined by tenure security related to the resource and quantity and quality of the resource held. There are certain tenure problems related to the situation in which secure rights are held, but ownership of physical and natural resources is too limited to provide secure livelihoods or income. Alternatively, one’s holdings of physical resources may be relatively plentiful, but tenure security is too limited or uncertain to enable conservation or achievement of full productive potential. This distinction between a rights-based approach under “Insecure Land Tenure and Property Rights” in the matrix and a resource-based approach associated with this theme is crucial. Typically, the LTPR interventions unique to each category do not proceed in tandem.

This LTPR category of constraints, thus, includes concerns of landlessness, inequitable distribution of resources, and access to insufficient land and related natural resources and how these relate to secure livelihoods. People become landless or without resources as a result of population growth and dwindling resources, natural disasters, shifting land uses (e.g., transhumance vs. sedentary agriculturists), involuntary movements due to encroachment by more powerful groups, and economic speculation (e.g., in urban, peri-urban, and coastal tourism areas).
Access by the poor to natural resources is essential for sustainable poverty reduction. The livelihoods of rural people without sufficient access to natural resources are vulnerable because of difficulty in obtaining food, accumulating assets, and recuperating from natural or market shocks.

Inequitable distribution also results from large geo-political and historical forces (colonialism, socialism, and nationalization) that have motivated farm restructuring in Eastern Europe and the former Soviet Union, insecure LTPR in Asia, Latin America, and sub-Saharan Africa, and redistributive land reform in Asia, Latin America, and southern Africa.

Access to land and natural resources is no more poignantly felt than by refugees or the displaced in post-conflict situations. These are an important target group affected by LTPR sub-themes in this category. In these instances, prior land claims often surface that need to be addressed, linking this category with those of insecure tenure and property rights in the preceding category. In the same instance, high levels of landlessness or insufficient land access may lead to violent conflicts, particularly when the situation is coupled with skewed land distribution or lack of “off-land” employment opportunities. These are critical constraints for poverty alleviation for the world’s poor.

**TABLE 4.1 LTPR THEMES, CONSTRAINTS, AND COMMON SUB-THEMES**

<table>
<thead>
<tr>
<th>Violent Conflict/Post-Conflict Instability</th>
<th>Unsustainable Natural Resources Management/Biodiversity Loss</th>
<th>Insecure Tenure and Property Rights</th>
<th>Inequitable Access to Land and Natural Resources</th>
<th>Poorly Performing Land Markets</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land conflict</td>
<td>Informal settlements</td>
<td>Open access</td>
<td>Unequal access and distribution of resources</td>
<td>Poorly functioning inheritance systems</td>
</tr>
<tr>
<td>Basic needs</td>
<td>Land fragmentation</td>
<td>Lost indigenous rights</td>
<td>Informal settlements or illegal occupation</td>
<td>Unfair marital property practice</td>
</tr>
<tr>
<td>Livelihoods deprivation</td>
<td>Unsustainable land use management</td>
<td>Limited individual or group rights to land and natural resources</td>
<td>Uneconomical size of land or resource holdings</td>
<td>Insecure resource contracts</td>
</tr>
<tr>
<td>Weak governance or lack of rule of law</td>
<td>Land, range, or forest degradation</td>
<td>Range enclosure or transhumant rights infringement</td>
<td>Landlessness</td>
<td>High transaction costs of burdensome lease conditionalities</td>
</tr>
<tr>
<td>Ethnic, political, or social conflict over land resources</td>
<td>Uncontrolled or unmanaged resource logging, mining, or fishing</td>
<td>Insufficient duration of rights</td>
<td>Economic and social barriers to resource utilization</td>
<td>Limited sharecropping, share tenancy, or rental</td>
</tr>
<tr>
<td>Refugees or displaced persons or groups</td>
<td>Peri-urban sprawl</td>
<td>Absence of rights enforcement</td>
<td>Squatting</td>
<td>Speculation</td>
</tr>
<tr>
<td>Landless or resource-poor combatants</td>
<td>Encroachment of protected areas</td>
<td>Lack of rights awareness</td>
<td>Resource theft or poaching</td>
<td>Limited collateralization of land and property</td>
</tr>
<tr>
<td>Destroyed records and property rights infrastructure</td>
<td>Agricultural/wildlife conflict</td>
<td>Unequal rights distribution</td>
<td>Unequal access to natural resources</td>
<td>Constrained sales or markets in land or natural resources</td>
</tr>
<tr>
<td>Insecure tenure and property rights</td>
<td>Conflicts between communities and concession holders over land and natural resource rights</td>
<td>Insufficient or badly organized institutions/tenure reforms</td>
<td>Conflict over unfair evictions of tenant and farm workers</td>
<td>Land conflicts because of land scarcity resulting from commercial production</td>
</tr>
<tr>
<td>Inequitable land resources distribution</td>
<td>Unregulated or uncontrolled commercial exploitation</td>
<td>Unfair evictions (tenants/farm workers)</td>
<td>Disputes and violent conflict arising due to abusive tenancy or sharecropping conditions</td>
<td></td>
</tr>
<tr>
<td>Unsustainable natural resources development</td>
<td>Land conflicts between pastoralists and farmers</td>
<td>Land conflicts due to tenure insecurity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Land conflicts due to tenure insecurity</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Cross-cutting Constraints**

Gender, ethnic, and social marginalization
Absence of public information and inability to access public information
Lack of capacity
4.1.5 Poorly Performing Land Markets

The land market is where buyers and sellers, lessors and lessees, landlords and renters or sharecroppers meet to enter into an agreement over a resource transaction. Any negotiated price is expected to reflect both the conditions of market supply and demand and the bargaining strength of the actors involved. Each type of transaction involves unique dimensions of time, property rights, negotiability, enforceability, and documentation. Economically efficient land markets result from: a) transparent transactions; b) accurate market information, including price and ownership; c) ease of access by buyers and sellers; and d) a legal framework that ensures tenure security. Sub-themes include missing markets and segmented or undeveloped markets that affect a broad range of transactions, including purchases and sales, credit systems and mortgages, land exchanges, land resource contracts, temporary transfers and leases, short- and long-term informal borrowing, resource pooling, and other informal arrangements.

Tenure insecurity acts to drive up the transactions costs associated with negotiating and enforcing contracts, thus, lowering the price that buyers and renters are willing to pay and increasing the price that sellers and lessors are willing to accept. Tenure insecurity tends to increase the threshold price demanded by sellers, with the result of a decline in transactions or quantities of resources that are traded or marketed.

While land conflicts are not normally associated with land markets, practices and processes associated with land markets and commercial production may result in conflicts over land use and land rights between commercial producers and customary landholders. Increasing levels of commercial agriculture and extensive land use can increase competition over land and resources, potentially resulting in land conflicts. In addition, practices by market-oriented producers in or around customary tenure areas may be seen as harmful to community interests, causing disputes and even land conflicts.

4.1.6 Cross-cutting Themes

There are three significant issues that remain cross-cutting to the universe of LTPR constraints and sub-issues. There are:

1. Gender, ethnicity, and social marginalization;
2. The absence of the inability to access public information; and
3. The absence of communities’ and government authorities’ capacity to be effective in addressing these constraints.

Since the significance of gender and minorities has already been addressed in Section 3.0, it will not be further repeated here. It is however, appropriate to further elaborate on the other two.

Public information—availability and access to—or the lack thereof is often central to misunderstanding and frustration among returning refugees and internally displaced persons in post-conflict situations and between refugees and indigenous people during periods of conflict. Publicly-available information on access to land and natural resources does not entirely mitigate conflict over these resources, but it is central to effective programs of conflict reduction, problem solving, and land and resources access and redistribution. Inadequate knowledge of rights and responsibilities in post-conflict situations can only serve to fuel existing resentments, and the absence of accurate and trusted sources of information can exacerbate feelings of confusion and mistrust. Public awareness campaigns on land redistribution, access, and resettlement programs can help mollify anxieties and contribute to more orderly and informed participation of affected people. Often times, independent third parties are needed to broker successful public awareness campaigns.

The absence of public information and difficulties accessing it further complicates LTPR. The need for public awareness becomes more critical when LTPR undergoes a period of sustained reform. In the face of land and agrarian reform, land titling and registration efforts, statutory change, the development of land
administration institutions and land markets, and incentives for land and natural resources conservation, public information plays a central role in transparency and decision-making. Failure to consistently and publicly inform people through a land reform exercise can mean the loss of access to land and natural resources access, or to unintentionally permit these rights to be misappropriated by others.

**Government and community capacity** relates to the identification and development of human capital in service to land property rights reforms. The absence of informed, capable people prepared to engage honestly, fully, and professionally in these reforms is a major deterrent to effective LTPR reform, highlights larger issues of transparency and fragility, and frustrates the social, political, and economic goals of effective property rights reform. Each LTPR constraint category must be examined for existing human capacity. The degree to which the failure or absence of human capacity deters the development and advancement of LTPR reforms must be determined.

### 4.2 LTPR INTERVENTIONS

The LTPR “Matrix” is constructed to illustrate a number of interventions directly pertinent to LTPR categories of constraints. Intervention packages are eventually more nuanced and complex than illustrated in the matrix, and they require sufficient knowledge and understanding of the scope, depth, and importance of land issues in the country concerned.

Table 4.2 populates the LTPR Matrix with interventions, showing the connections between intervention categories (rows) and an illustrative set of interventions within each of the five LTPR categories of constraints (columns).

Sets of interventions are designed to reduce conflict related to land and natural resources, achieve more sustainable land use, secure property rights, reduce landlessness, achieve a more equitable land distribution, and facilitate or enable land markets and investment. It is important to note that not all interventions are relevant to all LTPR categories. In other instances, a given LTPR constraint may draw from multiple LTPR interventions in order to support effective, transformational land tenure and property rights reform.
### TABLE 4.2 INTERSECTION OF LAND TENURE CONSTRAINTS AND INTERVENTIONS

<table>
<thead>
<tr>
<th>LAND TENURE AND PROPERTY RIGHTS THEMES and CONSTRAINT CATEGORIES</th>
<th>LAND TENURE AND PROPERTY RIGHTS INTERVENTIONS</th>
<th>Poor Land Market Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Key Institutional Arrangements</strong></td>
<td>Rule of law</td>
<td>Constitutional provisions</td>
</tr>
<tr>
<td></td>
<td>Restoration of safety and security</td>
<td>Presidential decrees</td>
</tr>
<tr>
<td></td>
<td>Commitment to protection of human rights</td>
<td>Decentralization of services</td>
</tr>
<tr>
<td></td>
<td>Free and fair elections</td>
<td>and systems</td>
</tr>
<tr>
<td></td>
<td>Transparency</td>
<td>Supportive government</td>
</tr>
<tr>
<td></td>
<td></td>
<td>service delivery systems</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Decentralization of notaries</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mortgage/credit Institutions</td>
</tr>
<tr>
<td><strong>Conflict or Dispute Resolution</strong></td>
<td>Peace and reconciliation commissions</td>
<td>Land claims court</td>
</tr>
<tr>
<td></td>
<td>Mediation/arbitration</td>
<td>Tenant/sharecropper conflict</td>
</tr>
<tr>
<td></td>
<td>Restitution/compensation</td>
<td>resolution systems</td>
</tr>
<tr>
<td></td>
<td>Resolution of conflicting claims to</td>
<td></td>
</tr>
<tr>
<td></td>
<td>common resources</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Compensation</td>
<td></td>
</tr>
<tr>
<td><strong>Legal and Regulatory Framework</strong></td>
<td>Civil code</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Constitutional development reform</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Judicial reform</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Land law review commissions</td>
<td></td>
</tr>
<tr>
<td><strong>Redistribution</strong></td>
<td>Resettlement of soldiers</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Resettlement of refugees/Internally</td>
<td></td>
</tr>
<tr>
<td></td>
<td>displaced persons</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reallocation of state land and property</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Restitution</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Land swaps</td>
<td></td>
</tr>
<tr>
<td><strong>Land Administration</strong></td>
<td>Provisional land titling</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Land demarcation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reconstruction of property</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reconstruction of records</td>
<td></td>
</tr>
<tr>
<td><strong>Land Use Management &amp; Conservation</strong></td>
<td>Land reclamation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>De-mining</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Control of unbridled resource exploitation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Land suitability assessment</td>
<td></td>
</tr>
<tr>
<td><strong>CROSS-CUTTING LTPR THEMES:</strong></td>
<td>Gender, ethnic, and social marginalization; public information and awareness; and capacity-building</td>
<td></td>
</tr>
</tbody>
</table>

