



Towards a General Framework for Assessing Land Governance

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**LAND GOVERNANCE IN SUPPORT OF THE MDGS:
RESPONDING TO THE NEW CHALLENGES**

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Outline

- What is land sector governance?
- Why are we monitoring it?
- The methodology used
- Implications and next steps




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Elements of land sector governance

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




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Why monitor it?

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

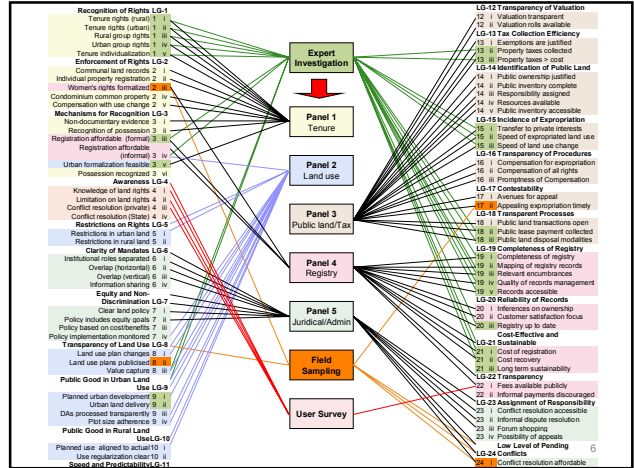


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How to monitor it?

- Public Expenditure and Financial Accountability Framework (PEFA)
 - Coordinated among donors (EU, IMF, bilaterals, WB)
 - Goals: Country ownership, donor harmonization, progress monitoring
 - Reports for >40 countries since 2006: www.pefa.org
 - Avoid duplication; basis for policy dialogue, policy support
- Methodology adopted for LGAF
 - 5 broad thematic areas, 24 indicators, ~ 80 dimensions
 - Expert investigation (legislation, statistics and data)
 - Panels score dimensions (A – D statements), justify, make recommendations
 - Supplemented by sampling (court and registry records, awareness)
 - Panel summaries -> country reports



Example of Dimension Scores

LGI 6, Dimension:	Assessment
(ii) Institutional overlap	<p>A – Responsibilities exercised by the authorities dealing with land administration issues from different sectors (e.g. land administration, agriculture, forestry, mining, water/irrigation, natural resources etc.) are clearly defined and non-overlapping.</p> <p>B – The mandated responsibilities of the various authorities dealing with land, water and natural resources are defined with a limited amount of overlap but there are few problems.</p> <p>C – The mandated responsibilities of the various authorities dealing with land, water and natural resources are defined but institutional overlap and inconsistency is a problem.</p> <p>D – The mandated responsibilities of the various authorities dealing with land, water and natural resources are defined poorly, if at all, and institutional overlap and inconsistency is a serious problem.</p>
Comments on the answer provided (please list the main institutions involved, their responsibilities, and describe overlaps):	
Sources of data/information	
Robustness and reliability of data/information provided (comment on reliability of sources, explain variations across data sources or opinions, etc.):	

Progress and piloting thus far

- Development of framework
- 4 pilot countries to account for diversity of situations
 - Indonesia
 - Kyrgyz Republic
 - Peru
 - Tanzania
- Trial run and refinement of framework
- Obtain basic information and conduct panels
- Some more work to be done on quantitative data gathering

1. Legal & institutional framework

- The continuum of rights is recognized by law
- The recognized land rights are actually enforced
- If records differ from reality they can be made consistent at low cost; not conditional on unrealistic regulations
- Land rights holders are aware of their rights and obligations and the ways to exercise them
- Land holders are not driven into informality by unrealistic standards and regulations
- Institutional mandates are clear, non-overlapping, information is shared
- Policy is formulated through a legitimate and inclusive decision-making process, incorporates equity and implementation is meaningfully tracked



