



Africa Land Policy Note Series

Note 1. Securing Customary Tenure in Sub-Saharan Africa

As Sub-Saharan Africa deals with multiple challenges, including land use conflicts, rapid and often unplanned urbanization, and climate change, **there is a need to understand how improved tenure security and land administration can support governments to respond.** This series of four Land Policy Notes covers key topics for the region—customary tenure, women’s land rights, and urban land governance. The fourth note provides an overview of lessons learned from the World Bank’s recent land administration operations in Sub-Saharan Africa. Together, these notes provide an overview of existing constraints and challenges, as well as options and solutions based on operational evidence and good practice. These notes are meant to be distributed widely to World Bank staff, clients, and other partners and to inform country dialogue.

Summary

- Customary tenure is the primary system of land ownership in Sub-Saharan Africa; only 10 percent of rural land is formally registered. Customary land tenure systems vary across the region, with some systems providing adequate tenure security and others being eroded over time due to increased land values and competing demands for land, including for urbanization and investment projects.
- Overall, 26 percent of landholders in Sub-Saharan Africa fear they will lose their land rights in the next five years, making the region one of the least tenure secure in the world. Women, migrants, and pastoralists in the region often have only secondary (land use) rights to customary land granted by customary landowners (typically men) and are particularly vulnerable to land loss.¹
- An increasing number of countries in the region have adjusted their policy and legal frameworks to legally recognize customary land tenure (both individual and communal rights) and institutions. When land registration is implemented transparently and includes secondary rights holders, it can increase productive and climate-resilient land investments, gender equity, tenure security, and, ultimately, social stability and poverty reduction in the region.

1. Introduction

Customary tenure is the dominant system of landownership in Sub-Saharan Africa; only 10 percent to 14 percent of rural land in the region is formally registered (Byamugisha 2013; Byamugisha and Dubosse 2023). As much as 90 percent of Africa’s rural population

accesses land through customary institutions (Wily 2021). Since independence, most countries in the region have embarked on some type of land tenure reform. These included attempts to distribute land more equally, promote land access through settlement

¹ Secondary rights refer to rights to use, inherit, borrow land and others that depend on a primary land rights holder/the owner of the land.

schemes, and introduce individual land ownership. The individualization of customary land tenure was seen as a key step for the modernization of agriculture, and a central element of rural development strategies. It was assumed that increased individualization of land rights would result in increased tenure security, enhance farmers' chances of receiving formal credit, and encourage investments. It has since been recognized that some customary land tenure systems provide adequate tenure security without individualizing land rights. In addition, it has been recognized that customary tenure systems can help reduce deforestation and protect biodiversity.² Other customary land tenure systems have been eroded over time and no longer provide adequate tenure security. These changes are driven by multiple elements including demographic growth, urbanization, and climate change, as well as economic and political factors.

There is a great variety of customary land tenure systems across Sub-Saharan Africa in both rural and urban areas. These systems

2. Challenges

While customary tenure can have strong social legitimacy and can provide strong tenure security, it is not without its challenges, particularly for those whose rights are secondary, or when the land becomes valuable to outside interests. For example, migrants often access land through negotiations with lineage groups⁴ and individuals, but these rights are less secure than those of the lineage community, even if their families have been in an area for generations (Lavigne Delville and Moalic 2019). Overall, 26 percent of people in the region, including rural and urban areas, feel it is likely or very likely they will be pushed off their land or lose their home in the next five years (Prindex 2022). This makes Sub-Saharan Africa one of the most tenure insecure regions in the world. Therefore, customary tenure and its evolving context require close attention, given that the majority of

blend, overlap, and intertwine with statutory laws and institutions, which are often rooted in colonial history. Customary land tenure systems consist of a bundle of rights (individual or collective) that can include ownership, use, disposition, inheritance, duration, and so on. While most countries have patrilineal systems, some countries—such as Côte d'Ivoire, Ghana, Malawi, Mozambique, Namibia, Tanzania, and Zambia—have some matrilineal communities, where access to land is traced through the maternal line. In addition, in those countries with large Muslim populations, Islamic law intersects with customary law around key land matters, such as access to credit and inheritance. Many countries have passed legislation that recognizes customary tenure,³ though implementing these land laws often remains challenging. In Angola, Ethiopia, and Mozambique, customary land tenure regimes have been affected by land nationalization policies, though some form of private land rights have been reintroduced. Other countries, such as Rwanda, have legally abolished customary tenure altogether.

the population in Sub-Saharan Africa is accessing land through customary institutions.

