

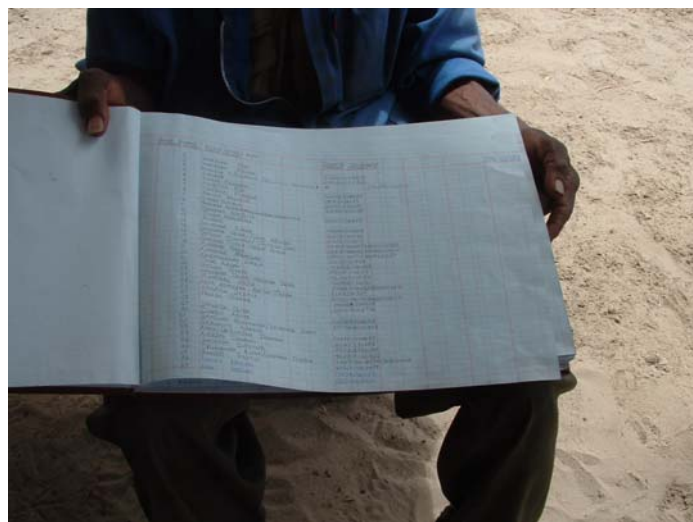
# **A PRO-POOR LAND RECORDATION SYSTEM; TOWARDS A DESIGN**

by

***Jaap Zevenbergen***

*Professor of Land Administration Systems, Faculty ITC, University of Twente, the Netherlands*

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# 1. INTRODUCTION

## 1.1 Background

A paradigm shift has taken place within the wider global land community which has accepted that individual land titling on its own cannot deliver security of tenure to the majority of people in the developing world and is slower than needed. Currently in the developing world only about thirty percent of land is covered by some form of land registration system. It will take centuries to get full coverage in a large number of countries. Also, the number of slums continues to grow in cities and, outside of China, the number of poor is not decreasing. The global land community has come to accept that the way forward to deliver security of tenure is through a continuum of land rights, which allows people to get onto the property ladder. Land tenure is about the person-to-person-to-land relationship (Bohannon: 1963).

However, a continuum of land rights approach, if implemented at scale, will require the introduction of new forms of land recordation. This paper focuses on the lowest end of designing such a recordation system, namely a pro-poor land recordation system for the urban and rural poor, who are generally the majority of the population in developing countries. The key question which this paper seeks to address is ‘What does a pro-poor land recordation system look like?’ The paper aims to develop a new cut down affordable form of a land recordation system that would make it possible for different types of land rights to be recorded, and operates within a co-management framework with the community. The paper identifies some of the elements of such a system, by learning lessons from existing land systems, as well as from the experience of professionals, civil society and researchers and others in trying to address land issues.

The Global Land Tool Network (GLTN), funded by Norway and Sida (Sweden), identified pro-poor land records as one of the 18 new land tools needed to move the global land agenda forward. The GLTN is composed of 44 international partners working on developing new land tools to address the wide range of complex challenges found in the rural and urban area. The partners include civil society, professionals, bilaterals, multi-laterals, training and research institutions. Some of the professional associations which have been involved in the new designs of land systems include the International Federation of Surveyors, the Royal Institute of Chartered Surveyors, the Commonwealth Association of Surveyors and Land Economists, Federation des Geometres Francophone and a new partner, the International Union of Notaries.

GLTN’s agenda has a number of themes. Theme 1 is on ‘Land rights, records and registration.’ Within that theme is found the pro-poor land recordation tool which this paper addresses, as part of the subtheme ‘deeds and titles’. It builds on, and has learnt from, completed or on-going work on other GLTN tools and themes such as the continuum of land rights approach; co-management; the development of pro-poor land administration software called the Social Tenure Domain Model (STDM); participatory enumeration; post conflict land tools; gender evaluation; scaling up grassroots approaches; and land governance.

Getting to this point has required:- an extensive literature review; experience with the amendment/design of national registry and survey systems in a number of countries from Eastern Europe to Africa; attendance at GLTN workshops focused on a range of land issues and wide ranging discussions with Clarissa Augustinus, drawing on her GLTN and UN-HABITAT experiences and anthropological knowledge. The first cut of the design was considered sufficiently

coherent to be the base for the Expert Group Meeting (EGM) on Pro-poor Land recordation System with relevant professionals, particularly the legal, notary and registry professionals, held on 15 and 16 March 2011, in Paris (see Figure 1 and Annex 1 and 2). The discussions during the meeting supported the design as such, but called attention to a number of issues that need to be further studied to support a more comprehensive design. These included a clear institutional perspective on communities, as well as the political economy within such a community, between state and community, and when introducing a pro-poor land recordation system. Furthermore more attention is needed for assessing the different conditions between and within countries and tailoring the design to cope with these, and ultimately for implementation issues like funding, training, awareness and material resources. Based on the meeting a limited number of corrections and additions have been made to the original background paper, but the main lessons from the meeting will lead to follow up activities. Additional studies on institutional and political economy issues are foreseen, as well as documenting the experiences of (local) systems that resemble the design. Later to be followed by a number of pilots to verify and fine-tune the design.



*Figure 1: Participants of EGM “Pro-poor Land recordation system” (www.gltm.net)*

Finally, because of length requirements, it was not possible to write the paper with all the references, or with all the necessary explanations. Many of the positions held in the paper are in reality much more nuanced than presented, or there are a variety of options and variables which need to be thought through together in any particular local situation. This has been very difficult to express in a short paper addressing such an enormous issue. However, these are only the first steps, which is to create a sufficiently coherent framework based on knowledge and experience to be able to focus on the debate for the next steps.

## **1.2 Outlining the elements**

Section two outlines that legal systems are often repositories of history, experience and traditions often dating back centuries. The paper outlines some of the key elements from the history of law and land records from which we need to learn to be able to design appropriate pro-poor land recordation systems. These include how we moved from the utilization of resources to property, the role of

codification, colonization, the importation of foreign legal systems and allodial title. One thing that is made clear is that many of our legal and land recordation systems contain historical anti poor biases which need to be addressed in designing a pro-poor land recordation system. Also, rapid urbanization has created a massive demand for land records in a situation of scarcity, which has placed an impossible strain on the recordation system and contributed to large scale slum formation. All of this has implications for the design. The social land tenures of low income people need to be recognized and protected, including both main and secondary rights.

Section three outlines some of the key elements that we can learn from the history of land documents and land rights. A review is made of aspects such as what we can learn from the comprehensive records in Europe. Also the key issues for the poor are identified with regard to possession and prescription, the nation state and the development of land (tax) records, and the implications of having different types of land documents. All of this has implications for the pro-poor design such as the importance of assessing community needs at the outset, that possession/prescription is key to the poor, and that an inventory of rights, and transparent participatory adjudication and a simple map, within a jurisdiction about the size of a municipality, are potential keys to success.

Section four explores the challenges to existing conventional land registration systems when trying to cater for the poor. It proposes an evaluation framework based on implementation experience and a pro-poor bias and asks what is more important, authentic or correct land records and what should come first, coverage or accuracy? It also discusses at which level, and where, land registry functions should be vested. It also examines the impact of rapid change in land use on land records and how we need to be innovative to deal with the demand by introducing more simple and affordable systems to begin the process. A pro-poor system would need to improve participatory adjudication approaches to accommodate social land tenures, and would need to accommodate less accurate forms of data. They would also have to be closer to the ground to improve correctness of the records and ease of access.

Section five examines key pro-poor design elements including affordability both by individuals and the state, dealing with complex layered rights and delivering preventative justice. Technical/legal options are explored such as, a sporadic approach, a paper system and a spatial index map, and how to make the system transparent, inclusive and equitable. A co-management system is outlined whereby the state and the community share responsibility for the land records to improve affordability and governance and limit injustice to the poor in regard to their land. Finally, the benefits of such a pro-poor system are outlined.

