

Analysis of International Development Agency Land Policies: An ILC Working Paper¹

A. Introduction

This discussion paper provides an overview of how international development agencies treat land-related issues, and their links to key development priorities such as poverty reduction and environmental sustainability, in their institutional policy documents. It seeks to identify how agencies understand and conceptualize these issues, in order to understand better the analytical underpinnings of their approaches to engaging land policy reform, and to allow for comparison where these approaches vary.

The documents reviewed include eight policy papers specific to land tenure and land policy reform:

Institution	Document Title	Publication Date
Canadian International Development Agency (CIDA)	Importance of Urban and Rural Land Policy for Poverty Reduction (draft version)	2003
Department for International Development (DFID)	Land Policy Consultation Document (draft version)	2002
European Union (EU)	Land Policy Guidelines	2004
GTZ	Land Tenure in Development Cooperation (executive summary)	1998
International Land Coalition (ILC)	Towards a Common Platform on Access to Land	2002
Ministère des Affaires Étrangères - Direction de la Coopération Technique (DCGID)	Land Tenure Issues in West African Rural Development	2000
United Nations Economic Commission for Africa (UNECA)	Land Tenure Systems and Sustainable Development in Southern Africa	2003
World Bank	Land Policies for Growth and Poverty Reduction (executive summary)	2002

Most of these documents are issues papers, research reports or informal position papers, rather than formal institutional policies (the EU document being the most prominent exception). All, though, have been written as part of formal agency processes to assess the significance of land within development policy and articulate key institutional priorities and concerns. Collectively, therefore, they reflect current developments in how international agencies understand land-related issues.

¹ This paper was first prepared by the International Land Coalition (ILC) in conjunction with the Collective Action on Property Rights initiative (CAPRI) and the United Nations Development Programme (UNDP) Drylands Initiative, for discussion at the expert workshop on Land Tenure for Drylands Development held in Nairobi, Kenya from 28 February - 2 March 2005.

In the case of several other agencies that have not issued specific papers on land, this paper considers the treatment of land within other relevant policies, such as those on rural development, agricultural development or natural resource management:

Institution	Document Title	Publication Date
Inter-American Development Bank (IDB)	Rural Poverty Reduction Strategy Paper Strategy for Agricultural Development in Latin America and the Caribbean	1998 1999
Swedish International Development Agency (SIDA)	Rural Development Position Paper Improving Income Among the Rural Poor	1999 2004
United Nations Development Programme (UNDP)	Attacking Poverty while Improving the Environment (Poverty and Environment Initiative)	1999
United States Agency for International Development (USAID)	Nature, Wealth and Power: Emerging Practice for Revitalizing Rural Africa	2002

In considering the potential bearing of these policy papers on actual programs and to activities, a few other issues should be kept in mind:

1. Within the agencies that have generated policies or issues papers on land, there may still be other institutional policies concerning rural or agricultural development and natural resource management, in which land often figures prominently. (This discussion paper considers these only in cases where no land policy is in place.) Agency policies regarding indigenous peoples, involuntary resettlement and gender are other sources of institutional guidance on land and development.
2. Bilateral and multilateral policies toward trade and investment can also have a significant effect on land use and management, as can the policies of quasi-governmental institutions such as export credit agencies. While development agencies are not necessarily the sources of these policies, the lessons of how land policy can reduce poverty and achieve other key development goals should be brought to bear on these macro-level policies.
3. Perhaps most importantly, what is written in these policy papers is not necessarily what development agencies practice on the ground.² There needs to be a critical eye from readers to identify whether and how local- and national-level actions reflect the understandings shown in these papers – and whether the papers reflect an adequate understanding of the actual conditions and needs faced by poor men and women, organizations representing them, and their governments. Comparison of development agency position papers with studies and policy papers issued by civil society organizations can contribute to this critical read.

² In the case of the EU Guidelines, the main policy paper is accompanied by operational guidelines that seek to address this issue, by providing a framework for implementation at the national and local levels.

With these caveats in mind, the goals of this discussion paper with respect to the upcoming land tenure workshop in Nairobi are to: (1) inform discussion and debate on land policy reform taking place at the global level; (2) consider how international agencies can meet real needs of poor men and women in drylands areas, and their national governments; and (3) to serve as a basis for considering further regional or international partnership to address drylands policy challenges. The UNDP Drylands challenge paper, also included among the workshop preparatory materials, should be considered along with this background paper for these purposes.

B. Analysis of Key Policy Considerations

This paper considers the treatment of eleven land-related issues: (1) land reform, (2) formality and security of tenure, (3) communal tenure and common property systems, (4) women's secure access to land, (5) land titling and land administration, (6) land markets (sales and rental), (7) land, small-holder economies and agricultural trade, (8) land and conflict, (9) environmental sustainability, (10) land, culture and indigenous peoples and (11) participation, democracy and governance.