Women most often have only secondary rights to use the land, and their use rights are typically based on their marital status or whether they have children by a man in a particular lineage or group. This makes them vulnerable when that marital status changes and prevents women from accessing credit or other programs based on land ownership rights. As a result, 48 percent of women report perceived tenure insecurity in the event of loss of a spouse as compared to 34 percent of men in Sub-Saharan Africa (Prindex 2022). Evidence from Mozambique shows that community members are not necessarily in favor of the gender inequality dimension of the customary system, suggesting that such social norms can

² The Intergovernmental Panel on Climate Change (IPCC) recently agreed with this assessment in their Special Report on Climate Change and Land (IPCC 2019).

³ Countries include Angola, the Republic of Congo, Ghana, Liberia, Mozambique, and Sierra Leone, to mention only a few.

⁴ A lineage group is a social unit composed of individuals who trace their descent through either the paternal line (patrilineage) or the maternal line (matrilineage).

be changed over time toward greater gender equity (Montalvao, et. al. 2024).

Customary land is often vested in a leader or family head who is responsible for managing the land for the whole family or community.

However, as the value of the land increases, due to urbanization or outside interest, the benefits most often accrue to these community or family heads and not the entire community. While there is a great deal of variety in who leads, critical in all these settings is whether traditional leaders are “downwardly accountable” to their local constituencies or whether they take advantage of their position to create personal rents (Baldwin and Raffler 2019). Reforming

customary land governance and creating institutions that are accountable to, as well as inclusive of, women, youth, and other vulnerable groups is therefore critical.

The presence of multiple and overlapping legal systems complicates the process of land dispute resolution. The legal systems that exist—customary, public, and religious—may not always recognize or enforce the same bundle of rights. Ambiguity in the definition or enforcement of property rights leads to an increase in transaction costs in the exchange and transfer of land and creates a fertile ground for land conflict.

3. Experience Addressing these Challenges

Over the last few decades, most countries in Sub-Saharan Africa have adjusted their policy and legal framework for land administration to give legal recognition to customary land tenure and the institutions administering it. A first step generally consists of revising or adopting a National Land Policy and revising or creating the relevant legal framework for recognition and administration of customary land, though this process remains incomplete in some countries. A key lesson learned is that legal frameworks that recognize customary land tenure should seek to address and not perpetuate gender inequality in customary land tenure systems.

Countries that have successfully adjusted their policy and legal framework for customary land administration are now focusing on implementation, often with the support of development partners. These partners include the World Bank,⁵ the United States Agency for International Development (USAID), the German Development Cooperation (GIZ), the Swedish International Development Cooperation Agency (Sida), and the French Development Agency (AFD), among others. Recent World Bank-financed projects have recorded use or ownership rights for more than one million parcels in Côte d’Ivoire (15,356 parcels), Madagascar (569,036 parcels), Mozambique (513,988 parcels), and Tanzania

(8,105 parcels). Within the framework of these operations, it is expected that land use or ownership rights will be recorded for an additional 5.2 million parcels by 2027.

But there is a need to move faster and do more. Some of the lessons learned from the above projects include the following:

- *Land tenure regularization initiatives adopt different approaches to formally recognize customary rights depending on the local context.* Depending on the countries’ legislation, some families receive full ownership rights, while others receive long-term use rights (leasehold). These rights may be issued individually or collectively, though in all cases, there are measures to encourage the registration of land rights in the name of women.
- *The issuance of land records for landholders is often combined with the formalization of land tenure at the community or village level and the preparation of local land use plans.* This is a critical step to avoid conflicts between and among communities, as well as to empower communities in the negotiations with external stakeholders (such as the state and investors).
 - In Liberia, the 2018 Land Rights Act enabled communities to self-identify

⁵ World Bank-financed projects amount to more than US\$1 billion of investments in the land sector, making the World Bank the largest financier of land sector reform in the region.

at different levels (village, clan, or a combination of these) and register their collective rights for the first time in Liberia's history. The Act also specifically empowers women to be part of community land management and governance structures.