Section six gives a first design of a pro-poor land recordation system. It starts with an assessment approach to identify national and local conditions in which the system will have to operate. The design is built on community tenure practices and the formalization of these practices, including the introduction of land records and indexes. It also covers the introduction of a (barefoot) land officer and a record keeper, both embedded in both the community and the state structure. Other aspects discussed include inspection, that the information on the records should not be sole evidence, dispute resolution and broader governance issues. It also proposes a continuum of land recording which could support a range of rights, facilitate people to make a first step onto the property ladder and allow the upgrading of the land records and the systems over time, as appropriate.

The paper concludes with some suggestions on how to take both the paper and the process of developing knowledge around a pro-poor system design forward.

## **2. A CONCISE HISTORY OF LAW AND PROPERTY RIGHTS**

### **2.1. From resource to property**

The earliest forms of land tenure arrangements are associated with situations where there are very few people and plenty of resources, such as land (Shipton: 1984). Land tenure types are linked to public goods arrangements and minimal individualized land tenure arrangements. When scarcity emerges, either in certain places or in regard to certain functions, and group dynamics change, land tenure systems also adapt. Changes include group structure and kinship relationships, including family structure, linked to how land is used and allocated. Individual access to, and use of, land is generally determined by this. Land scarcity emerges most starkly during urbanization and massive migration to the cities and towns, and is linked to an emphasis on land for urban functions, including housing, roads, community facilities, services and infrastructure, and buildings. Slums are a symbol of land scarcity in cities. There are over one billion slum dwellers globally and in many countries 60 percent of cities are informal (UN-HABITAT: 2008). The majority of countries in the world have both formal and informal land tenure systems.

The processes by which formal tenure systems emerge and the legal rights associated with them, is outlined below. They emerged a very long time ago from the situation described above. The land recordation systems associated with property which we use today are an important aspect of these formal tenure systems. The challenge is that the formal systems have generally been used by the elites, often to exclude others, and even after hundreds of years in some countries, many people do not yet have legal rights and/or if they have legal rights they do not have formal documents to substantiate their rights.

In a globalizing world, with the world's population standing at 6 billion, with over half living in urban areas, and the global urban population alone due to increase to 5.3 billion by 2050, land scarcity is increasing dramatically (UN-HABITAT: 2008). This scarcity, together with the lack of land documentation for the majority of people, means that conflict, instability and a general lack of security of tenure are increasing. A pro-poor land recordation system is intended to assist in addressing these issues. The system cannot just be an affordable mirror of the current land registration systems used by the middle and commercial classes, which is generally based on individual rights. Instead a system for the poor has to be affordable and take into account the existing social tenures being used by the poor, such as group and family tenure arrangements; secondary rights over property (e.g. access through private property to a common water point); tenure adaptations to local circumstances and history (e.g. flooding such as in Bangladesh); different forms of evidence (e.g. trees), and tenures used by groups of migrants (e.g. in slums). These different forms are often part of complex customary relationships which protect the weak.

### **2.2. Codification**

Historically people in power sometimes codified the rules, norms and practices in their territory. Some of the more successful codifications were based on an initial inventory of the range of approaches being applied, followed by an identification of the best practices which were fitted into some kind of coherent framework. The approach chosen tended to serve the powerful, often foreign occupying elite, over the generally poor, local residents. That is, there was a particular bias in the legal framework. Roman Emperor Justinian I codified Roman Law in 529 A.D. in the *Corpus Iuris*



*Civilis* or Codex Justinianus. Napoleon Bonaparte, building on an already pre French Revolution process of inventory, codified matrimonial and property law in France in 1804 into the *Code Civil* or *Code Napoléon*. It built partly on the Codex Justinianus which was still applicable in southern France and the '*coutumes*' (customs) of different towns in the rest of 18<sup>th</sup> century France. Ottoman Sultans codified the law in the 19<sup>th</sup> century. Their empire covered a number of territories including people of diverse origins and religions. The Sultans used Sharia law as the base, choosing what fitted them best from the four major Islamic Law Schools (Zweigert and Kötz: 1998).

Slightly differently, and more through the courts than through parliament, one legal system was created for England and Wales. The courts ruled on the common solution to a problem and such rulings (on cases) became the base for the legal system of case based Common Law, although Statutes were also introduced at times.

To conclude, issues in regard to land and land tenure were part of the codification of the larger body of law that was created. This included the biases of the original rulers who undertook the codification, which biases were often supportive of the elite and the conquering power. Many current land tenure systems still reflect this bias. To include the majority of people, local forms of evidence and local social traditions, new forms of formal tenure systems need to be designed.

### **2.3. Colonialism and the importation of foreign legal systems**

The British Common Law system and the French Civil Code were exported to the British and French colonies in the 19<sup>th</sup> and early 20<sup>th</sup> century. Generally the exported legal system was focused on protecting the interests of the colonial rulers and European settlers in the colonies. Often all land was vested in the name of the colonial power and European settlers received estates and land documents based on the European legal system (Okoth-Ogendo: 1999). Local communities continued to occupy most of the country, with limited security of tenure, particularly in towns. Often they were considered tenants at suffrage who could be removed when colonial interests required. At best they were allocated native or tribal land in which local leaders took care of land affairs (Okoth-Ogendo: 1999). Sometimes this was a continuation of local traditions. Often this led to shifting roles within the communities including an increase in the power of the leader. In reality, the *de jure* situation (based on colonial statutes) did not match the *de facto* in large parts of the country. The legal land rights of local communities were set aside as, and when, the colonial power required it (e.g. for mining rights). The law was mostly used as an instrument to serve the interests of the colonial elite and not to stabilize land relations or protect third party interests. In a number of countries independence only changed the composition of the elite, as the colonial power handed over the control of the land to national elites (African Union, UNECA and African Development Bank Framework and Guidelines: 2009).

To conclude, many developing countries had no land recordation system prior to colonization in the 19<sup>th</sup> and 20<sup>th</sup> century. Colonization was often the first stage of the introduction of land recordation systems. These land recordation systems, many of which are still in place, therefore reflect both the bias of the original codified laws from the colonizing country, as well as the biased amendments to laws made in the colony by the colonizing authority for their own purposes as well as for their settlers. Often the newly independent countries have struggled, with very limited success, to expand these legacy land recordation systems beyond the parcels originally registered during the colonial period. Often the new owners of the original properties are the post-independence elites. An additional new form of land recordation system needs to be put in place to expand the existing land

records in a way that caters for the majority of citizens, including their local socio-cultural approaches and poverty profile.

#### **2.4. Allodial title**

A key aspect of tenure, which has different manifestations in different jurisdictions, concerns who holds the allodial title, which is the base right to the land. Under feudal systems the highest nobleman (e.g. King or Emperor) held the allodial right and all other land rights were derived from this right. For example, in England all land was owned by the Crown, although today the legal effect is minimal. The strongest land right for individuals is now called 'freehold'.

In some developing countries, such as Mozambique and Ethiopia, the state owns all land, and the citizens acquire a lesser right allocated by the state, such as a use right, or perpetual use right or leasehold. In other countries the allodial right is vested in the individual as part of the right of ownership. In such cases the state (for land allocated for public purposes) or local government may also hold ownership rights which include the allodial right. The owner of this right (private or state) can use it, or give a lesser right to another person/s (e.g. tenancy or leasehold).

Allodial ownership by the state has been used to weaken the tenure security of citizens, for instance during the colonial period. Often this situation has been maintained after independence (African Union, UNECA and African Development Bank Framework and Guidelines: 2009). Prior to the creation of the nation state, most allodial ownership would have vested/rested with the different local communities (e.g. tribe, group of tribes). The creation of the colonial nation state and vesting the allodial title in the state could be argued was an extreme case of expropriation or land grabbing. Some colonial governments created areas where the customary systems were maintained. However, if land was required by the colonial state, their borders were re-drawn as, and when, necessary, abrogating the idea that these customary areas held their allodial title.