**LAND TENURE AND PROPERTY RIGHTS INTERVENTIONS**

- Decentralization of natural resources management services and systems
- Collaborative/community management systems
- Institutional coordination
- Establishment of civil society management capacity
- National environmental action plans/biodiversity conservation strategies
- Specialized community governance structures
- Judicial reform, courts and magisterial systems
- Community governance structures
- Decentralization of government services and systems
- Civil society strengthening
- Notary systems
- Constitutional provisions
- Presidential decrees
- Decentralization of services and systems
- Supportive government service delivery systems
- Decentralization of notaries
- Mortgage/credit Institutions
- Land arbitration systems
- Alternative dispute mechanisms
- Legal aid
- Controlled access to protected area resources
- Rights adjudication
- Local arbitration systems
- Legal aid
- Land courts
- Compensation systems
- Land arbitration systems
- Alternative dispute mechanisms
- Legal aid
- Controlled access to protected area resources
- Rights adjudication
- Legal reforms strengthening state acquisition and distribution of land and property
- Legal reforms addressing "open access" issues
- Land banks/land funds
- Laws and regulations to enable transactions
- Conducive fee structures
- Land access/use contracts
- Strengthened notary systems
- Removal of legal barriers to land ownership and transfer
- Incentives for subsequent registrations
- Improper redistribution/eviction halted
- Land reform
- Resettlement
- Farm redistribution/restructuring
- Reallocation/privatization of land and property
- Expropriation
- Land banks
- First Registration systems
- Land titling and registration
- Immovable property register
- Private sector market information and valuation systems
- Public access to land information systems
- Zoning
- Taxation/tax Incentives
- Town and regional planning
- Green areas/easements
- Public-private partnerships
Key Institutional Arrangements (Row 1). In each of the LTPR category columns, there is a set of institutional arrangements/interventions that can be linked directly to each. This row illustrates a set of key arrangements that are needed to address LTPR. These interventions are, in essence, a set of preconditions for successful LTPR programming, and the success of LTPR interventions are predicated on their presence and growth over time. Deficiencies in these key institutional arrangements can retard efforts to advance LTPR programming. Failure to successfully understand and identify the deficiencies in these institutional arrangements can mean that the LTPR reform goals are similarly retarded or not realized.

In the wake of significant and violent conflict, governments’ motives and actions are often tainted. This is particularly evident where the government is seen to be siding with one ethnic group versus another, where government exercises abuse of power, or where it engages in actions that curtail human rights. Trust is the element that gives credence to institutions, as well as the faith that rights will be protected once laws are enacted. The foundations of trust and faith can be destroyed or undermined at multiple levels by governments engaged in war or political strife, groups sparring for political power over a scarce resource, or local tribal leaders having illegitimate charge over customary property. It is very difficult in most situations to embark on programs policy change without first restoring confidence in the government’s commitment to change and its role as mediator. Hence, this set of interventions begins with the precondition of political will and the pursuit of democratic governance aimed at restoring rule of law. It also requires the development of institutional structures based on accountability, transparency, and citizen participation. Once there is commitment to restoring safety and security and strengthening basic human rights, there will be need for judicial reform to strengthen legal recourse. Key institutional arrangements include the creation of laws and the ability to formally defend them. These institutional arrangements must also provide incentives for subsequent titling and registration activities where the benefits outweigh the financial, social, and political costs.

Key institutional arrangements are needed to create environmental policy and uphold it in the face of unbridled exploitation and land and resource speculation. Issues of natural resource sustainability and biodiversity conservation require the development of effective policies and institutions capable of implementing policies that are directly beneficial to resource users because they both acknowledge and describe their respective rights. Because many natural resource management institutions operate largely independently of one another, sustainable natural resources and biodiversity conservation demand a mechanism capable of collectively examining land, landscapes, natural resources, and impacts and how these relate to property rights.

The most central institutional arrangements affecting LTPR are interventions aimed at clear state policies outlining land and natural resources access and use and the devolution of natural resources management to communities and renewable natural resource user groups. These arrangements get augmented by collaborative management systems as necessary. If there is no provision for these institutional mechanisms within national environmental policy, then the LTPR tools and mechanism that promote sustainable natural resources management and biodiversity conservation will be thwarted. These policy and institutional interventions are further nurtured by development of a robust civil society that can play a role in the checks and balances needed between government and community natural resource users.

Conflict Management and Dispute Resolution (Row 2). This set of interventions includes both formal and alternative land and natural resource dispute resolution methods and mechanisms, as well as improving recourse to rule of law. Since conflict and disputes often characterize land and natural resource access, and since poor land and resource use and unequal access also contribute to conflict, there is an obvious need to focus LTPR interventions more specifically. Interventions in this row need to both reduce/eliminate and respond to conflict before it becomes out of control.

These LTPR interventions aim to strengthen mechanisms and methods in support of both formal and informal institutions that mitigate encroachment on land, resource access and use disputes, forced resettlement, farm evictions, and social, ethnic, and religious violence resulting from competing interests over
land or natural resources. The focus of this set of interventions must be on the resolution of competitive
property claims, compensation, or replacements of lost land, assets, and livelihoods. This includes the
development of specific, dedicated mechanisms and procedures to address disputes before they become
violent in nature and to reinforce issues of equity in land and resources access. Because court systems can be
too formal, bureaucratic, costly, and time-consuming to be effective, many property and resource disputes are
more easily resolved with the appropriate mediation of family, neighbors, or community authorities.

The scale of disputes will dictate the role of formal mediation and government involvement as a mediator.
This is particularly relevant in situations where the conflict supersedes the boundaries of any one local
tradition, and where customary law and practice have been severely weakened by conflict. LTPR
interventions must include solutions that provide for compensation of resources beyond the control of the
immediate parties involved. There must be dedicated systems to resolve the conflict inherent in multiple or
overlapping systems specific to statutory and customary law. Ironically, government and customary dispute
mediation and conflict resolution processes operating in parallel but not in coordination can fuel or
exacerbate conflict.

Legal and Regulatory Framework (Row 3). This set of LTPR interventions includes the legal creation of
property institutions, both for individual and communally-held property. Legal and regulatory interventions
also apply to land and natural resources access and use in rural and urban areas and to the mechanisms that
are used to secure rights of ownership, transferability, exclusivity, and use.

The policy and legal framework that defines land relations and natural resources access should create clear,
resilient and enforceable land tenure and property rights. This is critical to addressing all LTPR and the
reason why many LTPR programming efforts often begin with reform of supportive policy and legislation.
Significant numbers of legal interventions apply. They may require constitutional or legislative reform,
development of a civil code, legal review, consolidation of existing legislation, and/or judicial reform.
Additional interventions need to be aimed at a legal framework for enabling land markets, strengthening
customary tenure, and establishing and redistributing magistrates and notaries, provisions that govern the
regulation of rental contracts, land sales, and property transactions. There are statutory legal interventions that
include provisions for the secure redistribution of land and property and conflict/dispute resolution of land
conflicts.

Since both statutory and customary laws can discriminate against minority and women’s interests, parallel
approaches that address both formal and customary practices are sometimes warranted to secure and protect
LTPR rights as they affect different segments of society. Since laws and their interpretations often remain
inaccessible or unavailable to citizen, legal and regulatory LTPR interventions often include the provision for
legal aid clinics that can provide people, particularly the poor, with easy, cost-effective access to legal
information and services. This is particularly important during times of land and agrarian reform, when land
and resources redistribution and efforts to secure land tenure and property rights are new and systems still
fragile.

Redistribution (Row 4). This set of interventions is employed in favor of major resettlements of people,
land and agrarian reform, farm restructuring, transfer rights, and privatization. Redistribution has been a
major focus of land reform programming worldwide, and it has special relevance in rural areas, in regards to
agricultural land and agricultural production, and in urban areas, in regards to housing allocation, the
development of commercial property markets, and privatization. Broader redistribution programs involve the
reallocation of land and property, the privatization of state or company assets, and relocation of populations
in order to provide access to land and related resources. Often these programs follow violent conflicts, often
over land, because of skewed land ownership and landlessness. Land reform broadly focuses on the
redistribution of land and physical resources, while agrarian reform additionally involves interventions
(market development, infrastructure, credit institutions, technology, and human capacity development) that
enable beneficiaries to achieve secure livelihood and maximize the productivity of their newfound assets. To
realize the benefits of land reform, it is necessary to predicate natural resources and agrarian reform on secure
tenure and property rights. In addition, a speedy judicial or administrative process should be established to address conflicts that arise from redistributing land from landowners/landholders to the landless.

In post-war and post-conflict situations, there is an immediate need to resettle ex-combatants and refugees to secure livelihoods and peace. In resettlement and land redistribution efforts, it may be necessary to examine the impacts of land redistribution on natural resources access and the potential impacts to conservation of biodiversity. Natural resources access might also be improved in these situations by employing the use of land easements and expropriations, as well as transfer rights; these help to more easily serve the people’s need for access to water, fuel, and pasture.

In instances where women and marginalized groups are disadvantaged by the legal framework and customary practices, redistribution of land and recognition of rights through legal reform may be necessary to promote equity. Privatization, de-collectivization, and farm restructuring are all aimed at problems of centralized control of resources in newly emerging states of Eastern Europe and the former Soviet Union. For different, but related, reasons land and agrarian reform in other parts of the world endeavors to resolve the problems of dual economies and unequal resource distribution created by colonialism.

In an era where government budgets are tight and administrative reallocation is seen as too slow and too ineffective, market-assisted land reform that gives beneficiaries greater control over land acquisition and development is sometimes promoted. Implicit in this approach is the assumption that land markets are sufficiently resilient to enable the transfer of land from elites to beneficiaries with government incentives but without (or with minimal) direct government intervention in land acquisition, redistribution, or resettlement. Experience shows that market-assisted land reform programs are often limited in scope and very slow—more so than traditional land redistribution and reform programs. In addition, further issues of equity arise.

**Land Administration (Row 5).** Land administration combines a set of interventions that both: 1) refers to the process where information about ownership, value, and use of land and related resources is recorded and disseminated; and 2) includes the delegation of institutions necessary to undertake this role.

Public sector agencies play a key role in land and resource management and administration, helping to secure rights of ownership, the transparency of their transfer, and their exclusive use. They help to define and support markets. Clarity of ownership will support the evolution of a functioning land market where buyers feel more secure in their transactions. Although these agencies vary from country to country in organization, structure, size, and scope of responsibility, they typically fill many of the same roles. They provide regulation, administration, and services to: land demarcation and adjudication of rights, titling and registration, land (and property) registries, surveying and mapping, credit and mortgage transactions, real estate development, town and country planning, and taxation. In addition, strong and transparent land administration institutions are valuable for preventing and resolving many land disputes before they become conflicts. These interventions also include efficiency improvements in the functioning of land administration systems along with decentralization and devolution.