2. Land management and taxation

- Changes in land use are made in a transparent fashion; benefit society as a whole
- Land use regulations (urban and rural) are affordable and justified to ensure cost-effective public good provision
- Permissions for restricted land use granted promptly and predictably
- Tax valuations are clear, uniformly applied, regularly updated, publicly available
- Land and property taxes are collected; generate positive yield



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3. Public land management

- A geographic inventory of public land is available
- The state expropriates/holds land only for the public good
- Expropriation procedures clear and transparent; compensation includes unregistered claims and is fair and quick
- Expropriation and compensation can be contested
- Transfer of public land to private users follows transparent, competitive processes generates resources



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4. Public provision of information

- Land registry is complete, relevant, and up to date and publicly available
- Registry information sufficient to make inferences on ownership
- Land administration services are provided in a cost-effective and sustainable manner
- Fees are determined and collected in a transparent manner



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5. Dispute and conflict resolution

- Conflict resolution responsibility is clearly assigned, relevant bodies are competent, decisions can be appealed
- Low level of and expeditious resolution of pending conflicts



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Advantages of LGAF

- Potential advantages
 - Sector-wide approach focused on outcomes rather than existing institutions
 - Feed into country strategy; identify areas for more attention
 - Cross-country comparison to identify best practice
 - Assessments can be repeated at 2-3 year intervals to assess progress
- Complementary to global and regional initiatives
 - FAO's 'voluntary guidelines on responsible governance of land & NR tenure'
 - AU land policy initiative
 - Can provide legitimacy for first assessment and follow-up indicators
 - Provide capacity for in-depth analysis and policy/institutional adjustments



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Lessons learned

- A land governance framework is feasible and meaningful
 - Can serve as a diagnostic tool/organizing framework for sector-wide approach
 - Expert panels plus quantitative information are appropriate
 - Can serve as a basis for policy options and priorities at country level
 - Plus identification of best practice based on variation across countries
- Doing it in practice is an iterative process
 - Requires a well-informed, skilled country coordinator
 - Requires clearly formulated manual and definitions for rankings to be meaningful
 - Identification of reasons for low rankings to generate policy options
 - Should lead to formulation/monitoring of improved administration data



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Next steps

- Finalization of country studies; adjustments in framework and methodology
 - Complement panel assessments with sampling (court, registry)
 - Policy recommendations
 - Discuss results with government representatives
 - Revise manual in light of experience
 - Country and synthesis report to identify broad lessons
- General lessons to be drawn from pilot countries
 - Standardized formats for reporting of administration data
 - Broad areas for more in-depth work on best practice (e.g. decentralization)
- Scaling up will require clear statement of purpose; ownership of process and outcomes



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Appendix: detailed LGAF



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Thematic Area 1. Legal and Institutional Framework

LGI-1. Recognition of a continuum of rights

- i Land tenure rights recognition (rural)
- ii Land tenure rights recognition (urban)
- iii Rural group rights recognition
- iv Urban group rights recognition in informal areas
- v Opportunities for tenure individualization

LGI-2. Enforcement of rights

- i Surveying/mapping and registration of rights to communal or indigenous land
- ii Registration of individually held properties
- iii Women's rights are recognized by the formal system
- iv Condominium regime that provides for appropriate management of common property
- v Compensation due to land use changes

LGI-3. Mechanisms for recognition of rights

- i Use of non-documentary forms of evidence to recognize rights
- ii Formal recognition of long-term, unchallenged possession
- iii First-time registration on demand is not restricted by inability to pay formal fees
- iv First-time registration on demand is not restricted by inability to pay informal fees, if any
- v Urban formalization is feasible and affordable
- vi Efficient and transparent process to formally recognize possession



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Thematic Area 1. Legal and Institutional Framework

LGI-4. Awareness

- i Knowledge of land rights
- ii Knowledge of limitations on land rights
- iii Knowledge of enforcement and conflict resolution options between private parties
- iv Knowledge of enforcement and conflict resolution options for disputes with the state