It is usually assumed that the state has eminent domain and could acquire the land from the private owner holding allodial title, if it is needed for a public purpose. Such a compulsory purchase includes payment by the government to the owner. This is not the cancellation of a lesser right or interest by the state as allodial owner. In the West the difference between the two are small in practice, even though the definition of 'public' is often debated. In other countries this can play out differently, both in legal terms and in implementation. For example, in Haiti allodial title held by large land owning individuals combined with weak land tools (e.g. expropriation law) has caused major blockages in the reconstruction after the earth quake.

To conclude, the issue of allodial title will ultimately have to be tackled, for a pro-poor land recordation system to get people moving further along the property ladder. Especially as many poor communities live on land which is held privately by the state and/or local authorities. The poor have no allodial rights and often not even lesser forms of rights.

#### **2.5. Urbanization and areas of rapid demand**

Urban land allocation, land redistribution – both formal and informal –, land use, building standards and the spatial planning of urban areas mirrors the legal and land documentation system limitations and biases described above, but with urban characteristics. Urban standards often emanate from Western countries. Both prior to independence, in the mid 20<sup>th</sup> century, and afterwards, the formal part of the city, which is planned and serviced and has formal land rights and use, tends to be occupied by the middle class, elites and commercial enterprises. It was occupied first by the

European settlers, and afterwards by the new political and business class. The remaining residents live in unplanned areas with no security of tenure and few services. In Sub Saharan Africa more than 60% of the cities' residents live in such slums (UN-HABITAT: 2008). Often slum residents have a diverse range of adapted customary tenures which they brought from the rural areas.

Slums result from natural growth within the cities and massive rapid migration to the cities. Migration is also caused by conflict and natural disaster. Many temporary camps became new towns or parts of cities. Slums are often located on unsuitable land but some slum areas are upgraded, which may include allocation of some form of land documentation and physical improvements. Often the poorest people sell their formalized right and move to a new informal settlement as they cannot afford all the service fees. This sale is often informal and the land records for those parcels lose currency. Also, the beneficiary group which remains often transfers their rights informally when moving or inheriting, as they do not follow the formal steps of the recordation or registration system, especially when it is not affordable, simple or locally operated (Payne *et al*: 2008). This issue is emerging in many places in the world (Barnes and Griffith-Charles: 2007).

Another type of rapid demand for land documents is in areas of commercial development or where large (foreign) investment takes place, often associated with a scramble for resources. Often when this happens the focus of the land system is on the delivery of land rights to investors and there is no, or little, protection of local communities' rights in the area. In this scenario the conventional system gives benefits to the elites while putting the poor at risk of eviction and loss of their *de facto* land rights.

Conventional land recordation systems need to be adapted to be able to cater for large scale and rapid urban growth, as well as investor demand, together with the needs of the majority of the poor in both urban and rural areas. In this way land recordation systems are more likely to reflect the *de facto* situation on the ground.

## **2.6. Implications for pro-poor land recordation system design**

Land tenure arrangements and their codification in laws tend to favor elites over the poor and marginalized. Land systems controlled by elites from outside the country, particularly where these elites controlled the allodial title, made access to land and statutory land rights for the poor extremely difficult. Generally conventional systems have focused on the main rights (often the formal colonial types) and not on the secondary rights, which form part of complex customary relationships, which protect the weak. Conventional systems as implemented in many developing countries are not fully transparent, or participatory, and this also causes bias. Informal tenure arrangements have filled the gap to enable the poor to house themselves and undertake subsistence farming. These informal arrangements need to be recognized and protected.

# **3. LEARNING FROM THE HISTORY OF LAND DOCUMENTS AND RIGHTS**

## **3.1. Emergence of comprehensive records in Europe**

Some form of land record keeping was undertaken long before 1800 in Europe. Documents were kept in places which were trusted such as churches, local government offices, with judges and/or courts. Sometimes this was voluntary. In some areas it was mandatory to record land transactions,

although it was not always adhered to in practice. For instance the 1529 Decree for most of the Netherlands was re-issued three times during the 16th century, and the English 1536 Statute of Inrolments was evaded by astute lawyers (Dowson and Sheppard: 1956, p 7). Transfers relating to transactions were more likely to be recorded, whereas those relating to inheritance and marriage were often not recorded. Land documents for the same area could be found in different depositories, sometimes even related to the same land. Record keeping was improved through local innovations, including indexing and prescribed fireproof storage boxes. Stronger central government and codified property legislation also required more comprehensive record keeping. For example, Napoleon's Civil Code already contained basic provisions on the recordation of deeds, including the requirements, the legal effects of recording a deed, and the legal consequences of not recording. Sometimes it was mandatory, sometimes it strengthened the position with regard to third parties, and sometimes it was just of an evidentiary nature.

In late 18th century Europe rules became increasingly codified and land recordation started to be more comprehensive. Sometimes the two happened simultaneously. Napoleon Bonaparte's cadastre, aside from tax, was also intended to stabilize land relations to support economic use and ease of transfer. His cadastre was started with an inventory covering all the areas under his power, including large parts of Western and Southern Europe. This inventory included, determining the border of each municipality, a simple mapping exercise, and finally adjudication of who was in possession of which land within each municipality. People with pre-recorded deeds/land documents to support their claims were in a better position to claim their land rights. Oral evidence and community leader support was also used to make a claim based on possession since time immemorial.

Quite different is the situation in areas where all land was assumed to be 'empty' and thus owned by the state. The government would start to allocate land to settlers who would receive a document of this land grant. When some kind of recordation was set up in an appropriate way a paper trail could be kept from the beginning. Nevertheless such a paper trail might become difficult to trace when the records were not properly indexed, and the land as such was poorly described, only by words without a map. Such a basic deeds registration system can be improved by making the core records parcel based, with spatial clarity on the boundaries. However, this can as easily be done by linking it to a tax cadastre, as by introducing a legally sophisticated title registration system. The latter makes it very hard for any *de facto* situation that is off record to be recognized from there on. In these types of countries an early conversion to a title registration system has given clarity and security to owners, in a number of cases. It must be noted that this is very different from cases where the land holder's root of title comes from time immemorial. Also, in areas where the descendants of settlers (especially of mixed race) became poor and started to live increasingly outside the formal system, some old paper records of the original allocation might still be available, but later subdivisions and inheritances might neither be clear nor documented (e.g. family lands in the Caribbean).

The lesson that can be learned from all this is that in an area which has been occupied for a long time, it is possible that not all land holders will be able to prove their rights through a paper trail. Instead possession, which is recognized by neighbors, peers and community leaders, should be recognized. Other lessons are the importance of an inventory through participatory adjudication, linked to a simple mapping exercise, of a small jurisdiction, such as a municipality. The role of participatory enumeration of specific slum areas (UN-HABITAT: 2010) also needs to be reviewed with the respect to these lessons learned. These aspects are all critical for a pro-poor land recordation system design.

### 3.2. Possession and prescription

Land in areas under pressure is nearly always under use and/or occupation. Even if there is no *de jure* holder of the land there is always a *de facto* land holder. The status of the people occupying and/or using the land, that is, those in possession, differs between countries. It depends on the national legal framework, if the land records are incomplete, or whether informal access to land is the norm. Many legal systems have the notion of prescription, which means that claims people have under law expire at some point in time. For example, if an owner does not responsibly administer the land and another person occupies and uses it, and the owner takes no action, then the legal system assumes after a certain time that the owner is no longer interested and has given up their claim on the land. This strengthens the position of the occupier, although not all legal traditions allow them to become the 'new owner'. Certain (customary) traditions will never reward adverse possession with ownership. The length of time after which the original owner loses their claim varies between countries, with 5, 12, 20, 30 or 40 years being common. This can relate to boundary changes between two owners (just a strip of land) or to a whole property, or a claim to part of a larger property.