While development of a legal and regulatory framework (Row 3) gives these interventions legal weight and authority, there is the additional need for government to establish structures that deliver these services on the ground effectively and efficiently. An accurate record of property rights allows the government to produce statistical data on property ownership, transactions, and land values, monitor economic trends, and adapt policies accordingly. The private sector also plays an important role through various land-related professions (surveyors, valuers, lawyers, and real estate agents), but the public sector is needed to ensure that professional standards and systems for licensing and regulation are established and maintained.

Land administration interventions can also help realize benefits in favor of community land and property rights holders. The decentralization of land administration systems to local levels include the establishment of community title to community land and the use of concessions (in essence, community licenses to third-party users) for both land and natural resources. Environmental and economic valuation of land and resources help to ascertain concession and licensing terms and conditions, establish both financial and environmental
indicators of performance within the law, and balance these indicators against broader community property rights.

**Land Use Management and Natural Resources Conservation (Row 6).** Land use planning is at the forefront of a range of land use management tools used to address this set of interventions. At its essence, land use planning is the systematic assessment of the potential of land and related natural resources, the determination of objectives and the inter-disciplinary examination of alternative patterns of land use management. Planning is done to select and accommodate land use options that are the most beneficial to land users without degrading the resource base or the environment—these include the process by which physical, social, and economic conditions are accommodated. Numerous tools are employed to help in these exercises, some of them include land suitability assessments, land classification, and biodiversity inventories and assessments. All of them benefit from regular and frequent public engagement.

Land use management is the set of mechanisms employed to implement the land use plan, and it includes a variety of governance, institutional, financial, and physical/technical interventions. Land tenure and property rights form part of this consideration. Objectives of sound land use include:

- **Improve the efficiency of land resources used to support a growing population.** These land use management efforts aim to provide access to land that has not been previously accessible, stop land or extractive resource misuse, and reclaim land for productive purposes.

- **Provide equitable and efficient access to the economic benefits of land and encourage the development of real estate markets.** These objectives are supported by interventions of effective and participatory town and regional planning, targeted tax incentives, and balanced and rational use of zoning. There are clear and established roles for the public and private sectors to play in this regard. As land and natural resources are shared more equitably and people feel more assured of their land tenure and property rights, land markets will have to examine the incentives and fines associated with the interventions of zoning, taxation, and public-private partnerships in land markets, with the objectives of increased land values, ease of transactions, sustainable land use, and conservation.

- **Provide incentives for sustainable land use development,** including the provision to the poor of residential housing and basic infrastructure (such as, sewer and water facilities augmented by rational zoning schemes, green areas, and incentives). Land use management mechanisms require balancing public needs with private (individual and community) costs. Land use requirements can be perceived as obstacles to land market development and efficient land use if the requirements are overly broad or restrictive. Controls over land access and use can also be perceived as beneficial to a set of conservation goals, but the restrictions that impose too heavy a burden on private parties can cause insecure land tenure, especially when the penalty for violation is losing access to one’s land or right of use.

- **Protect the natural environment and biological diversity from degradation and loss.** Biodiversity conservation is concerned with the successful integration of plant and animal diversity into sustainable land use planning and management. Biodiversity conservation is primarily interested with the perpetuation of the greatest diversity of species variety and variability by as many means possible. The conservation of biodiversity has ecosystem, economic, and social/cultural values that are the foundation for sustainable natural resources management. Since property rights over natural resources, including land, are so significantly tied to incentives for stewardship, investment, and sustainability, it is incumbent on LTPR interventions to accommodate these objectives accordingly. This association of property rights and sustainability implies that mechanisms employed in land use management can be applied to biodiversity conservation, with an appropriate understanding of objectives, costs, and implications to the welfare of people and their livelihoods.

Hence, participatory land use planning, zoning, and collaborative management mechanisms are often employed to balance the need between livelihoods and conservation. Community land trusts, reserves, and
community conservancies are all contemporary land tenure tools used to match livelihoods with property rights and sustainable natural resources conservation and management.

Different natural resources are usually administered within different sectors and under different legal frameworks, yet rural livelihoods of the poor are often dependant on access to both water and land. The interface between land tenure rights and water rights is increasingly an issue because water is necessary for the most productive uses of land. In a growing number of countries, not just those with arid climates, the main constraint to agricultural growth is the availability of water and not land. At the same time, the use of land has major impacts on both the quality and quantity of water resources. Decisions regarding the use and allocation of one resource directly or indirectly impact on the use and allocation of the other. To ensure sustainability, the need for an integrated approach to the use and management of these resources is becoming more evident. Integrated land and water resources management recognizes the need for a set of land use interventions that examines how land use and land rights are coupled with water use and water rights. Since the principle mechanism for land and water resources allocation is the institution of legal rights, land tenure and water rights should be examined in closer detail. The essence of such rights and the manner in which they are allocated have major implications for the use and management of land and water resources, as well as for the social and economic development of states and their citizens.

**Cross-cutting Interventions (Row 6).** All of these interventions must be examined for the impacts they have on women, ethnicities, or social marginalization. Unless these interventions have a dedicated focus to removing legal impediments that discriminate against women and marginalized groups, LTPR reforms will languish or alienate significant portions of any population, thus sowing the seeds for future conflict and inequality. Interventions must support policy and programs that strengthen the rights, provide legal recourse, redress problems of landlessness, and broaden access to markets and services.

Of equal importance is the role that public information and awareness plays as a tool to accompany any of the interventions identified in the matrix. Eventual intervention packages must include a strong public information and awareness component, supported by communication strategies designed to accommodate local realities and capitalize on existing media channels. These efforts must remain persistent and regular over time, or else the people that are the most in need of this information will remain ignorant of the ways in which land and property reforms can be of harm or benefit to them.

The final cross-cutting theme is capacity-building: the capacity of government to create and implement LTPR policy; the capacity of communities to maintain and enforce customary rights of use and access; the capacity of stakeholders to assist government in implementation; and the capacity of beneficiaries to know and understand their rights and act upon them. Education and training, combined with the development of efficient and effective administrative systems, institutional relationships, and public accountability are key to LTPR interventions.
5.0 METHODOLOGY FOR ASSESSING LTPR CONSTRAINTS AND INTERVENTIONS

The LTPR assessment methodology is a set of instruments, which, when used regularly, should help USAID to determine the impact that LTPR have on development programming in each country. It should enhance the ability of USAID to design appropriate interventions and support the development of capacity within the agency so as to employ these tools to best effect. The methodology should help USAID achieve two important objectives:

1. The methodology provides USAID with an assessment of the LTPR situation in each country, the results of which could be used to (1) design policy and future LTPR project and program interventions, and/or (2) provide USAID with assurance that the property rights system is functioning adequately or that problems are being addressed by the government and other donors. Since land tenure and property rights are often the basis for sustained transformational development or a source of conflict and instability, these assessments are critical to identifying some of the key issues supporting transformational states or the root causes of conflict to be mitigated before they worsen.

2. The assessment methodology provides USAID with a review of the impacts of specific USAID-funded LTPR reform efforts. Assessment of long-term impact typically requires monitoring over time where impacts are measured significantly later than the end of a project. It is difficult to activate an impact measurement tool that can relate lower-level project interventions to loftier macro environmental, economic, social, and political outcomes within a short period of time. However, LTPR evaluations should be able to examine the short- and long-term impacts that arise from project interventions and use this exercise to inform critical thinking to add value to the direction that LTPR reforms are taking. Assessment tools should be targeted to enable expert opinion to extrapolate medium- to long-term impacts based on the best judgments and rigor invoked by these tools.

There are four basic tools within the methodology. The most significant components of the methodology are those employed by the mission as part of development programming. Two specific tools will help best deal with LTPR and how they affect national programs. The two other tools in the methodology are largely based on information that is collected and analyzed by LTPR specialists and observers. Their information collection and analysis should help USAID globally to identify LTPR constraints and problems within a country and flag those that are most severe and in need of investigation.

The four tools in the LTPR assessment methodology are designed to complement other mission-based programming events and activities. As with a democracy and governance assessment, a conflict vulnerability assessment, or the evolving tools that help USAID to assess the transitional nature of developing countries, the LTPR assessment methodology is designed to help USAID to:

• Characterize LTPR issues at a national level;
• Identify the severity of these issues and determine how they might impact a wide range of tenure and property rights and affect transitional development;
• Build the LTTPR characterization based on a more rigorous assessment of issues and constraints in-country and recommend interventions accordingly; and
• Review the impacts associated with LTTPR reform efforts already employed by USAID.

This cycle of LTTPR issues identification, assessment, design, programming, impact, assessment, and re-design is repeated as long as LTTPR remain severely constrained and in need of attention.

5.1 LEVEL 1: COUNTRY-SPECIFIC LTTPR THEMES AND DONOR INTERVENTIONS REPORT

During this step, a LTTPR team reviews a limited subset of the existing donor literature on LTTPR themes and interventions in all USAID presence countries. The subset consists of donor reports and studies collected from USAID and other bilateral and multi-lateral aid donors. A summary of the issues, constraints and interventions is updated periodically. Such a report has already been prepared and is available as the Country-Specific LTTPR themes and Donor Interventions Report. The country profiles describe the current LTTPR issues and past and current donor interventions. This characterization process will be periodically repeated. The recommendation is that this cycle coincides with the development of country strategic plans, at least regionally.

This tool is Volume 2 of the LTTPR Framework.

5.2 LEVEL 2: COUNTRY-SPECIFIC LTTPR RANKINGS AND MAPS

A LTTPR team of specialists will use the LTTPR ranking tool to periodically examine the LTTPR themes and issues reported for each country and, using a combination of this information and their expertise, rank the severity of each category of LTTPR issue within each country. The ranking tool consists of a series of questions for each category of LTTPR issues and explores the major sub-issues embraced within each of these primary categories. Indirectly, by ranking the severity of the issues, past and ongoing interventions are valued by taking into consideration their impacts upon the current LTTPR landscape. The ranking of each sub-issue suggests a rank for each category of LTTPR themes.

The country ranking report includes each country’s ranking results, coupled with a short description of each category (and its severity). An LTTPR “map” can then be generated for LTTPR issues and constraints globally, regionally, or nationally, thus making it easier to visualize LTTPR categories both within a global context and a context of “regional neighborhoods.” Their value is determined by the frequency with which new information provided by missions informs their Country-Specific LTTPR Themes and Donor Interventions Report, as well as their country ranking of LTTPR issues and constraints. Ranking reports and maps can be supplied on demand by missions.

The country-specific LTTPR rankings, the tool used to generate these, and a set of maps illustrating LTTPR categories specific to geographic regions can be found in Volume 2 of the LTTPR Framework.

5.3 LEVEL 3: LTTPR PRE-ASSESSMENT TOOL

The LTTPR Pre-assessment Tool can provide USAID missions with a quick snapshot of LTTPR themes and constraints. The tool can also help missions to determine the necessity for a full-fledged LTTPR assessment. The LTTPR Pre-assessment Tool is built around the LTTPR “Matrix”. This tool is a relatively cost-effective and efficient way for each mission to examine country-specific LTTPR issues, review their rankings, and
understand, and improve Mission access to expertise and information in support of specific LTPR issues and constraints. Using this tool saves significant time in the orientation and preparation of more costly LTPR assessment teams. It is also an important method for helping the mission standardize its collection of literature from governments and donors in support of deeper examination of LTPR activities and needs. The pre-assessment tool can:

- Revise or augment the LTPR country profile contained within the Country-Specific LTPR Themes and Donor Interventions Report;
- Examine the country-specific LTPR ranking results in more detail;
- Serve as the basis for decisions about conducting follow-on assessments;
- Efficiently gather and analyze LTPR information in anticipation of a more complete LTPR assessment; and
- Conduct a “make do” assessment when faced with funding limitations and other constraints.