- In Mozambique, land delimitation and certification has been completed for more than 500 local communities.
- In Côte d'Ivoire, thousands of villages have been demarcated, and land use rights between migrants with customary use rights and customary landowners have been formalized.
- *Almost invariably, one key challenge regarding customary land tenure formalization is related to the cost and complexity of formalization procedures.* Therefore, it is critical to include investments aimed at streamlining procedures with a focus on reducing time and cost, increasing the use of formal land registration services, and increasing community satisfaction.
- *Land tenure regularization schemes are associated with investments to reform and strengthen land administration.* These investments typically include opening and operationalizing land offices, as well as strengthening customary land institutions.
 - In Côte d'Ivoire and Liberia, governments recently established National Land Authorities and decentralized land administration offices.
 - Ghana piloted Customary Land Secretariats, which are established by customary authorities with the objective of making customary land transactions more transparent. This model increases the accountability of customary authorities and improves availability of information on customary land allocations. Ghana has made the establishment of the Customary Land Secretariats mandatory per the Ghana Land Act of 2020.

While most countries have given legal recognition to customary land tenure, legal frameworks for land administration are often in need of further improvement. In Mozambique, a new National Land Policy was adopted in 2022, and a new Land Law is being prepared. In Sierra Leone, a new Customary Land Rights Act and a National Land Commission Act were adopted in 2022. These new land laws enable the systematic registration of customary land, improve communities' free and prior informed consent in the context of land-based investments, and strengthen women's land rights in central and local-level land administration bodies. In Liberia, the Land Rights Act of 2018 has allowed communities for the first time to legally own and obtain title to their customary land rights. Other countries, such as The Gambia, continue to operate with an outdated legal framework from the early 1990s (though in The Gambia efforts are underway to develop the country's first National Land Policy to inform land administration reforms).

While registration of customary land is not a cure-all, several positive benefits have been documented in the literature. Impacts vary depending on context and accompanying interventions and can include positive environmental and climate-related impacts. Examples include increased levels of investment in climate adaptations like soil conservation investments (Ali, Deininger, and Goldstein 2014) and soil fertility investments (Goldstein et al. 2018), with some evidence that these effects are larger for women. In addition, formalizing customary rights can help reduce deforestation, as demonstrated in Benin, where more secure tenure reduced landholders' need to claim more land through clearing (Wren-Lewis, Becerra-Valbuena, and HOUNGBEDJI 2020). Furthermore, in rural contexts, tenure formalization can lead to increased efficiency in the use of inputs such as fertilizers, as in Burkina Faso (Korsaga 2018), and significant gains in productivity, as in Ethiopia, where first-time land registration increased farmers' land productivity by 45 percent (Holden, Deininger, and Ghebru 2009). These effects have been stronger in Asia and Latin America, where land formalization has typically been coupled with complementary agricultural investments (Lawry et al. 2017).

4. Conclusions

Most governments in Sub-Saharan Africa acknowledge the importance of customary land administration to support economic growth, promote social stability, and support poverty reduction and shared prosperity on a livable planet. Land sector reforms that were carried out right after independence generally focused on the individualization and formalization of customary land rights. These have yielded mixed results, given that the individualization of land tenure is neither a linear process nor a historical necessity (Deininger 2003). Since the 1990s, governments have put greater emphasis on acknowledging and formalizing a variety of customary land tenure arrangements, and most countries have given legal recognition to customary land tenure and institutions. Instead of individualizing communal and customary tenure, the concept of the “continuum of land rights” has emerged to capture the value of strengthening a variety of existing tenure systems, including both officially recognized legal rights and those that are acknowledged informally or by custom. Although not all rights within this continuum may be formally recognized or registered, they can still hold significant legitimacy within local communities thanks to social acceptance. Still, additional efforts are required to further improve legal and regulatory frameworks for land administration, while significant investments are

needed to speed up implementation of land administration reforms.

Important lessons have been learned from recent experiences with securing customary land tenure and strengthening customary land institutions, and future initiatives should build on these lessons. Policy measures at the community level should involve leaders and community members to specify and document rights (including for women, pastoralists, migrants, and other secondary rights holders) over individual and communal lands and to map their boundaries. At regional and national level, there is a need to consolidate and simplify the country’s land-related laws and establish digital land administration and information systems and transparent land dispute resolution mechanisms. Beyond formalizing customary land tenure, it is critical to ensure that customary land systems are transparent and accessible (especially for women and other secondary rights holders) and that customary leaders are accountable, and to strengthen the link between customary land institutions and formal land administration systems and institutions. To achieve these goals, it is imperative that land institutions are streamlined, with clear and nonoverlapping mandates for each institution.

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