Possession or prescription over private land by comparison to public land is often treated differently and generally state land cannot be acquired with the same ease or at all. Also in terms of the legal framework, usually certain clauses apply both to the conditions relating to the starting of the adverse possession of the land, and what has happened during the time period. Taking violent possession is usually excluded from the awarding of possessory claims, and in some jurisdictions the courts tend to equate any squatting (defined as a crime against the land) by the poor as violent, and thus bar any prescription claims (Van Gelder: 2009). And it is harder to make a claim against an interest that has been recorded than against an interest which is not in a land recordation system. The legal limitation of possession/prescription on state land is a critical issue for the poor as they often occupy land which is deemed state land. This comes about either firstly because the community was occupying the land before the creation of the nation state and the state's allodial title to it, often exacerbated by a lack of clarity about the boundaries of state land, or secondly by the invasion of the land by the poor.

Some countries support the prescription/possession claims of informal settlers, such as the Philippines and South Africa. This fits with the understanding that someone in possession could be seen as the one holding the stronger right, based on the principle that possession is 9/10s of the law. There can still be problems with supplying evidence which demonstrates the claim, even where possession is accepted, unless the owner who loses the right accepts their neglect. Witness statements are usually critical then, but aerial imagery from previous years can also play a role in substantiating such possession claims. Even under these conditions it is hard for the poor to make a claim as they cannot easily fulfill the requirements, pay the necessary fees, repeatedly travel to visit offices and have the appropriate knowledge and contacts. Even when the claims of the poor are supported by fee-waiving projects and NGOs, the formal system is often incapable of handling the increased workload, which leads to the emergence of facilitation fees. These fees set the priorities of which cases are addressed. This again disadvantages the poor.

In many countries the current formal approaches tend to be complex, expensive, time consuming and rely more on paper trails than on the *de facto* situation on the ground. Often conventional land systems have been imported without enough consideration of the reality in the country, particularly during colonial times. In this situation the possession of local communities was not, and is not, given sufficient weight. Even where possession/prescription principles are in place, implementation is

biased against the poor as invasions might be excluded from these provisions, the formalization process might be complex and expensive, the land agencies might not have the capacity to deliver at scale, and in countries where the title system has been introduced, prescription has been virtually abolished. A land recordation system that relies on evidence linked to the registered owner and leaves little space for other forms of evidence about land rights does not benefit those in possession, especially those too poor to formalize their tenure situation or update their records.

Lessons learnt for the design of a pro-poor land recordation system are that, given the way that the poor occupy the land, and the current range of opportunities that exist in the legal systems, possession/prescription is important. The pro-poor land recordation system will have to rely mostly on possession in creating the land recordation system, both on privately held and state land. The design will also need to support that this information is going to be seen as equal evidence when it clashes in a prescription procedure with the *de jure* rights which they 'adversely' possessed.

### **3.3. Land transfers to people from outside the community**

As land tenure is commodified land transfers outside of the family and community increase. Originally security of tenure, land rights and access to land is linked to location within the kinship unit and maintenance of a position within the family and community. Land transfers by kinsmen to people from outside the community (excluding marriage), introduce new complexities in the land tenure relations. Issues emerge around:- the legitimacy in the eyes of the community of the seller and the buyer from outside; ambiguity about the nature of the rights transferred; ambiguity around the length of time for which the rights are transferred; and inheritance. This ambiguity can lead to conflict both at the individual, family, community and national levels.

When community relations alone are insufficient to maintain security of tenure a pro-poor land recordation system could strengthen the land interests of people from outside of the community particularly during transition phases, including during urbanization on customary land (compare Arko-Adjei: 2011). Putting it on paper, having that signed by the most important stakeholders, and keeping this paper in a safe place (or a few copies in different places), could be important to assist in the process of transition from a kinship based land tenure system to a more commodified system. That is, a pro-poor land recordation system will be key for communities undergoing large scale land tenure change, particularly where there are new migrants coming to the area. The land recordation system would need to be able to handle the process of land tenure change over time.

### **3.4. The nation state and land (tax) records**

Nation states introduced two major types of land documenting systems, namely land rights records and land tax records. Nation states introduce these systems for a range of reasons, such as to collect land tax, to tax land transactions and to control land which is an important national resource. Land tax information is collected at local or national government levels. In some countries the recordation/registration of land rights might develop completely independently from the land tax system, or it might be coordinated, linked or even integrated with it.

### **3.5. A wide range of land document types**

There is a wide range of situations in countries in regard to land records. In many developing countries only about 30 percent of the country is covered by land documents held in record/registry systems. The remaining 70 percent, particularly the rural areas, is often characterized by forms of customary land tenure described above. But also many slums have no, or few, land records. Also in

some countries land documents are generated through sporadic land documentation and approaches, and in others systematic documentation is undertaken in parts of the country.

Also, in countries where there is no compulsory registration of transactions in the legal framework, a range of land document types emerge and people only record/register their transactions on a voluntary basis. In this situation some properties will have a complete paper trail, other properties will have some documents recorded but not a complete paper trail, and others will have no recorded documents in the system at all. Developers working on large scale housing delivery often create land records and a parcel map simultaneously to cover the whole area developed, although this does not mean that all subsequent transfers will be recorded. Where there is no uniformity of land documents and no geometric index it is extremely difficult to determine for any one property whether one has found all relevant documents and/or whether these show a complete picture of the situation.

The lesson learned from this for designing pro-poor land recordation is that when introducing pro-poor land recordation, is that to enter the property ladder, the poor need to start getting land documents to improve their position. A full picture and clarity on the title will not necessarily be given by the land records, but also involve (verbal) verification within the community in the earlier stages of such a recordation system.

### **3.6. Implications for pro-poor land recordation system design**

An assessment of the needs of the community is required at the outset to establish the purpose of land creating records, as they could be used for a range of purposes such as tenure security, tax, land management.

The design would need to address possession and prescription issues, as it is unlikely that all land holders will be able to prove their rights through a paper trail. It will probably have to take possession into account both for privately held and state land, and accommodate the mainstreaming of the possession claims of the poor at scale. Possession, which is recognized by neighbors, peers and community leaders, should be built into the design. The design should also include an inventory through participatory adjudication or enumeration exercise, linked to a simple mapping exercise. The jurisdiction of the land recordation system should be about the size of a municipality.

Communities in transition, including ones undergoing large scale in-migration, may well benefit from a pro-poor land recordation system. Putting land rights on paper with key stakeholder support could assist in the process of transition from a kinship based land tenure system to more commodified systems. The land recordation system would have to be specifically designed to deal with ambiguities in the land tenure relations between original settlers and new migrants and the types of rights allocated over time.

## **4. OVERCOMING CHALLENGES AND DEVELOPING A PRO-POOR APPROACH**

### **4.1. Reviewing land registration systems from an implementation and pro-poor perspective**

The theoretical benefits of land registration have been widely documented, although different authors have different perspectives. Conventional land systems are often evaluated within a legal-administrative framework rather than from an implementation framework which also includes poor users. Using an implementation framework, including poor users, shows that there are many

challenges and problems in conventional systems and that the benefits for the poor have not been very promising.