### 5.4 LEVEL 4: LTPR ASSESSMENT TOOL

The LTPR Assessment Tool is a resource for USAID missions and those tasked with characterizing a country’s LTPR situation. Timely and accurate assessment information will permit missions to make decisions about what (and what not) to do in order to address LTPR, and how they might address constraints to creating an effective LTPR environment. In many cases, the information will be used to inform new USAID interventions and assess past, ongoing, or completed interventions. This tool is designed around the LTPR Matrix that serves to guide and structure the other global land tenure products and tools.

A LTPR Assessment Tool is appropriate in the following circumstances:

- When a mission knows of or suspects problematic LTPR issues in a country and would like to make decisions about how to respond; and
- When a mission has already been involved in LTPR interventions and would like to evaluate the current LTPR situation bearing in mind past or ongoing interventions. In this case, the mission usually wishes to assess past performance and make decisions about current and future actions.

In both cases, the LTPR Assessment Tool aims to standardize the inquiry such that the results and recommendations are analyzed and presented in a framework that is largely comparable for all settings. The LTPR Assessment Tool suggests that specific and uniform (but scalable) investigative paths be followed so as to ensure that no LTPR issues or constraints are omitted and that follow-on action is not inappropriate or ineffective.

The depth or breadth of the assessment may vary with available resources, but all the main categories of the LTPR Matrix should receive at least some attention and analysis. Moreover, it is never sufficient to understand the LTPR situation from the point of view of the heads of households only. Women are often particularly and uniquely disadvantaged as to land access and rights—despite their critical role in household sustenance. A lack of information regarding gender differences can lead to LTPR policies and projects that further limit or reduce women’s economic and social opportunities. Assessments should include the collection of gender-disaggregated information that captures the situation on the ground for women.

A few countries will be completely untouched by past LTPR interventions, some countries will be relatively unimproved, and some will have changes in circumstances (such as a new government) that essentially create a new LTPR landscape. In other countries, significant resources will have been used for more than a few
LTPR interventions. Here, special attention needs to be given to the impetus for reform and to the design, implementation, and results of the interventions and how they have or have not bettered the LTPR situation.

An LTPR assessment that also focuses on interventions is still structured around the LTPR Matrix. More importantly, however, it must focus on how interventions may or may not have been effective in addressing LTPR issues and constraints. By looking for lessons learned and best practices, future interventions can be designed and recommendations for implementation offered. It is important to note that this kind of LTPR assessment will not determine the *quantitative* impacts that LTPR interventions may have had on such broad development targets. The costs, complexities, issues of attribution, and dis-aggregation of information/data make this sort of assessment impractical. In all-to-many instance, the absence of baseline information relative to so many past LTPR interventions makes it difficult to determine quantitative results.

The LTPR pre-assessment and assessment tools can be found in Volume 3 of the LTPR Framework.
Based on research and experience, LTPR practitioners believe there is a sequence of land reforms that can be tailored to each country and extended regionally that could lead to stronger and more efficient property rights systems. The fact remains, however, that much of the literature on sequencing remains largely academic and has not yet come into the realm of “best practices” or “best ordering” of land tenure and property rights reforms.

6.1 SEQUENCING=CONTENT, SCALE, TIMING, AND ORDERING

Addressing the problems behind the LTPR categories requires the selection, design, and implementation of interventions from within the finite universe of LTPR interventions. LTPR interventions selected for implementation will have certain content (legal aid, titling, or dispute resolution, for example) and will be done to a certain scale, at a certain time, and in a certain order relative to our understanding of LTPR themes and constraints. Thoughtful sequencing of LTPR interventions means that appropriate content, scale, timing, and order will better achieve desired objectives. Conversely, inappropriate content, scale, timing, or order of LTPR interventions can yield poor results, no outcome, wasted resources, or, at worst, negative and unintended consequences.

6.2 WHEN TO CONSIDER SEQUENCING

The sequencing of LTPR interventions should be considered before interventions are actually selected or implemented. The concept of sequencing LTPR interventions should inform LTPR assessment and design fieldwork, as well as the selection of basic approaches to LTPR reform, implementation, and monitoring. In most instances, however, sequencing has not often been an early part of the donor LTPR intervention selection process, and some LTPR reform programs have been designed and implemented without express attention to sequencing. In fact, the evaluation of sequencing is frequently done after implementation of interventions, as sponsors try to gauge the impacts of interventions or to determine why benefits did not accrue at the expected levels.

6.3 WELL-FORMED OBJECTIVES WILL DRIVE SEQUENCING

At its most basic, sequencing will be dictated by specifically defined objectives: alleviation of poverty, gender equality, equitable asset distribution, economic growth, violent conflict avoidance, or post-conflict reconstruction. Each will have differing sequencing patterns that might be considered optimum. Plus, almost any set of LTPR interventions in a development program would have multiple objectives, and any combination and prioritization of these objectives would suggest differing sequencing patterns.

For example, based on a set of interventions using land titling, a titling and registration program particularly targeted at increasing women’s access and rights to land and then more broadly targeted at economic development might aggressively prioritize the issuance of joint titles. Alternatively, if the priority target is to alleviate poverty, a titling and registration program might first be intentionally targeted toward geographic areas or...
regions where the poor are concentrated. A titling and registration project focused on growing a land market might target areas containing land that is most likely to be transferred. In each instance, the intervention is largely the same, but the nature and sequencing of the interventions are driven by well-appointed objectives and by inference-appropriate problem definition, an understanding of causal diagramming, and an ability to clearly articulate assumptions.

Similarly, LTPR interventions that hope to head off violent conflict might be sequenced much differently than interventions aimed primarily at spurring economic growth. LTPR interventions that target conflict might be aimed at certain ethnic groups or might attempt to shift the allocation of land resources aggressively from one segment of the population to another. A post-conflict situation almost always calls for special sequencing patterns. Dispute resolution (accommodating returnees who find their land occupied) and distribution of land from state reserves (accommodating a demographics change) might be called for as first activities under these circumstances.

6.4 SUSTAINING RESULTS AND SEQUENCING OF LTPR INTERVENTIONS

Experience has also shown that, to sustain the impacts of LTPR interventions, complementary supporting measures may be needed during and long after the primary objectives of earlier interventions have been achieved. The duration of many land reforms should be regarded in terms of decades, rather than years, as it is clear that sequencing must be about duration (and the overlap of many durations) of reforms.

A 1999 World Bank manual describes pre-conditions that relate to or are needed to yield the potential benefits of or avoid harms created by titling and registration programs in any country. Some of these pre-conditions are listed below:

- Because some traditional land tenure systems that are not based upon titles do not create tenure insecurity, scrutiny of actual perceptions of insecurity is recommended.
- If titling includes plot individualization (and it usually does), the likelihood of harming common property regimes should be addressed.
- Titles must be accompanied by workable dispute resolution and enforcement.
- The link between increased security and increased investment must be validated or created.
- Credit increases will require ancillary measures in support of borrowing and lending.
- Additional supplies of farm household labor might be needed to realize investment increases.
- The potential for increased land market activity should be facilitated by addressing related considerations and constraints.
- Environmental benefits (seen by some to accompany titling) may not necessarily follow, as investment and higher productivity might be accompanied by negative environmental impacts.

Another example of how titling and registration benefits can be realized comes from the Australian international development agency, AusAID. AusAID describes measures in the order needed to permit the next step toward realizing benefits. For example, before titling can give landholders formal rights and security, the tenure laws must be appropriate, unambiguous, enforceable, available, and allow equitable and easy First Registration. The title must be registered in an official registry, the registry must be efficient, correct, and secure, and titling itself must be affordable and accessible. Other considerations include a basic demand for titles; the presence of basic credit mechanisms and capital; the efficacy and possibility of investments; and the potential for income increase use, land valuation capacities, reasonable transaction costs, preventions to rent
seeking, availability of information, adequate institutional capacities, suitable public perceptions, perpetuation of systems, needed fee and revenue streams, and the inclusion of the poor.

Similarly, the complementary measures that are often implemented to accompany broader LTPR programs need to also be sustained. For example, legal literacy campaigns aimed at informing the public about new land rights and obligations are frequently undertaken just after the passage of new laws or regulations. Many citizens are reached by these campaigns; however, citizens need information provided by legal literacy interventions most when they are going to exercise a right, fulfill a legal obligation, or respond to a deadline set by statutory law. Many countries have instituted land reforms aimed at the formalization of land rights based on occupation with date-certain timeframes or forfeiture. Many of these efforts have been run with one-, two-, or three-year windows. While an initial legal education campaign is useful, an ongoing effort must be sustained to reach and prompt action on the part of the full population of land occupiers.

6.5 SEQUENCING TOOLS AND MAXIMS

Despite the notion of ideal or optimum sequencing, there is no single sequencing formula or scheme that can be used to order the implementation of LTPR interventions. Existing and evolving policy, social, legal, economic, and political conditions are unique to every country and this exceptionality makes sequencing models non-fungible and, in some cases, only applicable to a single situation.

The LTPR Framework does not yet include a sequencing tool to guide the analysis. Upcoming work will focus on this gap. But application of sound sequencing principles and better sequencing are possible now. To demonstrate how sequencing efforts might affect the LTPR intervention categories, some maxims are set out in Table 6.1. Some of these have been captured in the LTPR Matrix under “Key Institutional Arrangements.” Others are offered here because they influence the complex task of unraveling both LTPR themes and interventions; they should help contribute to determination of “cause and effect”. The list of relative sequencing considerations is not exhaustive. Rather, it serves to give an idea of some of the issues related sequencing.
| KEY INSTITUTIONAL ARRANGEMENTS | • Policy and legal frameworks must set the stage for good governance.  
• Institutional and human capacity must be increased before progressive government performance can be expected.  
• Civil society must provide ongoing public scrutiny and input.  
• Good governance milieu must precede LTPR regime changes. |
| CONFLICT OR DISPUTE RESOLUTION | • Nature and scope of conflicts must be characterized before intervention.  
• Sufficient security is needed to allow implementation of basic LTPR efforts.  
• Means of enforcing decisions and adjudications must be provided.  
• Resolution mechanisms must be viewed by citizens as being legitimate.  
• There must be means of accommodating the “losers” of the dispute or conflict. |
| LEGAL AND REGULATORY FRAMEWORK | • Political will for progressive change must exist.  
• There must be sufficient human and monetary capital.  
• There must be means to communicate and enforce legislation.  
• Framework must match capacity realities.  
• Legal services capacity must be created over time. |
| REDISTRIBUTION | • Access and allocation patterns must be identified.  
• Sources of available land must be identified if distribution is an option.  
• Rental markets should be unfettered to provide “non-owned” access.  
• Efforts must consider indigenous persons and women.  
• Redistribution should accompany distribution with secure tenure. |
| LAND ADMINISTRATION | • Levels of technology must match actual need and availability of resources.  
• Institutional and regulatory structures need to be in place or developed in parallel.  
• Long-term commitment is needed to protect initial investments. |
| LAND USE MANAGEMENT AND CONSERVATION | • Land use planning should reflect actual needs and not unduly restrict transactions or markets.  
• Institutional and regulatory structures need to be in place or developed in parallel.  
• Accurate characterizations of resource needs and use are a necessity. |
7.0 LTPR EDUCATION AND TRAINING STRATEGY

Demand is increasing from USAID field missions and host country governments to address LTPR programming. Several offices and missions within USAID have worked on to build LTPR research, policy, and implementation strategies to address property rights as they relate to their objectives. This work includes trade-led economic growth, agriculture and rural economic reforms, poverty reduction, land transactions and markets, and conflict mitigation. USAID regional bureaus have also contributed to this process. Some missions and operating units are interested in addressing property rights issues broadly, while others remain more focused on regional themes and trends in LTPR related to conflict or agrarian reform and economic growth. As a consequence, there is a growing demand to assemble lessons learned from various experiences and contribute to the development of a coherent agency-wide approach to addressing property rights.