LGI-5. Restrictions on rights

- i Restrictions regarding urban land use, ownership and transferability
- ii Restrictions regarding rural land use, ownership and transferability

LGI-6. Clarity of mandates and practice

- i Separation of institutional roles
- ii Institutional overlap
- iii Administrative overlap
- iv Information sharing

LGI-7. Equity, non-discrimination in the decision-making process

- i Policy developed in a participatory manner
- ii Meaningful incorporation of equity goals
- iii Policy for implementation is costed, matched to benefits and adequately resourced
- iv Regular and public reports indicating progress in policy implementation



Thematic Area 2. Land Use Planning, Management, and Taxation

LGI-8. Transparency of land use restrictions

- i Changes in land use based on public input
- ii Sufficient public notice of land use changes
- iii Public capture of benefits arising from changes in permitted land use

LGI-9. Public good provision in urban and peri-urban areas

- i Process for planned urban development in the 5 major cities
- ii Urban land delivery is in line with demand
- iii Applications for development are processed in a non-discretionary manner
- iv Plot size adherence

LGI-10. Public good provision rural areas

- i Use plans for specific land classes (forest, pastures, etc) are in line with use
- ii Process of regularization of use is clear and effective



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Thematic Area 2. Land Use Planning, Management, and Taxation

LGI-11. Speed and predictability of enforcement

- i Realism of requirements to obtain building permits
- ii Time to review applications for building permits

LGI-12. Transparency of valuations

- i Clear process of property valuation
- ii Public availability of valuation rolls

LGI-13. Collection efficiency and incentive compatibility

- i Exemptions from property taxes are justified
- ii Assessed property taxes are collected
- iii Property taxes correspondence to costs of collection



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Thematic Area 3. Management of Public Land

LGI-14. Identification

- i Public land ownership is justified and implemented at the appropriate level of govt.
- ii Complete recording of publicly held land
- iii Assignment of management responsibility for public land
- iv Resources available to comply with responsibilities
- v Inventory of public land is accessible to the public

LGI-15. Incidence of expropriation

- i Transfer of expropriated land to private interests
- ii Speed of use of expropriated land
- iii Speed of land use change



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Thematic Area 3. Management of Public Land

LGI-16. Transparency of procedures

- i Compensation for expropriation of ownership
- ii Compensation for expropriation of all rights
- iii Promptness of compensation

LGI-17. Contestability

- i Independent and accessible avenues for appeal against expropriation
- ii Appealing expropriation is time-bounded

LGI-18. Transparent process and economic benefit

- i Openness of public land transactions
- ii Collection of payments for public leases
- iii Modalities of lease or sale of public land



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Thematic Area 4. Public Provision of Land Information

LGI-19. Completeness

- i Completeness of the land registry
- ii Mapping of registry records
- iii Economically relevant encumbrances
- iv Searchability of the registry (or organization with information on land rights)
- v Accessibility of records in the registry (or organization with information on land rights)

LGI-20. Reliability

- i Inferences on ownership through the registry
- ii Focus on customer satisfaction in the registration and provision of information processes
- iii Registry/ cadastre information is up-to-date



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Thematic Area 4. Public Provision of Land Information

LGI-21. Cost-effectiveness and sustainability

- i Cost of registration services
- ii Cost recovery
- iii Long-term sustainability

LGI-22. Transparency

- i Schedule of fees is available publicly
- ii Informal payments discouraged



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Thematic Area 5. Dispute Resolution and Conflict Management

LGI-23. Assignment of responsibility

- i Accessibility of conflict resolution mechanisms
- ii Informal dispute resolution
- iii Forum shopping
- iv Possibility of appeals

LGI-24. Low level of pending conflict

- i Conflict resolution in the formal legal system
- ii Speed of conflict resolution in the formal system
- iii Long-standing conflicts (unresolved cases older than 5 year)



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