Firstly, conventional adjudication or first registration, either through sporadic or systematic approaches, is often an opportunity for elites to manipulate the system for their own gain as they tend to be more aware of how the system operates. First registration is an extremely risky event for the poor. Also, land registration and titling focuses generally on the main land rights, and often excludes the secondary rights. These secondary rights are often a key part of the social security system for women and the vulnerable. The loss of these secondary rights can have a significant impact on people's livelihoods. There have been many reports of registered owners of the main right preventing access to their land by holders of unrecorded secondary rights, including fencing off rights which were previously accepted as part of the community structure.

Secondly, there is an increasing body of evidence that many people, even when they have registered land rights, are not registering subsequent transactions. Instead they are informally handing over the documentation to the buyer. Clear evidence exists for the Caribbean (Barnes and Griffith-Charles: 2007) and South Africa (Payne *et al*: 2008). Reasons for this are:- costs; unfamiliar corporate culture, including professional culture; the many steps that are involved and long delays. These issues are common in most conventional land registration systems together with a lack of capacity in terms of number of staff and payment of staff, which often leads to malpractices. This in turn benefits elites who obtain services by using a facilitation fee regardless of the situation on the ground.

Thirdly, the literature has described for over 20 years that when informal settlements are regularized many of the poor residents sell their land and land documents very soon after. This impacts both the currency of the records and also leads to new informal settlement development.

Finally, it is generally argued that land should be registered so that owners can obtain collateral. Experience with this in regard to large land titling projects has been mixed and evidence from Peru and South Africa on this show that generally the poor do not use this financial facility as they fear losing their land through a forced sale (UN-HABITAT: 2010; Payne *et al*: 2008). Also, banks tend to focus not just on the land documentation but more on an income stream being attached to the household taking the loan and banks are also not set up for small loans. In addition, the cost of registering the mortgage may well be high compared to the loan amount being requested. All this generally disqualifies the poor from obtaining collateral. Often the design of land recordation which allow for the registration of a mortgage includes additional steps and technology/legal capacity all of which add costs to the technical/legal process.

Lessons learned for the design is that the use of conventional land registration systems do not work with respect to the poor because of:- the risk they face during first registration that they will lose their land rights/claims, including secondary rights, to elite manipulation; the non registration of subsequent transactions after first registration; the selling on of the land after regularization in an informal manner outside of the registration system; and that they do not want to mortgage their land.

An alternate pro-poor land system needs to be designed and these challenges addressed at the outset. Participatory adjudication needs to take into account both main and secondary rights, regardless whether any documents on them are available. There need to be less steps and a relatively short time delay in delivery. The records need to be flexible both in tenure type and evidence admitted. The system must be affordable and the corporate culture associated with the system needs to be pro-poor



and be based on co-management, to ensure that the records remain current and useful to the community. Co-management also needs to include a governance approach that manages malpractice and corruption.

#### **4.2. Authentic or correct land records**

The mirror principle states that the registered land information should reflect the situation on the ground. The implementation of this principle requires a number of factors. People/users need to always use the formal system and undertake the prescribed steps. This would also mean using the required (professional) experts to complete the technical/legal process. It would also mean that the experts, including government officials, are well trained, adequately paid and mandated to undertake the work. The whole land registration system would need to be embedded in an appropriate and inclusive legal and policy framework, which is well integrated and clear. Finally, the majority of cases handled would have to create correct documentation of the intended changes (transactions) and the registers would need to be formally and correctly updated based on this information. If all these aspects were in place the land registry information would be correct and mirror what is on the ground.

However, in many countries several of these assumptions are not true. The effect of this is that the situation on the ground will be different from that in the land records, and the system will not recognize the *de facto* situation on the ground, including unreported changes to earlier registered properties. This means the register is incomplete or not current. An even greater problem is where formal land documents are created, including all the required steps and experts, without involving those occupying the land. This can create a formal land owner who has obtained the property through fraud to the detriment of the land holder on the ground. Inspection on the ground should always be part of for instance first registration (Dowson and Sheppard: 1956, p 121). This also happens regularly to the detriment of the state in regard to state land, when land allocation procedures are abused such as for example in Kenya. In such a case we have authentic land records that are not correct.

The lessons learned from this for the design of a pro-poor system is that, by bringing the land recordation system closer to the ground it should be easier to ensure that the records are correct and mirror what is on the ground. People will be able to easily see any discrepancies. Also, co-management which includes a governance approach should also ensure that malpractice is limited whereby land documents are created which do not match the situation on the ground, either through manipulation by elites and/or through the work of government officials.

#### **4.3. What should come first, coverage or accuracy?**

First registration and the introduction of a land registration system, particularly the mapping component of a more systematic participatory adjudication approach, is expensive and time consuming. Several countries have undertaken such a systematic approach and begun to slowly expand their land registration coverage. An extrapolation of the time taken to complete coverage, in terms of the current pace of land titles being issued, shows that it will take many of these countries centuries to complete the whole country. A key reason why it takes so long is because of the strict regulations for the collection of data, particularly the geometric boundary data and the documentation of proof of identity. In regard to the former, this collection usually combines a strict legal notion of fixed boundaries (neighbors together indicate every joint boundary point, sometimes even documenting this in writing) with the services of a surveyor documenting these points

geometrically (e.g. field survey). Often, the boundary also requires a large and expensive marker/boundary stone in the field (e.g. a concrete pole) which is both costly and creates a logistics problem. In regard to the latter, the collection of birth and marriage certificates, identity cards and other documents during adjudication is particularly onerous for poor and often illiterate communities.

More rapid approaches need to be introduced to increase coverage. In rural and in many suburban areas boundaries can be seen by the visible difference in land cover and land use. Such lines (or small strips) can be assumed to approximate the boundary, allowing a form of general boundaries to be identified. This can be done by using photogrammetry or satellite imagery and then checked on the ground with, or without, the owners/holders being present, such as for example in a test in Tigray, Ethiopia (Lemmen and Zevenbergen: 2010). In dense urban areas these aerial methods are less likely to work, but boundary markers can be made redundant as corners of buildings etc. can be used instead. Modern positioning systems, especially GPS, make it possible to collect field data quickly. Simple cheap GPS systems can be used but they have variations (inaccuracies) in the order of 5 meters. Precise GPS equipment is not affordable for pro-poor approaches and/or requires a set-up which includes permanent basis stations and extensive post-processing often by experts. In many countries the official surveying community is required by law to adhere to strict fixed boundaries combined with data collection of high accuracy or sometimes with outdated technologies. This has an important impact on how quickly the system can be rolled out. Lesser forms of rights which require less documentary proof can start people on the property ladder and speed up documented security of tenure.

Lessons learned for the design of a pro-poor approach are that at the first stage accurate and complete data should not be the goal, otherwise it will be difficult to get coverage. Instead less accurate forms of boundary and rights data should be required. Also, non conventional boundary markers should be considered. The suggested pro-poor approach is to consider using aerial images and general boundary rules for a first level graphical index. As, and when, required this could be slowly improved over time. Also, using a continuum of land rights approach, lesser forms of land rights would need less paper proof of personal status at the outset, allowing full personal documentation to be accumulated over time prior to moving to the next step on the property ladder. This would speed up the adjudication of the rights at every step up the ladder, also because people would have gained more knowledge of the requirements of a land recordation system during this time.

#### **4.4. Vesting of land registry functions: Local versus national authorities**

Formal land registration agencies tend to be located at a national level in unitary states and at state level in federal states. In many countries the land registry is linked to the Ministry of Justice or the judiciary. The appointment of a registrar often adheres to the same rules as for the appointment of a judge. In some countries the position of a registrar is performed by a judge within a court. In some countries the land registry includes some mapping components, although mapping is more often part of a Survey or Cadastral Department. Historically, only a few countries have combined the registry and the cadastre in one agency. This integrated approach has increased in the last 15 years in parts of the developed world (e.g. Norway and Sweden).