The LTPR Framework and associated tools are an important step in this direction. But these tools, methodologies, and strategies need to be communicated to USAID operating units, mission technical staff and management, and partners in host countries. In addition, a larger cadre of LTPR practitioners needs to be brought into play, supported and nurtured to participate more directly in USAID international LTPR programming.

As part of the LTPR Framework, education and training have an important role. In order to advance both the “community of practice” in land tenure and property rights and to promote the understanding of the role that LTPR play in development programming, USAID should embark on a modest but sustained program of instruction. The following elements are proposed to advance the role and understanding of LTPR within USAID and among its host country partners. USAID should consider the following elements in the development of an LTPR education and training strategy. The strategy should have a five-year horizon and consider the components listed below.

7.1 LTPR EDUCATION AND TRAINING METHODS

LTPR education and training should be driven by LTPR issues, constraints and interventions. USAID’s Land Resources Management Team (LRMT) has already embarked on the development of a training methodology aimed at professional USAID in-service personnel. Short LTPR training courses should be added to in-service programs of USAID staff training when in Washington, D.C. In addition, training courses should be hosted and offered by USAID in conjunction with regional offices to support regionally-focused LTPR themes offered to mission programming staff and their host-country counterparts. At present, these training and workshops are intended to be residential and will focus on a combination of LTPR basics, regional lessons learned, and emerging best practices relative to LTPR themes. Both regional and international LTPR trends should be analyzed for their applicability to each training event; and most of this experience is coming from outside USAID. Development of the training programs will be the responsibility of a contractor and conducted through a core training team. This team should be consistent throughout all trainings to ensure continuity of material and methods.

Each training should be preceded by a training needs assessment, the results of which will shape the content, duration, location, and participant selection. Regional courses should also encourage the participation of other
donor representatives, appropriate LTPR nongovernmental organizations (NGOs), and USAID projects engaged in regional LTPR programming.

Guest presenters (LTPR experts) should be employed to work with the core team of trainers. These experts will have strong regional expertise and will be expected to draw on a body of land and property rights reform knowledge specific to each region. Guest presenters can include project, USAID, NGO, government, and donor representatives. Combinations of lectures, question and answer sessions, and workshop break-out groups should be used to deliver and discuss LTPR programming.

The efficacy of this course work should be evaluated, and formal course components of the LTPR education and training strategy adjusted and further developed accordingly.

In addition, the LTPR education and training strategy should examine the role that workshops, conferences, roundtables, and distance learning materials can play in advancing both the international dialogue on LTPR programming and strategies on how best these tools can be employed to stimulate inter-regional and international information sharing, develop lessons learned, and contribute to a body of best practices in the field of LTPR.

7.2 LTPR EDUCATION AND TRAINING MATERIALS

LTPR training materials are expected to be gleaned largely from existing coursework, case studies, and project reports. Where necessary, off-the-shelf training materials should be used, but all course work will be tailored to the LTPR Matrix and focus on regional LTPR trends and issues. Most course material will draw heavily on the experience of projects in each of the USAID presence regions and will tie into the efforts of other donors and host-country governments.

Course material will be made available in both hard copy and electronic formats. As these materials are to form a vital part of the long-term LTPR knowledge management component of the framework, they should be available via the Internet for ease of access. The results of each regional training should be widely accessible to participants and easily shared between USAID staff, their counterparts, and donor partners.

The LTPR education and training strategy must examine costs and benefits of new course material development and determine how these materials can best be gleaned from the library of LTPR resources within USAID.

7.3 LTPR EDUCATION AND TRAINING AUDIENCES

At present, the primary LTPR education and training target audiences have been broadly identified by USAID/LRMT. For the next several years, LTPR training should focus on in-service training for USAID programmers, regional USAID development staff, and host-country counterparts. Based on the experience of US-based and regional LTPR trainings, the selection and/or composition of training audiences should be adjusted accordingly.

7.4 LTPR REGIONAL CENTERS OF PRACTICE

The LTPR education and training strategy should also focus on support mentoring of regional LTPR “centers of practice.” Many of these centers of practice already exist in some form, and USAID should select from the best and nurture the capacity of these centers to provide technical assistance, assistance with LTPR assessments, and applied research (particularly in light of impact monitoring and evaluation demands) in the area of land and property rights. In addition, these centers should be encouraged to form part of a wider network that participates within the LTPR knowledge management efforts addressed in more detail in the Section 8.0 of this framework.
The five-year LTPR education and training program should carefully consider the use of two additional mechanisms:

- **LTPR Interns and Scholarships:** LTPR programming, both in and outside of USAID, is seriously challenged by the paucity of well-prepared, young, LTPR practitioners. Given the interdisciplinary nature of land tenure and property rights across governance, agriculture, legal reform, natural resources management, poverty alleviation, and conflict, it is often difficult to identify and secure strong teams of LTPR professionals with an appreciation for the universe of LTPR. The LTPR education and training strategy should consider how USAID could support a program to nurture the development of such individuals. This could take the form of American Association for the Advancement of Science fellows for LTPR within USAID and a more formal set of scholarship agreements with select universities, wherein graduates would work within the agency on LTPR programming in exchange for financial support for post-graduate work.

- **Research Grants Fund:** While a strong research component was already a part of the Collaborating Research Support Program under the BASIS IQC, there remains a need for funds for applied research, in combination with LTPR program monitoring and impact assessments. The LTPR education and training strategy should examine strengths and opportunities to tie in with existing USAID-funded research mechanisms and ways in which these and other mechanisms can be tied to LTPR monitoring and impact assessment. Specific projects could be selected from all of USAID presence countries to examine the five major LTPR programming categories, and case studies could be used to capture lessons learned and best practices relative to project performance indicators and project impact indicators. These would be assessed relative to the general universe of LTPR reforms in each of the countries.
8.0 LTPR KNOWLEDGE MANAGEMENT

Knowledge is information put to productive use by people. Knowledge management involves the creation, capture, organization, and sharing of knowledge for a specific purpose. A knowledge management (KM) strategy is an approach for optimizing access to information by a specified audience of users. Ultimately, USAID will need to address issues of LTPR information access and develop a LTPR KM strategy. In the near term, however, USAID requires a means to track, collect, and process LTPR information on the development of LTPR programming, the sequencing of reforms, and the connection between and more strategic USAID development objectives. The LTPR Framework, with its tools and methodologies, is an important cornerstone of this effort. It can be used to direct the medium-term management of LTPR information to the eventual development of a long-range LTPR KM strategy.

The success of the LTPR assessment methodology and the feasibility and quality of associated ranking and assessments will depend on the availability and quality of knowledge contained in a country's information domain.

- Country-specific LTPR themes and donor interventions reports are based on donor and project reports that need to be assembled and synthesized on a regular basis. These documents are, nonetheless, highly dependent on the quality of data that is used and analyzed by them.
- Country-specific LTPR ranking and maps are equally dependent on the amount of information acquired and gleaned from donor and project reports, as well as from expert experience.
- Country-specific LTPR pre-assessments are important sources of up-to-date information that should be used to populate both reports above. These assessments add to a growing body of knowledge that improves the content and sequencing of LTPR reforms and deepen the analysis of LTPR constraints through more focused desktop study and short-term consultancy.
- LTPR country assessments are the jewel in the LTPR information crown, as they make greater use of qualitative techniques in providing clarity and nuance to the depth of LTPR issues, constraints, sequencing, and impacts associated with each. Importantly, these assessments also focus on interventions—both the identification and combination of interventions that are recommended for design and the interventions used by of governments and donors.

USAID’s Vision for Knowledge for Development

“…USAID envisions providing its staff, stakeholders, partners, the development community, and aid recipients with the power to access and leverage worldwide development knowledge, generate new intellectual capital, and continuously learn from their activities.”


1 USAID Knowledge Management Inventory, December 2002.
The effectiveness of KM within USAID will depend on a detailed strategy and action plan. In addition to the education and training strategy components addressed within the previous section of the framework, the growth and institutionalization of the LTPR Framework with USAID will need to take into account four major considerations. A USAID LTPR KM strategy should have a five-year horizon and consider the following steps.

1. In the near-term, stimulate awareness of LTPR categories and interventions through the appointment and development of an LTPR information clearinghouse within USAID, which assembles and catalogues information on LTPR in a comprehensive fashion. This could comprise a unit operating within USAID’s Development Education Clearinghouse, or a unit within the LRMT, operated by USAID personnel or a contractor. The capacity to take in information and analyze it within the context of the LTPR Matrix and supporting tools will be an important function of this unit. The LTPR KM unit within USAID will need LTPR specialists. The LTPR KM strategy should address issues of staffing, costs, qualifications, and responsibilities for such a unit.

2. In conjunction with near-term information processing requirements, USAID must undertake the preliminary steps in building a KM strategy. The agency must identify primary and secondary audiences for LTPR information, internal and external to USAID, and the development of outreach programs that encourage dialogue and information exchange. USAID should expect to identify primary and secondary information users within USAID as a principal objective, and then groups and organizations outside USAID as secondary audience. This preliminary step should also identify regular sources of information that can be used to populate the LTPR Matrix with real examples of development and progress relative to USAID presence countries. Accommodation of an outreach component capable of establishing and maintaining regular links with a host of LTPR organizations that are easily accessed through the Internet should be integral to this step.

3. Establishing information exchange protocols between key international LTPR agencies and USAID is also key to a successful KM strategy. USAID should be encouraged to formalize this process. Some of the most notable groups include the University of Wisconsin Land Tenure Center; the Consultative Group on International Agriculture and Research (CGIAR), System-wise Program on Property Rights and Collective Action (CAPRI); the International Food Policy Research Institute (IFPRI); Oxfam; GTZ; the Sustainable Development Department of the United Nations Food and Agricultural Organization (FAO); the UK Department for International Development (DFID) and its affiliate program with the Institute for Development Studies, University of Sussex; and the World Bank’s Land Policy Unit. Much of the information generated and exchanged by these groups is available online. However, at present, there are no shared lenses or information filtering to determine its utility within the universe of LTPR programming within USAID.

4. Today’s information and communications management technology can be readily applied to a LTPR KM strategy within USAID. Therefore, a prototype information access mechanism that can capitalize on Web-based technology should be developed. It is not the technological details that are the challenge vis-à-vis the LTPR KM strategy, but the organization and management of the LTPR information and how it can be accessed, exchanged, updated, and projected. Once this vision is secured, the role of information management technology should be addressed.
GLOSSARY OF COMMON LAND AND LAND TENURE TERMS

(Sources for the definitions are cited in parentheses, where appropriate. The full citations can be found be indicated in the “Sources” section at the end of the glossary. Since many of these documents were developed by the different institutions at the same time, similar definitions have been used by each.)