These issues were identified both because of their relevance to current policy debates on the relationship between land policy and poverty reduction and sustainable development, and also largely capture the range of issues discussed in international agency papers. Many of these issues also reflect key concerns of how land policy can respond change and development occurring in drylands areas. Land and human rights was one additional issue that was considered but ultimately not included in this paper, as only two of the agencies in the data set (the EU and the World Bank) include any references to human rights in their policy documents.³

1. *Land Reform.* For nearly all agencies, the redistribution of rights, tenure and/or access to land is one key component of land reform. In discussing land reform more broadly, though, a variety of policy tools are identified (see text box p. 4).

This array of approaches reflects a spectrum of those aimed at achieving equity in actual land distribution or access (i.e., redistribution of state and/or private land, co-management), equity in opportunities to access land (i.e., land ceilings, subsidized purchases), or improving economic efficiency (market-based transactions, titling and registration). Some policy tools attempt to achieve more than one, e.g., land taxes and long-term leases may provide both efficiency gains and, depending on the context, may also increase opportunity for secure land rights – though not necessarily ownership – by poor men and women.

In some policy documents (DGCID, EU, ILC), the concept of land reform also refers more broadly to changes in policy processes and power relationships, based on the understanding that these play a key role in determining whose land-related rights are recognized in practice. The agencies that recognize inequitable power dynamics at work in determining land distribution and access also tend to discuss in greater depth policy tools aimed at increasing equity.

³ The EU is the only agency that explicitly refers to the link between existing international human rights instruments. The EU policy notes that access to land is a means to achieving fundamental rights as defined by international covenants, such as the right to food, though it does not refer to access to land itself as a human right.

Land Reform policy tools identified in international agency papers:

- Redistribution of state land
- Co-management of state land with communities
- Direct community management of common property or communal land
- Expropriation and compensation for redistribution of private land
- Negotiated land reform (targeting for specific land area) among state, communities/peoples' organizations, and private interests
- Land ceilings
- Land taxes
- Market- or cash-based land transactions
- Subsidies to poor for land to be purchased below market value
- Long-term land leases
- Titling and land registration
- Harmonization of laws and regulations
- Increasing implementing capacity of state agencies and CSOs
- Land literacy
- Rural credit and agricultural support services

The need to strengthen land-related institutions, including but not limited to those responsible for land administration, is also seen as a key component of land reform. The UNECA document, for instance, refers to this as improving “the processing of rights.” Implementation capacity, transparency and access to information, and measures to reduce corruption are most often discussed in relation to institutional support. Stated most bluntly in the World Bank document, if these concerns are not adequately addressed, policy reforms cannot meet their goals.

There is consensus among the institutions examined that support services – e.g., access to credit and financial services, access to markets, infrastructure, etc. – must also accompany land reform efforts in order for poor households to benefit.

Only the IDB explicitly calls for the transition of landless or least viable small-holders out of agriculture, instead of offering a land-based approach for addressing rural poverty.

2. *Formality and Security of Tenure.* There are different understandings of what defines “security” of land tenure. The CIDA paper, for instance, notes that it implies protection from involuntary removal from one’s land. For GTZ, it derives from certainty in laws and meaningful participation in a land tenure system. The World Bank paper identifies tenure security with key characteristics of property rights, e.g., clear demarcation and duration of rights, transferability, and enforcement.

In this context, while nearly all agencies recognize that customary tenure systems can provide benefits to and be seen as legitimate by people living within such systems, they take different views on policy toward customary and statutory tenure where both exist side-by-side. Some agencies understand customary tenure to allow for much of what statutory tenure can, including protection for access and user rights, and (limited) transactions (DFID, EU). Where a need for reconciling

different systems exist, this could be done either through the legal system, or through extra-legal approaches such as state-community negotiation.

Drawbacks of customary systems can be the need to ensure that women and minorities are not marginalized, and that “good governance” is in place as practiced by local leaders or local institutions (although this is also the case for government institutions responsible for statutory tenure). A few agencies identify economic benefits, e.g., access to credit, that customary systems have yet been able to provide (ILC, WB). However, in practical terms it is not certain that a shift to titles or other statutory forms of tenure on their own can provide these benefits (EU, ILC).

In addition, several agencies note that customary tenure is location- and culture-specific, and that its local character will influence how and whether customary tenure can adapt or be adapted (UNDP, USAID). The IDB is the only agency to refer solely to legal frameworks as the source of tenure security.

3. *Communal Tenure and Common Property Systems.* There is some agreement that access to common property resources is a key issue for poor households, because of their greater reliance on these resources for their livelihood (CIDA, EU, ILC). Management of common property is also closely linked to issues of environmental conservation (SIDA, USAID).