The level of decentralization of land registry offices differs between countries. In colonial times often there was only one office for a colony, regardless of its size and population. This makes sense

in that land allocation was done centrally and only a fraction of the population had access to formal rights. In some countries (e.g. Uganda) a number of regional land registry offices were set up very early on. This approach leads to challenges when registry territories are further sub-divided, as decisions need to be made on how to divide the land records between the existing and new office. This can lead to gaps and overlaps and needs to be carefully undertaken. The criteria for creating administrative units vary between countries. Successful division often depends on other administrative factors. In some countries the number of registries follows the division of the judiciary, often the lowest level of courts, and is located in every market town. Sometimes the registry is placed at the provincial/state level. In most countries the land registries are branches of one agency, e.g. coordinated by a chief registrar. In some countries the registry is part of the local authority (which is responsible for staffing and budgets), but the technical instructions and inspection is nationally organized. Land taxation is often the responsibility of local authorities, even though the information required overlaps to some extent with land registry information. Land management functions like land use planning, which benefit from land record information, are usually decentralized.

The lack of decentralization of land records creates a number of problems which include access to the registry information by users, travel time to submit documents, and importantly the lack of buy-in from the local level. The location of registries often limits local people, and even municipalities, from using the recorded information. The lack of access and non identification with the registry system impacts the currency of the system, as local people often do not take the trouble to record any changes to their land in the system.

Lessons learnt are that registries need to be located closer to the people on the ground to ensure ease of access and to improve land management, land taxation and planning. The day-to-day operations on the land records need to be performed close to communities. There should be many offices at a low level of local government. The jurisdiction of these offices needs to be carefully set up to avoid overlaps and gaps. The land office should operate both as part of the formal local authorities and work with private sector actors including NGOs/CBOs and with local communities, both customary and/or informally organized groups. These groups and their leadership are in the best position to interpret the current status of local tenure arrangements, and any changes in them. The marginalization of certain community groups needs to be limited as much as possible. To what extent a pro-poor land recordation system can address gender, handicapped and/or outsiders rights and claims will have to be piloted, but it may well be that this will not be possible in the first stage, as attitude change within the community would be a precursor to recording these rights. A land office which is more accessible, both in terms of location and transparency through community co-management, should strengthen the position of the poor and vulnerable and limit the opportunities for the elite.

The pro-poor land records' office should not be a totally independent activity. Guidance and inspection from a higher level should be instituted, to maintain and increase the local land office knowledge, to assist in developing working procedures, to improve the overall transparency and quality of the local office records and to contribute to the protection of third party rights. This should be a low key function initially and focus more on motivation and support, than on penalizing and prescribing. The land records' office should build on local initiatives and buy-in, but also be embedded in the national context, including the legal, institutional and governance environment. This will mean moving beyond nationally standardized approaches, to instead adopt basic forms and

equipment to encourage land record creation from a bottom up implementation perspective. This approach should be linked to a continuum of land recording, whereby the land records can be improved over time as required. This means that the design should be simple and affordable at the outset, while ensuring that the details which form part of the ultimate goal can be reached at some point in the future. Building capacity in the communities, with bare foot land officers and a local land recorder (see below) would be an important feature of the design, also to facilitate the phasing of the continuum of land recording.

A co-management approach involving communities will also mean that there will be a two way flow of information and capacity development between local communities and national experts (UN-HABITAT: 2010), which is necessary to achieve currency, coverage and buy-in from local communities in a legally robust way. Also, other parts of the state structure, such as planning offices, agencies, courts, the police and those who solve local land disputes, would learn about what the local land records' office has to offer and start to use them in their own work; which also holds for private sector actors in need of information on land rights. Coordination and inspection of such a local initiative would be necessary to ensure buy-in from the state institutions. A delicate balancing act would be needed, particularly in the first years of the system.

#### **4.5. Land record management as part of public administration**

Land registration, particularly when located in the Ministry of Lands or the Judiciary, tends to be a separate activity, undertaken by both the public and private sector. However, it should be embedded in the public administration system as a whole. Too often land administration projects also try to fix public administration issues in the project. If they were more firmly embedded in the general public administration system and its reform, land administration projects could focus on their own priorities and capacity and efficiency issues. Land offices, instead of duplicating existing systems held elsewhere in government, should use existing registers and records on persons, groups and companies. The level of computerization should be similar to those of other government agencies and functions at the same level (Zevenbergen and Haile: 2010). There have been many examples of a lack of sustainability of ultra modern systems in developing countries after project support is closed. Also, it is hard to retain staff with expert (IT) knowledge, as well as to maintain services (e.g. electricity, printer ink, hard drives, etc.) after the project closes. A system that is too independent from the state will not be accepted by other parts of the public sector. Also, land holders will resist reporting the same or similar information to different parts of the state. That is, land records' offices should be well embedded in the state system to benefit from administrative reform and a sharing of information.

The lessons learned are that a pro-poor land recordation system needs to be embedded in the larger public administration structure, as well as the overall registry structure for optimal performance. Where possible they should also be linked to the information management systems in regard to personal information.

#### **4.6. Rapid change in land use (e.g. rapid migration into slums)**

Land administration systems, including registries, are designed to deal with modest levels of change. The size of a formal property usually does not change for decades. Names of the land holders of formal properties change due to death and sales probably every 10 years. The size and shape of formal buildings are stable over long time periods. Rapid urbanization, especially slum development, goes much faster. The number of shacks and their footprints are changing regularly, as long as no

heavy material foundations are put in. The informality of slum areas includes a lack of formal layout for roads and utilities, and houses that are made from simple materials without the appropriate foundations.

A lesson learned in regard to the pro-poor land recordation system is that during early dynamic slum development land recordation and (index) mapping can not realistically be kept up-to-date. An inventory can, however be done, in the form of an enumeration. A simple system of numbering the shacks and maintaining a list of who holds which shack could be the first step in our continuum of land recording (e.g. South Africa). This could be supported by identifying blocks on a map/photo and indicating in which block a shack/house is placed (e.g. Namibia). If maps are made, they need to be redone fairly regularly until the community has stabilized and the formalization exercise starts, which would facilitate the next step on the property ladder.

#### **4.7. Implications for pro-poor land recordation system design**

The analysis shows that conventional land systems cannot be used by the poor easily partly because of: their design; a lack of capacity to deliver at scale; cost to the clients; and the professionals designing the systems choose the highest quality of legal/technical design rather than designing for impact and coverage. In addition to this the systems are not suited to rapid human settlement changes. They are also isolated from the general public administration and land management systems.

The design of a pro-poor land recordation system would need to learn lessons from this. Firstly, a pro-poor system would need to allow participatory adjudication or enumeration for the poor and their social land tenures. Secondly, the land recordation system should be closer to the ground to improve record correctness, also to ensure ease of access and improve land management, land tax and planning. Many offices at a low level of local government are needed, which work in co-management between the state and the local authorities, private sector actors including NGOs/CBOs and/or local communities, who can interpret the current status of local tenure arrangements.

Thirdly, complete data should not be the goal at the first stage of the design, otherwise it will be difficult to get coverage. Less accurate forms of boundary and rights data should be sufficient and non conventional boundary markers allowed. Fourthly, the pro-poor land records' office should not be a totally independent activity, but should be embedded in the larger public administration structure, as well as registry structure. Fifthly, the system should be affordable and the corporate culture associated with it needs to be pro-poor and based on co-management between the state and the community, to ensure that the records remain current and are useful to the community. Co-management should include a governance approach which manages malpractice and corruption. This will also mean that there will be a two way flow of information and capacity development between local communities and national experts.