Access to land: The local and/or legally recognized right to enter and use a physically defined area. Access rights may be obtained through family or group membership or through legally-sanctioned processes such as allocation, purchase, and inheritance. Access rights are defined in terms of location, time, use, and the individual’s relationship to the community. (DFID)

Adjudication of property rights: The process leading to a final and authoritative determination of the existing rights and claims of people to land. This may be in the context of First Registration, or it may be to resolve a doubt or dispute after First Registration. It may also be used in redistributive land reform processes. The process of adjudication should reveal what rights already exist, who holds them, and what restrictions or limitations exist on them. (FAO, LAG)

Agrarian reform: A program of activities designed to alter the agricultural structure of a country to increase agricultural production and improve standards of living of rural populations. Such reforms will often include land reform or land tenure reform components. (Bruce, FAO)

Agroforestry: A land use system where woody perennials are growing on the same piece of land as agricultural crops and/or livestock, resulting in both ecological and economic interactions between the different components. (FAO)

Agropastoralism: A land use system that combines both crop agriculture and animal husbandry with pasture uses. (FAO)

Alienation of land: The transfer of ownership rights in land or property to someone without regard to status, implying both the existence of private property and free will. In customary tenure systems, land is rarely seen as a commodity that can be traded at will, and the ability to alienate land is limited. (Black, DFID, LAG)

Allocation of state land: The assignment of state land to an individual or group under specified tenure or use restrictions.

Alternative dispute resolution: A process of dispute resolution taking place out of the formal court structure using arbitration mechanisms upon which both parties have agreed. (GTZ)

Arbitration: A process of dispute resolution through which a neutral third party renders a decisions after each disputant has had a chance to be heard. (Black, FAO)

Assurance of rights: The act or process of making certain beyond doubt of rights. (Black)

Beneficiary: One who benefits from the act of another; the party who will benefit from the transfer of property or other rights. (Black)
**Boundary:** The “physical demarcation on the ground or by a mathematical description, usually based on a coordinate system. The accuracy and cost of cadastral surveys is dependent on the accuracy needed for boundary descriptions. The accuracy should reflect factors such as the value of the land, the risk and cost of land disputes, and the information needs of the users of the cadastre.” (FAO citing FIG, 1991)

**Boundary demarcation:** The process of identification and acceptance of property boundaries physically created on the ground having recognizable features (survey markers, fences, trees or bushes, or natural features such as roads, waterways, or paths) or an imaginary line or surface marking the division between two properties. (LAG)

**Buffer zones:** Areas of land between two radically different land use or political regimes. These are most often encountered in reference to protected area management and the rights of the surrounding communities to have access to protected area resources or to be protected from encroaching wildlife.

**Bundle of rights:** Rights held in relation to access and utilization of land resources. These include, but are not restricted to, such things as the right to sell, mortgage, and bequeath land; cut trees; bury dead; and construct homes. This bundle can be broken up, rearranged, and passed on to others. Some of these rights will be held by individuals, some by groups, and others by political entities. For any tenure system, each of the rights will have at least three dimensions: people (the individual's right relative to that of others); time (the duration of the right); and space (the geographical area covered by the right). The assurance of these rights is provided by community sanctions or the state.

**Cadastral map:** A map showing land parcel boundaries.

**Cadastre:** A type of land information system that contains a set of records on land parcels. Specialized cadastres may support records of property rights (judicial cadastre), taxation (fiscal cadastre), or land use (land use cadastre). A multi-purpose cadastre will register many different attributes of land parcels. (FAO, LAG)

**Civil Code:** A law inspired by Roman law and the French Civil Code, in both cases, the primary feature being that laws exist in a collection, were codified, and were not determined by judges. The principle of a civil code is to provide all citizens with an accessible, written collection of the laws which apply to them and which judges must follow.

**Codification of customary law:** The process of collecting and systematically arranging the laws and customs of a community. The end product may be formalized into statutory law or code.

**Codified law:** Laws, rules, and regulations that have been systematically collected and arranged, usually by subject, e.g., commercial code or criminal code.

**Collateral:** A term used to refer to property that is pledged as a guarantee for repayment of a loan. The most common form of use of immovable property being used as collateral is the mortgage, a transfer of an interest in the land as security for a debt. The collateral is held by the lender until the debt is repaid, at which time the mortgage is cancelled. If the debt is not repaid, the ownership of the property is transferred to the lender. (DIFD, FAO, LAG)

**Collective ownership:** A situation where holders of land rights are clearly defined as a group and have the right to exclude others from the enjoyment of those land rights. (GTZ)

**Common law:** A body of principles and rules of action historically based on usage and custom, but currently based on courts’ judgments and decrees affirming these usages and customs. (Black, LAG)

**Common property:** Land and other resources over which individuals or communities have specific common rights. This is any property regime which ensures that more than one user has free access to the same resource. Common property refers to co-ownership rights which cannot be divided, alienated, or
developed without the unanimous consent of all common property owners or along the rules established by the common owners. Thus, common property owners have full rights of ownership, as long as they act with common consent. (FAO)

Communal ownership: A situations where rights to use resources are held by a community. While these rights may include communal rights to pastures and forests, they may also include exclusive private rights to agricultural land and residential plots. (FAO)

Compensation: The payment made for property taken or adversely affected by another (generally, the state). Compensation payments for land are generally related to expropriation exercises, but may also include planning and zoning restrictions. Compensation may take the form of cash payments, provision of alternative parcels of land, or financial securities, such as bonds or interests in state enterprises being privatized. (FAO)

Concession: A specialized form of lease, generally defined as a grant of specific rights and privileges over property by a government to an individual or company to develop the resources of the property, such as a mining concession, forestry concession, a concession to build a canal, or a concession to manage a government property. Payments for concessions may be related to the volume of sales or resources extracted, rather than a fixed annual rental payment.

Condominium: A form of ownership where parts of a property are owned individually (such as an apartment) and parts of the property are owned jointly (such as stairways and other components integral to the design of the property). (FAO, GTZ)

Conflict over land: The situation where the interests of one individual or group are in opposition to those of another individual or group. Conflicts that arise over use or ownership of resources may be related to differences in boundaries, land use, ethnicities, economic status, or levels of government, and they may or may not lead to violence.

Conflict or dispute resolution: The process of resolving or settling claims between parties. Resolution mechanisms may exist through formal court structures, less formal, though legally sanctioned procedures, traditional customary mechanisms, or various forms of arbitration.

Conservation management: “An extension of land management that emphasizes the need to protect and safeguard natural resources.” (FAO)

Cooperative: “A private, user-oriented, and user-controlled organization established by voluntary association for the promotion of the interests of its members in their triple capacity as share holders, decision-makers, and users.” (GTZ)

Co-ownership: Property held jointly by two or more people. The enjoyment of a property in co-ownership is said to be in undivided shares, in that each person has the same right to any part of the property. There are two forms of co-ownership: joint tenancy and tenancy in common. (FAO)

Customary land rights: The holding of land in accordance with customary law or tradition. Customary land law regulates rights to enjoy use of land that arises through customary, unwritten practice, rather than through written or codified law. Land use rights can be created on the basis of custom and use of the land over a long period of time. They are often the rights created by ancestral occupation and use of land or by a cultural system, whereby social identity and kin group membership provide people with access to land and resources.

However, as a general rule, two central features of customary tenure systems may be identified. Many of these systems tend to view land and resources as being inalienable, such that property rights cannot be sold to those to whom the land has been allocated. The second common feature is that the same piece of land can be subject to multiple claims that relate to the different ways in which it is
used by different groups and individuals at different levels (different times, intensities, duration, uses, etc.). (Bruce, FAO, DFID)

**Customary land law:** A community’s mechanism for regulating the right to use land through customary practice, rather than through written law. (FAO)

**Customary law:** The body of past and present indigenous laws and customs which regulates how a society functions.

**Decentralization:** The transfer of administrative powers (decision making, executive, and fiscal) to lower levels of government, with varying degrees of autonomy.

**Deeds registration:** A system of proof of property ownership and interests, based on the registration of transfer and other documents. An entry in the registry provides evidence of the vendor’s right to sell. Under a deeds system of conveyancing, security of title is obtained by reviewing all previous transactions on a piece of property (demonstrating an unbroken thread of ownership through the sequence of deeds over the requisite number of years) to ensure that there are no outstanding claims of ownership. A deeds registration system is limited in that it does not provide a guarantee of title. All that it typically provides is access into the chain of transactions that can be used to prove title. Further security of ownership is often provided through title insurance, which underwrites any losses that may arise through defects in the title. (FAO, LAG)

**Dispute resolution:** The settlement of conflict between groups or individuals. The factors determining how societies deal with internal disputes are related to the formal authority structures of courts and written law or traditional authority structures of family, village councils, and leadership figures. The existence of many different bodies for dispute resolution can raise opportunities for specialized fora and rules of procedure for different segments of society and different types of disputes. (DFID)

**Formal dispute resolution mechanisms:** Mechanisms recognized by law and the state administration system for dispute resolution. In general, formal mechanisms are courts or legally-sanctioned bodies, such as land committees, that adjudicate disputes over land. Decisions made by the legally-sanctioned body are binding on the parties involved, although an appeals process may be provided for dispute resolution.

**Informal dispute resolution mechanisms:** Mechanisms that may or may not be recognized by law or the state administration system. Informal settlement can include mediation and arbitration, or it may simply be a community-based adjudication process. Decisions made under informal dispute resolution mechanisms are not always legally binding, but they have the advantage of generally offering a more rapid and cost-effective resolution to the dispute as compared to the formal dispute resolution mechanisms.

**Easement:** The right of use over the property of another, for example, the right of access or the right of passage of utilities.

**Eviction** (of tenants and farm workers): The dispossession by law from a plot of land or rental property which had been occupied or leased. (Black, DFID, FAO)

**Expropriation:** The process through which the state acquires land or property for the purposes of redevelopment in the public interest, such as road construction, schools, and hospitals. Expropriation may also be used in redistributive land reform programs. The definition of the “public purpose,” the identification of the owners of the property acquired, the valuation of the property, and the payment of compensation are all issues to be considered in expropriation or compulsory acquisition exercises. Expropriation occurs when the state exercises its right of eminent domain. (FAO)
**Forest code:** A collection that comprises the laws and regulations that govern individual and collective use of forests (production, protection, preservation, etc.), as well as regulate the powers and mechanisms for the administration of the forest area. (FAO, GTZ)

**Freehold:** The right to full private ownership of land, free of any obligations to the state other than payment of taxes and observance of land use controls imposed by the state in the public interest. This term is used interchangeably with private property or private land ownership. (Bruce, DFID)

**Geographical information systems (GIS):** “A set of computer tools for collecting, storing, retrieving, analyzing, transforming, and displaying spatial data.” (LAG, FAO)

**Illegal/informal occupation:** The occupation of land or housing by an individual or household without formal approval from the legal owner (state or private). Illegal occupation ranges from an individual squatting on the property of another to informal settlements where large areas of land are occupied by many people.

**Immovable property:** Property in land and fixtures, such as buildings, attached to the land. Also referred to as “real” property.

**Inalienable:** Not transferable, that which cannot be bought, sold, or transferred from one person to another, such as rivers, public highways, and certain rights. (Black)

**Indigenous land rights:** Rights specific to a particular ethnic group, having evolved through interaction of culture and environment and overseen by authorities whose legitimacy is based on occupation and spiritual ties to the locality. (DFID, GTZ)

**Informal settlements:** Areas where a large number of people illegally occupy land and build housing and businesses. Informal settlements, also called “squatter settlements,” are generally located on the periphery of urban centers and are created because of a lack of access to urban land or housing. Rights to the property are not recognized by the state. Tenure in informal settlements is insecure and the property is not part of the formal property or financial markets.