The EU understands common property to allow for efficiency, while also balancing other priorities such as equitable access to resources and environmental protection, and notes that semi-arid rangeland can be efficiently managed as common property. The World Bank identifies a broad trend toward from common property individual rights, because of the individual benefits that may be created through economic development.

Several papers refer to the potential to support communal tenure by strengthening the community-based institutions that make decisions on land and natural resources. This is seen as a way to ensure that the land rights of all community members are protected, and that there are mechanisms to resolve disputes fairly (DFID, SIDA, UNDP, UNECA, USAID).

While communal tenure and common property are two distinct concepts, they do overlap and agencies generally discuss them in close connection, as well as in connection to customary tenure systems and issues of tenure security.

4. *Women’s Secure Access to Land.* Most agencies recognize women’s access to land as important both for ensuring equality of basic rights and for ensuring household food security (EU, ILC, SIDA, UNECA, WB). As remarked in the UNECA document, women’s land rights are limited even where they perform the bulk of agricultural work. Women and women-headed families are also seen as particularly vulnerable to structural economic changes (CIDA, ILC).

There is recognition that while women’s land rights have become better protected by national laws, discrimination remains a critical obstacle in administrative processes and customary traditions and institutions, particularly with respect to

inheritance and joint tenure for married couples (CIDA, DFID, EU, UNECA, WB). This issue is even more crucial in regions that face an HIV/AIDS epidemic (DFID, UNECA, WB). Women also lack equal access to support services, which in part may be correlated with their lack of land access (EU, UNECA).

5. *Land Titling and Land Administration.* Many agencies identify the challenge of building on existing rights, often customary in nature, when developing titling initiatives and land administration (CIDA, DFID, EU). The EU, in particular, perceives titling as neither necessary nor sufficient to secure land rights or increase economic productivity. DFID notes that, in Africa, individual titles have not captured the range of multiple land uses that are fundamental to livelihoods.

Several other agencies note that titling programs should develop out of a real need – most likely present where population density is high and land transactions are increasing – rather than as a means to stimulate rural land markets. For the IDB, titling is critical to increase production and income among poor small-holders.

Many agencies identify numerous implementation challenges – access to information and legal assistance, cost of services, conflict resolution capacity, and accessibility by women and rural households – and identify a strategic concerns of how land administration can be organized specifically to benefit poor households (CIDA, DFID, EU, GTZ, ILC, USAID WB).

6. *Land Markets (Sales and Rental).* There is consensus that unmediated sales markets do not assist poor and landless households to access land (CIDA, DFID, EU, GTZ, ILC, WB). These households face numerous obstacles to participating in sales markets, including access to information lack of market power and access to credit. These reduce both the equity and efficiency of sales markets. There may be potential for land speculation to develop where land transactions are newly introduced (DGCID).

Other agencies note that the absence of formal markets can also hurt landless households. Informal markets are often segmented – i.e., the wealthy face different market opportunities and conditions than the poor – and biased against poor and small-scale farmers (IDB). Government intervention in sales markets should be taken cautiously, because of potential price distortions and other unintended consequences (GTZ, IDB, WB).

Rental markets are seen as having both greater political feasibility and more potential to benefit poor and landless families, if long-term leases can be negotiated (EU, WB). Other potential interventions are: subsidized credit for land purchasing, land taxes, providing market information and increasing the transparency of market institutions, and assisting the poor to understand their legal rights (CIDA, EU, GTZ, WB).

7. *Land, Small-Holder Economies and Agricultural Trade.* Different perspectives are offered on the connections between land and trade, and their impact on poor households. The World Bank analysis proposes a goal of increasing the participation of poor households in agricultural trade, with the assumption that this would allow them to benefit from the growth associated with increased trade.

Policy environments should thus encourage increased agricultural productivity, while also seeking to improve the welfare of small-holders. The IDB suggests that support to small-holders, and stretching liberal reforms out over time, can help to ease their transition.

Other agencies perceive striking this balance to be problematic in practice. In many agrarian contexts, household income is closely linked to landholding size and thus small-holders already face adverse structural bias. Reforms to strengthen a country's position vis-à-vis international agricultural trade may further weaken the position of small-scale farmers (CIDA, EU, GTZ). The poorest small-holders are at greater risk to market fluctuations, particularly in export markets for cash crops, so land-use conversion in response to market demand may even increase their food insecurity (UNDP).

SIDA's analysis of rural income-generation approaches notes that neither small-holder agriculture nor off-farm income *on its own* is a viable long-term solution for rural poverty reduction. This suggests that generating rural employment opportunities in non-agricultural sectors cannot replace small-scale farming in supporting rural livelihoods, although it may be able to complement smallholder farming in this regard.