## **5. KEY PRO-POOR DESIGN ELEMENTS**

### **5.1. Poor have limited funding for land documents**

Who are the poor who are the target for this system? One definition describes poverty as "the total absence of opportunities, accompanied by high levels of undernourishment, hunger, illiteracy, lack of

education, physical and mental ailments, emotional and social instability, unhappiness, sorrow and hopelessness for the future. Poverty is also characterized by a chronic shortage of economic, social and political participation, relegating individuals to exclusion as social beings, preventing access to the benefits of economic and social development and thereby limiting their cultural development.” (Osiris Blanco: 2002). Another perspective is focused on daily income. For many years it was based on one dollar a day (1985 rates), but nowadays \$ 1.25 or \$ 2 is used.

The poor cannot afford land documents delivered by the conventional systems, which cost between \$ 27 and \$ 603 (even \$ 2800) a parcel during adjudication in Latin America (Barnes: 2008). A pro-poor system has to be radically cheaper in the order of \$ 1 a parcel as found in Amhara, Ethiopia (Deininger *et al*: 2008).

## **5.2. State has limited funding for land documents**

Many governments cannot afford to give land documents to all their citizens. They cannot afford the cost of subsidizing most people to obtain land documents through the conventional system, particularly as it usually involves a range of costly private sector professional fees. If government officials undertake the bulk of the work generally there are insufficient government employees who are capable and sufficiently motivated to run the system at the scale necessary to deliver to all citizens. Training options are limited, and because of low government salaries those with better training often leave for the private sector, also in other countries. Outsourcing tasks to the private sector and facilitation fees place the cost burden on the clients. Then the poor cannot afford these services. Finally, governments often prioritize other issues such as health, sanitation, education and transport and Departments of Land are seldom among the most powerful or resourced of departments. A pro-poor system needs to be designed which is cheaper to deliver also to enable many governments to be able to scale up their work to reach the majority of their citizens.

## **5.3. Dealing with complex, layered rights**

Up to 1900 customary and other informal tenure systems were often considered to be less sophisticated than formal tenures in the Western world. This is however untrue as these customary and informal systems encompass a much wider complexity of rights over resources by different people than found in individualized Western systems. The web of tenures found in these societies often supplies a safety net for the most vulnerable people in the community (e.g. widows) by giving them access to limited benefits (secondary rights) on someone else’s land. The tenure complexities also often cater for geographical and climatic circumstances, and often rights have a much stronger time dimension than ownership or even leasehold. These tenures tend to be flexible and adaptive to change.

Attempts to codify these social tenures would reduce their flexibility. If codification was integrated with the conventional land registration system of simplified statutory land tenure types, it would also set aside secondary rights which would have a negative impact on the livelihoods of the vulnerable. In many countries any attempt at national codification would be impossible because of the range of diversity of social tenure types (e.g. Namibia). This is important even in peri-urban areas, where customary tenures are often adapted for urban situations (Arko-Adjei: 2011).

A better approach, which should be used to design the pro-poor land recordation system, is to use the community to describe the tenure system and the kinds of evidence of the land rights currently in use. This will encourage the introduction of new forms of legal evidence into the system, which fit more with the social tenures of local communities. It will also allow evidence types linked to the land

records to be altered over time as the communities' land tenure evolves. These kinds of activities would make the land recordation system correct. If the community was going through large scale violence and/or the manipulation of rights, this approach would not be advisable until the situation had stabilized.

This however would mean that the pro-poor system records would have less clarity on their own, by comparison to Western land recordation systems which are stand alone. Co-management by the community leaders would be important for risk management and clarifying the information prior to its recordal. While some risk may remain, this is limited through making land recordation part of a wider system of land governance and land management, which builds on the security of tenure which was supplied by the community prior to the creation of the land records. Such a correct land recordation system would contribute much more to broader land management.

#### **5.4. Delivering preventive justice**

The main reason for introducing land recordation is for preventive justice. Society invests in preventing conflict ahead of time by creating land records which show evidence of land rights and contractual relations. In this way, when two parties (including advisors) transfer land between them, objective information is available which clarifies the information about the rights and contractual relations, and limits the need to go to court to obtain a final agreement. An example of this is the role of the Latin notary (one notary representing both parties involved in a transaction) within the civil law tradition. (Common law has a different tradition which lays down how a person can or cannot take another person to court once a conflict has emerged. In Western practice such differences have lost their meaning). It also means that the creation of strong evidence (almost indefeasible for a land title) is not the primary task of such a transaction process. Rather it is more about insuring an equitable process in which both parties understand what they are doing. Of course evidence of this process has to be recorded, so that others can view it, particularly if the transacting parties are not available, or willing, at a later stage to agree on what was done. Also the recording of this information makes it more easily accessible to any future prudent actor, be it a buyer or a government agency. The information could be incomplete or even wrong, and thus the need for additional evidence is also not precluded.

Evidence from Uganda (Deininger *et al*: 2006) is that adjudication of land rights decreases land conflicts dramatically. A pro-poor land recordation system could have a major impact on both existing conflicts and in the prevention of new conflicts. The system would need to be composed of a credible process in which all parties understand what they are doing and land records to document and support that. The role of the community leaders as part of a co-management approach would be critical in this.

#### **5.5. A sporadic or a systematic approach**

The number of recorded land rights which should be recorded in a country is usually of the same order as the population of that country. This means that a lot of work must be done before a country is fully covered by a land recordation system. Adjudication started in Western Europe around 1807, and was completed for the Netherlands (a small country) in 1831 and for France in 1850. This shows how long full coverage can take.

There is evidence in many parts of the world that people are increasingly using some kind of informal/formal paper document when they transfer land rights. The proposed pro-poor system aims to build on this trend and take it one step further, without falling into the trap of an overdesigned

national solution. It is suggested that the approach would be sporadic at first. This would allow people to join as, and when, they felt the need. In parallel, awareness raising should take place so that people could become aware of what the system had to offer. Most people would probably enter the system when involved with a transfer, such as a decision to sell. Such transactions are usually relatively easy to capture and record. The consequences to land of death, marriage and divorce are traditionally much more difficult to capture. Most Western countries are still struggling to do it successfully.

Depending on the local circumstances it may be needed to start more systematically. Participatory enumeration (UN-HABITAT: 2010) has shown that when communities are organized they can undertake systematic identification of land rights. In regard to the pro-poor land recordation system, a more systematic approach to the creation of records can also be done when the community is ready for it. In some communities it might not be possible to start with a sporadic approach, because of suspicion between neighbors, and the first step will have to be systematic. Although cheaper per property (due to economies of scale), this requires more upfront investment.

Lessons for the design are that even if the pro-poor approach proposed is used, it will not be possible to cover the whole country in a few years and areas of high priority will have to be chosen for a more systematic approach. Also that the system should build on the paper documents already being used by communities and should be implemented either sporadically or systematically, depending on community demand and resources that can be mobilized.

#### **5.6. The role of a spatial index map**

An important weakness of a simple land recordation system, like a basic deeds registration system, is that the information on the land document is not sufficient to facilitate the identification on the ground of the land described in the document. Sometimes several documents describe the same parcel of land differently. The solution is a simple geometrical index. If a community is ready for it, this can be achieved by participatory mapping and/or participatory Geographical Information Systems (p-mapping/pGIS), with or without aerial imagery as a backdrop to a sketch map. (At this stage it might be possible to link it to the Social Tenure Domain Model (STDM) software for land administration.) Maps of an area may already be available and be used.

It may not be possible to have any form of spatial index at the beginning, because of cost and technical complexity. However, the co-management and witness system, together with the planned small size of the land records' office its jurisdiction, will probably be able to fill the gap and ensure that the information on the land records (without a spatial index) will be able to be linked to parcels on the ground to some degree. Once the community is ready and the competence is available, an enumeration, perhaps including some mapping, should be done to increase the clarity of the records. The next step would be a simple geometric index.