**Land administration:** “…The processes of recording and disseminating information about the ownership, value, and use of land and its associated resources. Such processes include the determination of rights and other attributes of the land; the survey, description, and detailed documentation of these rights; and the provision of relevant information in support of land markets and land use management.” (LAG)

**Land allocation:** The process through which the state distributes land resources in ownership or use rights. State land resources allocated/distributed may be from the existing state asset base, the result of a land reform program, where larger (formerly private) landholdings have been broken up for allocation, or where the land assets of former collectives or cooperatives are distributed. These allocations may be in the form of land shares in former state land assets. In customary tenure systems, the term refers to the process through which the traditional leader gives land use rights to individuals or families.

**Land based revenue:** Revenue generated from land through sales of state assets, property taxation, transfer fees, and various land administration fees.

**Land conflicts:** Disagreements over land. These occur where specific individual or collective interests relating to land are in conflict with the interests of others. Land conflicts or disputes may arise from a wide range of situations and are commonly found where there is intense population pressure on land, where different types of land use abut or overlap one another, or where boundaries are not well demarcated. Conflicts can arise within families, between neighbors, between villages, between different resource users (e.g., herders vs. farmers, agriculture vs. forests, and urban vs. peri-urban vs. rural land uses), between different property regimes (e.g., customary tenure, common property, and
private property), between different ethnic groups, and between different economic strata.
Complicating the dispute process is the fact that different disputants may have different perceptions of property rights (legal pluralism) and access to different resources (economic, political, legal, and social) to assist them in presenting their claims.

Land contract: An agreement for the purchase and sale of land usually involving installment payments by the purchaser with the transfer of title occurring upon payment of the final installment. (Black)

Land consolidation: The combining of small land parcels into larger units of more economic and rational size, shape, or location. Consolidation is “a sequence of operations designed to reorganize land parcels in an area, regrouping them into consolidated holdings of more regular form and with improved access. Consolidation of parcels of land into a single holding, whether voluntary or enforced, is intended to provide a more rational distribution of land to improve the efficiency of farming.” (FAO)

Land court: An established court having exclusive original jurisdiction over land disputes.

Land development: The transformation of land to be used more efficiently through the application of capital, labor, or management.

Land disputes: A disagreement over land resulting from an assertion of rights, claims, or demands on one side met by contrary claims on the other. Disputes are generally related to boundaries, overlapping use rights, access to land, competition for resources, ownership, and inheritance. (FAO, GTZ)

Land fragmentation: The ownership of multiple, non-contiguous parcels of land by a single owner. These are often described to be very small, non-economically viable land units.

Fragmentation becomes a concern when the division of land results in units too small for rational exploitation or so widely dispersed as to present constraints to the effective management by the landholder. The principle cause of fragmentation is the subdivision of land through inheritance, but it may also have resulted from the owner’s acquisition of multiple parcels of land over time. The process may lead to a multiplicity of parcels for one owner or a multiplicity of owners of one parcel.

Landholding: A general term used to describe an area of land, usually a working farm. It does not imply any rights to that land.

Land information systems: A tool for legal, administrative, and economic decision-making and an aid for planning and development. A land information system consists, on the one hand, of a database containing spatially referenced land related data for a defined area and, on the other, of procedures and techniques for the systematic collection, updating, processing, and distribution of the data. The base of a land information system is a uniform spatial referencing system, which also simplifies the linking of data within the system with other land-related data. (FAO, LAG)

Land law: The body of law dealing with land and the ownership use and property rights associated with it.

Land management: The process by which the resources of land are put to good use. This term covers all activities concerned with the management of land as a resource, both from an environmental and an economic perspective. These include:

- Improving the efficiency of land resource use to support a growing population;
- Providing incentives for development, including the provision of residential housing and basic infrastructure, such as sewer and water facilities;
- Protecting the natural environment from degradation;
- Providing equitable and efficient access to the economic benefits of land and real estate markets; and
- Supporting government services through taxation and fees related to land and improvements. (FAO, LAG)

**Land market**: The foci where buyers and sellers of interests in land meet. Broadly speaking, the market in land rights includes a range of possible transactions, such as sales, leases, mortgages, land exchanges, and other temporary transfers. (Bruce, FAO)

**Land ownership**: The set of rights in land held by an owner or owners. These include rights to use and dispose of the interests in the land through sale, lease, bequest, or other terms agreed upon with the person acquiring those rights. (FAO)

**Land policy**: The set of objectives put forward by the state through various laws, regulations, and policy directives that delineate its goals, intentions, and measures for its desired land tenure, land use, land management, and land administration structures. (FAO, GTZ)

**Land reclamation**: The process of bringing unusable land to a usable state with higher value, for example, through swamp drainage, desalinization, reforestation, or recovery from past environmentally unsound land use or natural disaster.

**Land redistribution**: The redistribution of landholdings, usually involving the resettlement of farmers and reallocation of property rights over the land.

**Land reform**: The redistribution or reallocation of landholdings in an attempt to improve access rights to certain segments of a society. The process usually involves the breaking up of large landholdings and redistributing the land to landless people or to those who have been working on the larger landholdings. (Bruce, DFID, FAO; See also agrarian reform and land tenure reform.)

**Land register**: A public register used to record the existence of deeds or title documents over land, comprising the registered details of each property. (LAG, FAO)

**Land registration**: “The process of recording rights in land either in the form of registration of deeds or else through the registration of title to land.” (LAG) The aim is to guarantee the security of property transactions, to protect the owner from encroachment by third parties, and to generally enhance land tenure security. This is accomplished through the ability to uniquely identify a piece of property and attribute ownership or other real rights of that property to an individual or legal entity. The location and extent of the estate in question and the nature of rights affecting it are defined and recorded in the land register. This process must be kept in perspective. It is a device which may be essential to sound land administration, but it is merely a part of the larger land management machinery of government. (FAO, LAG)

**Land registry fees**: Fees collected in the process of using the services of the land registry. These include initial registration as well as subsequent activities, such as obtaining copies of registration documents, registering mortgages, transferring titles, and subdividing property.

**Land rehabilitation**: (See land reclamation.)

**Land reserves**: Land set aside by the state for future state needs, future allocation, or protection of unique ecosystems or biodiversity.

**Land sector agencies**: Land-related administrative and regulatory institutions that play a vital role in land management and administration and in defining and supporting land markets. Although these institutions vary in organization, structure, size, locale, and scope of responsibility from country to country, they typically fill many of the same roles, providing regulation, administration and services in...
the following areas: land use and planning; taxation; land registration; surveying and mapping; credit and mortgage; insurance; and agency and brokerage.

**Land speculation:** The process through which land is acquired not for immediate productive use, but with the expectation that the land will increase in value and that subsequent sale will generate a profit. This practice is generally common in situations of rapidly-rising land values due to urban expansion, public works programs (road corridors), or other changing economic opportunities.

**Land subdivision:** The process through which a piece of land is divided into smaller units. This often occurs as a result of inheritance and the sharing of the land assets among the heirs of the landholder. However, subdivision may also occur as a result of market forces and the desire to sell or transfer a portion of the landholding. Subdivision may lead to fragmentation.

**Land taxation:** The process through which governments levy taxation on land parcels. This practice is a major source of local government revenue for those countries where land and property taxation is in place. Land taxes are usually based on a rate levied per hectare, with adjustment for land quality and use. A system of land taxation requires the ability to identify parcels of land and the owners to which they belong (i.e., some form of land record), which is relatively inexpensive and is easily understood by the population being taxed.

**Land tenure:** The institutional (political, economic, social, and legal) structure that determines how individuals and groups secure access to the productive capabilities of the land. (Dorner)

**Land tenure reform:** The process through which tenure rights are changed. Tenure reform is a mechanism to alter or improve the rights of tenure. People will hold the same land, but will have different rights over that land. (Bruce)

**Land tenure system:** The totality of rules governing use and property rights in land, including both formal and custom law.

**Land transaction:** The transfer of property rights or ownership of land, permanently (through sales or inheritances) or temporarily (through leases, sharecropping arrangements, mortgages, etc.).

**Land use planning:** “The systematic assessment of land and water potential, alternative patterns of land use and other physical, social, and economic conditions, for the purpose of selecting and adopting land use options which are most beneficial to land users without degrading the resources or the environment, together with the selection of measures most likely to encourage such land uses.” The term is also used in the context of a tool for the management of land within a specific ownership. (FAO citing Choudhury, K., and Jansen, L. J. M., 1999)

**Land use/ownership certificates:** An alternative to formal title registration that provides evidence and legitimization of occupancy without a costly land registration program. This is often seen as an intermediate step between informal land records and more formal titling programs. Use certificates can offer security of tenure to land users without addressing potential conflicts over land ownership. In some countries or customary tenure settings, governments that are not willing to alienate land into private ownership use land use certificates as a mechanism to provide the necessary evidence of ownership or, as in China or Vietnam, provides evidence of the long-term security of the use right, rather than an ownership right, to secure access to credit.

**Land valuation:** The process of assigning a monetary value to a unit of land. All land may be considered to have a value. The estimation of the value or market price of a property depends on many external factors as well as the physical nature of the land or property. “Value can have many meanings in real-estate appraisal; the applicable definition depends on the context and usage. Appraisers estimate property value with specific procedures that reflect three distinct methods of data analysis: cost, sales comparison, and income capitalization.” (LAG)
Landlessness: The state of having no access to land or rights in land. This may be the result of lack of inheritance (often for women), overpopulation, displacement, forced sales, or decollectivization.

Landlord: The holder of an estate in land who has leased it to another person. (Black)

Law review commissions: Temporary or permanent commissions established by government to review and consolidate existing law, review proposed laws for conformity to existing law, or deal with issues arising in legally pluralistic societies.

Leases/leasehold: Any agreement which gives rise to a relationship of landlord and tenant (in the case of real property) or lessor and lessee (in the case of real and personal property). It is an agreement under which the owner gives up possession and use of his property for valuable consideration and for a definite term, at the end of which, the owner has the absolute right to retake and use the property. These agreements, at a minimum, must define a time period, a periodic payment amount (rent), clearly identify the lessor and lessee, and describe the property being leased and the duties and obligations of each party. (Black)

Legal aid: The process of providing legal assistance and counseling to those who cannot afford private counsel or who are uninformed of their rights.

Legal pluralism: The existence of different legal systems, parallel to one another and which apply to different groups of citizens or to all citizens (i.e., customary law and formal law, or Islamic law and western law). (GTZ)

Magistrate: A judicial officer have limited legal powers and jurisdiction. Magistrates and magistrate’s court are often the first entry into the formal court structure.

Map: The presentation of the earth’s surface showing topographical features, such as mountains, lakes, and rivers, and other physical features, such as roads, forests, and areas of settlement. Thematic maps may deal with property boundaries, land use categories, soil quality, etc.

Marginalized groups: Those individuals or groups who have limited or restricted access to or control over land resources because of gender, economic or social status, tribal or ethnic background, citizenship, religion, or other stratification mechanisms. Marginalized groups typically have little or no security of tenure, access to resources, access to credit, access to bureaucratic/power structures, or representation.

Marital property: Property, including land, owned by married couples (and, in some cases, couples in consensual unions) which is managed during marriage and is divided if the marriage ends. Property brought into the marriage may have different rules than that which is acquired during the marriage. Generally speaking, there are two broad marital property systems. Under the first, which some call a “separate property system,” property is considered to be owned separately and managed by whichever spouse acquired the property. Under such systems, at the time of divorce the law may transfer ownership of some separately owned property between the spouses. Under an alternate system, the “community property” or “marital property” system, law deems all property acquired during the marriage to be co-owned by both spouses. At the time of divorce, such co-owned property may be divided equally.