Different perspectives also exist on the comparative benefits of small-scale versus commercial farming. Family farming, with greater reliance on human labor versus mechanization and chemical inputs, may yield more ecologically friendly outcomes (ILC). On the other hand, while less efficient in terms of output per worker, commercial farming may offer economies of scale that small-holder farming cannot and thus improves competitive position in global markets (WB).

8. *Land and Conflict*. There is a general recognition that land-related conflict is an increasing challenge. It generates both social and economic costs, creating obstacles to poverty reduction. It also risks widening into broader violent conflict that may have serious political consequences (CIDA, EU, GTZ, WB).

Several agencies identify population pressure, resource scarcity and overlapping tenure or conflicting claims as the main sources of land-related conflict. (DGCID, EU, WB). Illegal appropriation of resources can spark or worsen conflict, and past discrimination or inequality is identified as another source of land conflict (EU, WB).

Both formal and informal mechanisms for conflict management are proposed. Customary institutions and traditional dispute resolution mechanisms may be helpful where parties to disputes view them as legitimate, as approaches such as alternative dispute resolution or mediation that work outside the judicial system (GTZ, WB). Many of the agencies also recommend that land administration institutions develop formal systems for managing land conflict (CIDA, EU, DFID, GTZ).

9. *Environmental Sustainability*. There is agreement that land policy must address key environmental challenges being faced, including erosion, deforestation and desertification. This environmental degradation can reduce agricultural

productivity and jeopardizes access to natural resources for future generations (CIDA, EU, GTZ, ILC, UNECA).

The unplanned expansion of small-scale farmers is commonly seen as roots of land degradation. Several agencies consider improving security of tenure as a means of addressing these problems (CIDA, GTZ, ILC). Commercial expansion and its impact on the natural environment are addressed by only a few agencies, with UNDP noting that the non-poor generate much more environmental degradation than poor households (GTZ, ILC, UNDP).

The UNECA paper observes that lack of access to information and training on sustainable resource use, rather than insecure tenure, is the main cause of unsustainable practices by small-holders. The EU offers improved land management processes, including joint management approaches, as a way to balance community needs and environmental protection. The USAID paper offers improved governance and resource management as the keys to environmental sustainability, rather than looking at the land-use of poor households as a key factor.

Generally, environmental degradation received less attention in agencies' land policy documents than in those papers focusing more broadly on rural development, agricultural development or natural resource management. Several agencies do not address environmental issues directly in their land policy papers (DCGIC, DFID, WB). The UNDP paper notes that the costs of rehabilitating land (e.g., reforestation or pasture improvement) are particularly high in drylands areas.

10. *Indigenous Peoples and Cultural Identity.* Many of the agency papers do not offer analysis on the cultural aspects of land access, although a few do address this in the context of indigenous peoples' land use and access. ILC notes that for indigenous peoples, land is commonly linked to cultural identity, not only socio-economic development. The EU policy paper also notes that recognition of traditional land rights is necessary for indigenous peoples' cultural survival.

GTZ refers to the need to integrate indigenous knowledge on land and resource management into broader policy. UNECA notes that indigenous peoples and hunter-gatherers are at particular risk of displacement because of insecure tenure. The World Bank policy paper refers to a human rights basis for recognizing indigenous land rights, even where they provide no immediate efficiency gains.

11. *Participation, Democracy and Governance.* There are common references to the importance of participation and democratic processes in ensuring land access. Many agencies express concerns about institutional abuses, such as corruption, that can create efficiency losses and disproportionately affect poor men and women. Bureaucratic failures may also result in claims simply not being processed, limiting the practical enjoyment of land rights even where they are legally recognized.

Citizen oversight and monitoring by community boards, NGOs, peoples' organizations and legislatures are recommended as democratic checks on abuse of power and poor governance (EU, UNDP, UNECA, WB). The EU guidelines

consider participatory approaches to land policy development and implementation as a key part of any strategy toward land policy reform.

Most agencies discuss participation within the context of land administration or development projects, with less emphasis on the link between broader democratic development and improved land policies. The UNECA paper identifies a link between respect for civil liberties, including the right for the poor to organize politically, and the realization of environmental rights. ILC notes the need for strong political organizations that represent poor men and women, stating that strengthening processes through which the poor gain power local and national governance will increase the effectiveness of formal land systems.

The role of equitable land distribution in influencing democratic development is not frequently discussed. The EU and World Bank papers refer to broad land ownership as a means to increasing the political voice of the poor, and a few papers note that land distribution reflects the distribution of power in a society. The idea that land reform is an essential ingredient for democratic development, particularly in rural societies, is not widely seen in these development agency papers.