Market assisted access (also known as market assisted land reform, community managed land reform, or community-based land reform): A form of land reallocation which encourages willing buyers to negotiate land purchase deals with willing sellers, with the government facilitating the purchase process through grants and other supportive measures.

Matrilineal inheritance: A system by which, according to law or custom, land passes from the deceased owner through the female line to his or her heirs.
Mediation and arbitration: The process of dispute settlement involving neutral third parties with the objective of reaching an out-of-court settlement to the dispute.

Mortgage: “The conveyance of a property by a debtor (called the mortgagor) to a creditor (called the mortgagee) as security for a financial loan with the provision that the property shall be returned when the loan is paid off by a certain date. In some legal systems, there is provision that the mortgagee has the power to sell the concerned property when the interest is not paid in time and the loan is not paid off by a certain date in accordance with the agreed stipulations.” (LAG, FAO)

Movable property: A category of property that can be moved. This is generally property other than immovable property, also referred to as personal property.

National environmental action plans: Formal plans developed by governments to assess the current state of the environment and propose government policy for the future protection of the environment.

Notary: A legal professional who, in many jurisdictions, is responsible for seeing that transactions are properly undertaken.

Open access resources: Resources to which everyone has unrestricted access and that are not considered to be the property of anyone. This does not imply that everyone has equal ability to use the resource.

Parcel/property identification: The mechanism to identify individual parcels of land. Land records have two main components: a textual description of each property; and a graphic representation, or map, often containing dimensional information. The objective is to uniquely identify and number each parcel to allow ease of reference to information recorded about that parcel between these two components.

Parcel/plot: The basic spatial unit in a cadastre. The parcel/plot is an area of land having a particular ownership, land use, or other characteristics to distinguish it from neighboring areas of land. Two contiguous areas of land may be designated as different parcels because of differing tenure rights, use, characteristics, or dates of acquisition.

Parcel/plot numbering systems generally follow from the map information, for example, using the map sheet number, numbering parcels consecutively that are so identified on that map sheet. Complications arise and protocols must be developed to deal with the subdivision of properties, the consolidation of properties, and vertical properties on the same geographical “footprint.”

Pastoralism: An economic production system dependent on livestock and the range and water resources necessary to support it. It may include both natural vegetation and agricultural land where animals graze following harvests.

Patrilineal inheritance: A system by which, according to law or custom, land passes from the deceased owner through the male line to his or her heirs.

Peri-urban area: An area on the periphery of the urban area of a town. It is an area of great dynamics with respect to land tenure and land use, as land is being converted from agricultural to residential and commercial uses and as informal property rights become more formalized.

Personal property: (See movable property.)

Plot: (See parcel/plot.)

Private property: Property held by private persons, either natural persons or legal persons.

Privatization: The transfer of economic activities and resources from state ownership and/or control into private ownership. These activities include state enterprises, state farms, collectives, and public lands.
Property: A bundle of rights in the use and transfer (through selling, leasing, inheritance, etc.) of natural resources. Different rights (strands of the bundle) may be distributed in various combinations among natural and legal persons, groups, and several publics, including many units of government. Ownership is a matter of “right,” while possession and occupation are matters of fact at any one time. The occupation and use of land may provide evidence of ownership but this is not necessarily proof.

Protected area: An area of land and/or sea especially dedicated to the protection and maintenance of biological diversity and natural and associated cultural resources and managed through legal or other effective means. (DFID, IUCN)

Public property: Property held by any level of government.

Real estate: Land and anything permanently attached to it.

Registration of deeds: A system whereby a register of documents is maintained relating to the transfer of rights in land.

Registration of title: A system whereby a register of ownership of land is maintained based upon the parcel, rather than the owner, or the deeds of transfer.

Regularization: A process through which informal or illegal occupation of land is legalized by statute giving the occupiers a recognized legal right of access to the land through ownership or leasehold. (FAO)

Remote sensing: The technique of determining data about an area from its image as seen from a distance.

Resettlement: The relocation of individuals, households, or communities from their land or from land they are occupying. Resettlement often results from infrastructure upgrading, large development initiatives, new government land policies, or natural disasters that destroy land. Resettlement can also be driven by government policies dealing with marginalized or minority groups. Resettlement can be either voluntary or involuntary. Voluntary resettlement is accomplished with the free will of the persons to be resettled. Involuntary resettlement occurs without the informed consent of the displaced persons and results in the forced movement of people from their land to other locations.

Restitution: The restoration of former rights in land to previous owners of that land. In a sense, this involves the re-privatization of land and property or the creation of new property rights over land that had been formerly taken over by the state. It may also include the return of land to indigenous groups. Typically, this land was acquired by the state during programs of collectivization or conversion of private to state assets by socialist or communist governments. Land may have also been acquired for public works programs which never materialized.

Rule of law: Respect for the legal system (Constitution, Civil Code, laws, and regulations) in a given country by all citizens and public authorities, such that legal decisions are made by application of the law in a systematic and transparent fashion. (Black, GTZ)

Security of tenure: The recognition, guarantee, and enforceability of property rights by the state and other members of the community.

Sedentary agriculture: Agriculture practiced at a fixed location utilizing the same pieces of land in successive years for crops production.

Servitude: Encumbrance, a charge or burden resting on one property for the benefit of another person.

Sharecropping: A mechanism for gaining access to land for agricultural production without the formality of lease arrangements. Typically, the landowner will lend out land to individuals in need of land and accept as payment a portion of the crop grown. In this situation, labor-short households are able to
provide land-short households with land for cropping without losing their rights over that land. Sharecropping agreements are informal and of short duration. (Bruce, FAO)

**Sporadic registration:** The process of registering land on a case-by-case basis. This practice is usually based on a specific action or actions of the owner of the property to trigger its entry into the registration system. The most common actions used to trigger sporadic registration are the sale of the property or the need to have evidence of title to have access to credit.

Sporadic registration has the advantage that it tends to target most economically active property first and may be less expensive in the short-term than systematic registration. The disadvantage is that it will take much longer to achieve complete coverage of all titles within a given jurisdiction if that is the aim of the government. If the intention is to register all (or even most) parcels, then sporadic registration cannot be cheaper and will likely be more expensive because of lack of economies of scale. Sporadic registration can also be criticized because the claims of each case are determined separately and, hence, not always very transparently. This is especially critical in transition countries, while sporadic registration does not allow an overall comparison of boundary locations or an adjudication of ownership and other real rights relative to neighboring parcels. (Bruce, FAO, LAG)

**Squatter:** Someone who occupies land without legal authority. (FAO)

**State land:** Land owned by the state, in contrast to land owned by private persons, either legal or natural.

**State land management:** The legislative and administrative framework that defines how state land can be allocated and managed. The legal regime governing state land will cover specific aspects of its management and mode of exploitation. This may include defining the organization responsible for managing the land, and stating the general principles, and, in some cases, the detailed basis for its use.

**Survey:** The process of measuring land and recording the related geographical information for planning, management, and administrative purposes.

**Systematic registration:** The systematic approach to adjudicating, surveying, and registering parcels in an area-by-area basis and bringing all claims in an area to light at the same time. Systematic registration is relatively expensive in budgetary terms, because of the typically large numbers of parcels being dealt with, although, on a per-parcel basis, the average cost per parcel may be significantly lower than with sporadic registration as a result of economies of scale.

Systematic registration has the advantage that it will provide more comprehensive land information within a given time frame. It allows the population at large to scrutinize the claims being made, and it will give more people improved rights more quickly, thus supporting the general development impact of increased security of ownership and reduced transaction costs. (Bruce, FAO, LAG)

**Tenant:** The person in possession of land through a lease with a landlord.

**Tenure insecurity:** The situation whereby tenure rights are considered precarious, due to the risk of dispossession by the actions of other individuals, communities, or the state.

**Tenure security:** The situation in which landholders consider their continued occupancy rights to be guaranteed whether by virtue of formal rights, customary rules, or some other form of assurance. (DFID)

**Title registration:** A system for improving the quality of ownership and proof of title through the recording of documents which confer rights over land. “In this system, each land parcel is identified on a map and the rights associated with it are recorded on the register.” (LAG)

There are, broadly speaking, two parts of the register. The first is a map on which each parcel is demarcated and identified by a unique parcel identifier. The second is text that records details about
the title, the name of the owner, and any rights or restrictions associated with the parcel’s ownership, such as restrictive covenants or mortgages. When the whole of the land is subject to transfer, only the name of the owner need be changed in the registry. A division of the land or alteration of the boundaries requires amendment to the plan and the issue of new documents or certificates. The official title registration record is definitive. Under such a system, the ownership of land can be guaranteed. Anyone who is dispossessed of land through the functioning of the registers will be compensated, even though the mistake was not made by the registry, but rather was a case of fraud. (FAO, LAG)

Town and regional planning: A planning framework that enables decisions to be made on how land should be used. Such planning can be relatively flexible, allowing for negotiation in implementation in the public interest, or relatively fixed, through the imposition of zoning regulations designed to protect individual property rights. (FAO)

Transaction costs: The expenses involved in completing a transaction in land rights. These costs are both opportunity costs and monetary costs. Opportunity costs involve the cost of transportation and accommodation (if coming to the registration office from long distances) and rent seeking practices of land registry officials. Monetary costs may include sales contracts, survey costs, legal fees, and stamp duties, as well as the cost of registration of the transaction in the title or deeds registry.

Transhumance: The seasonal movement of people and livestock in search of grazing and water. (FAO)

Tree tenure: Tenure rights held by individuals over trees and their products. These rights include the right to plant trees, harvest fruits from the trees, and harvest the trees themselves. While trees are attached to the land, tree tenure rights may vary from the land tenure rights over the land on which the tree grows. Thus, restrictions on planting trees may be in place to limit access to land for certain segments of a population. (FAO)

Trust: An arrangement through which property rights are transferred from an individual to one or more trustees to be held for a set of beneficiaries. A trust may be set up to manage property on behalf of minors, or a charitable trust may be established to manage income from property on behalf of a large group of people.

Urban development: The process of the development of urban areas as a result of growing population, industrialization, and commercialization of the national economy.

Urban planning: A planning framework that enable decisions to be made on how urban land should be used.

Use right: The right to use a thing in accordance with its designated purpose that is linked to membership of the resident community and perpetuated by stable and continuous occupation, confirmed by the work carried out by a family of farmers.

Usufruct: The right to use land and benefit from the production of the land, but this does not include the right to alienate the land.

Valuation: The process through which land is valued using a set of criteria for determining this value. These criteria may include market prices, land capability assessments, soil quality, etc.

Watershed management: The management of water and soil resources within a given watershed. Typically, this will involve issues related to soil erosion, reforestation, access to water for irrigation, and the damming of waterways for water reservoirs and hydroelectric production.

Wildlife management: The management of wildlife and their habitat. Typically, this will address issues related to human-wildlife interaction and conflicting resource use, including restrictions on hunting,
the development of game reserves, considerations of compensation due to crop damage, and possible sources of tourist revenue.

**Willing buyer/willing seller:** Individuals who are neither reluctant nor eager to buy or sell land. The assumption for an open market in land is that both parties enter the market as willing participants with no coercion involved and both having the ability to negotiate an acceptable price for the transaction.

**Zoning:** A planning procedure where a designated area is allocated for a specified use or uses. This is a commonly-used approach to planning, which identifies the uses to which the zoned land may be put and specifies the type, amount, and location of that development. It is planned to promote orderly development and to reduce or avoid inconsistent uses being adjacent to one another. (FAO)

**Sources:**


Bruce, John, “Review of Tenure Terminology,” Tenure Brief No. 1, Land Tenure Center, University of Wisconsin, July 1998. (Bruce)