#### **5.7. Transparent, inclusive and equitable**

As indicated above (see 4.1), conventional land registration and administration systems are generally not pro-poor. They are also not transparent partly because the procedures are unclear, and partly because it is difficult for poor people to access the information, and expensive intermediaries need to be hired to fill this gap. In addition the supply of land documents is limited, leading to a supply gap relative to the demand, which in turn encourages facilitation fees, which in turn excludes the poor.



The purpose of the proposed system is to be inclusive and available to the poor. It is therefore critical that the pro-poor land recordation system is transparent and equitable. Information should be freely accessible, which should make it harder for elites to manipulate the land records or the land ownership. Accessible records will also make it possible for (local) people to check their tacit and local knowledge against what is documented, without using expensive professionals.

In regard to equitability, not all people will hold the same amount of land, but all people should have an opportunity for their interests in land to be recorded. Women and men should be treated equally in regard to this recordation. Age and marital status should not be a barrier to whether or not something is recorded. It should be possible to record all the local types of interests, including secondary rights. The existence of a recorded main right should not alter the ability to record an existing secondary right which is acknowledged by the community.

Finally, a lot of the certainty linked to the paper trail of the formal system is already embedded in the social structures of local communities, especially when they are close knit and/or not too large. Building on these social structures rather than strict paper trails is critical to the creation of a pro-poor system which needs to have simple, quick and cheap routine approaches which avoid expensive experts, facilitation fees and formal fees.

#### **5.8. Co-management for pro-poor land records**

Drawing from the experiences and thinking outlined above, the land recordation system design proposed is based on a co-management approach, whereby some of the tasks conventionally carried out in a land registry and/or surveyor general's office and/or by notaries and/or licensed surveyors are instead carried out by the community and its leaders, in conjunction with a local land records' office. The term co-management initially gained currency in the field of natural resources, where it is understood as a partnership arrangement between a community of local resource users and other primary stakeholders who share responsibility and authority for resource management (MacFadyen *et al*: 2005, as quoted in UN-HABITAT: 2010). The terms of the arrangement have to be carefully negotiated and maintained ensuring that the roles, responsibilities and contributions of the parties are clear. Also there needs to be clarity around the storage and ownership of data for all parties and that the expectations of the different parties are realistic. Critically the parties must be able to openly discuss the power relations between them. Such a co-management approach could have a range of benefits for a land recordation system, including increasing coverage, filling capacity and resource gaps, enabling access to government data, providing access to land administration innovations, monitoring inclusion and ensuring protection of vulnerable groups and management of conflicts and ensuring sustainability (UN-HABITAT: 2010).

The co-management design features in an affordable cut down version of a land recordation system would take a range of forms such as identify witnessing, evidence creation, building the currency and legitimacy of the land records, para-legal aid, dispute resolution, capacity building and political support. In regard to land governance, there is increasing recognition that land recordation systems are not a panacea to solve all problems, are not politically neutral and can be captured by the elites. There is an increasing amount of work which shows that the officials in these systems are using these systems for corrupt purposes (Transparency International: 2009). To improve the land governance around a pro-poor land recordation system, the system needs to be linked more closely to its user community through a co-management approach.

Thus, the community, and particularly its leaders, such as local government leaders, community based leaders, NGOs' leaders, should carry out parts of the land recordation system tasks. This will make the system more affordable to the poor, particularly by cutting down the large amount of professional time that is usually involved. Obviously this approach is as strong as the community leadership on which it relies. If no clear sense of community exists and/or leadership is contested in a community, this approach cannot easily be applied, unless it emerges quickly and fairly. When community leadership is more a local, powerful elite than a benevolent group representative, which is also not unusual, strong checks and balances under co-management are needed to reach equitability and to protect vulnerable groups.

In regard to local forms of legal evidence, communities are the repositories of local knowledge about forms of evidence in regard to the range of land rights such as secondary rights, overlapping rights and temporary rights. They are also able to interpret the evolving nature of the evidence. The community leaders, as witnesses to transactions/transfers could create the relevant forms of evidence at transfer. They would also be vital in the identification of the individuals selling and buying the property, and would also be able to make the status of the seller and buyer clear. This has been seen to be particularly important in countries such as Ivory Coast where land was 'sold' to immigrants, but when the immigrant sold to other buyers the traditional owners claimed that they still held the underlying rights (Comby: 2010). A pro-poor land recordation system would need to be able to interpret and record these kind of nuanced land rights as well.

In regard to the legitimacy of the land records, the credibility and legitimacy of the land recordation system would rest both on the fact that the land recordation system was part of the state structure and it also takes its legitimacy from the community leadership structure. Ultimately the currency of the system, its use by the community and its usefulness to the community would rest on the community leadership and its relationship to the land recordation system. Importantly, the land records will be created based on local forms of evidence. In the long run this will make it possible to build customary and informal social tenure approaches into the legal system over time.

### **5.9. Benefits of recording**

Land registration, when designed and implemented correctly, delivers a number of benefits to the recorded land holder. As indicated, this does not happen automatically. Benefits will need to be added step by step to the pro-poor system and will potentially include:-

- Evidence/proof of land rights including of the transaction, of the parties involved, of the land involved, of the acceptance by the community;
- Notice to the world, including the state;
- The creation of rank/priorities between different recorded documents
- An index linked to the names of the parties, which will facilitate ease of access to information;
- A geometrical index, which facilitates linking the land documents to the ground;
- Easier operations for (local) government for services and to organize other land management activities;
- An increased level of status in the eyes of the state;
- An increased level of status in the eyes of the community, depending on the acceptance by the community of the system, its presence on the ground, the land documents and other services.

It could also:-

- Lead to improved access to subsidies, consumer loans etc.;
- Act as a proxy concerning participation in democratization;
- Be the first step on the property ladder finally leading to full ownership;
- Be the foundation for capital formation;
- Increase predictability and efficiency by reducing *ad hoc* land related activities by the state;
- By increasing predictability, decrease some of the conflict over land. The land records themselves would contribute to better local dispute resolution in general;
- Make it possible to undertake large investments that take a long time to recoup

The pro-poor land recordation system will contribute to all these benefits but not at the 100 percent level that is found in Western systems. The degree to which the pro-poor system can deliver these benefits will depend on issues such as:- how well it is embedded legally, in terms of a law or a high level policy document, or at least not being prohibited by existing legislation; the way disputes are resolved, including how the courts will interpret disputes; the legitimacy of the pro-poor system in the eyes of different actors (public and semi-public agencies and private sector actors); and finally, the attitude of the society as a whole, particularly the community in which the system is located.

## **6. FIRST DESIGN OF PRO-POOR LAND RECORDATION SYSTEM**

### **6.1. Assessment of national and local conditions**

Prior to the implementation of any pro-poor land recordation system an in-country assessment should be undertaken both at national and local levels. The purpose of the assessment would be to:- ascertain whether such a system is needed and useful, and to adapt the design to national and local conditions.

At national level a range of issues need to be assessed. Of key importance will be ascertaining government buy-in to the idea of a pro-poor land recordation system being introduced. The legal framework will also have to be assessed to see how pro-poor it is in regard to security of tenure for the poor and to land records. The extent to which the elements of the pro-poor land recordation design fit with the existing legal framework of the country, and the area where the pro-poor land recordation system might be implemented, will also need to be assessed. The governance and institutional shape of government should be assessed to identify the best location for the records and record keeper. Other legal issues which will need to be assessed, also in regard to the local area, include:- the extent and forms of legal pluralism; the extent to which the law is flexible; whether the law prohibits such a land record system; whether prescription is available, existing forms of legal evidence and tenure types; family law and practice; how administrative law could be possibly used, and to review customary practice through a human rights lens.

The local level assessment should cover a range of items. Of utmost importance is buy-in by the local community, which requires entry points to be identified and a user needs and requirement assessment to be undertaken. The local assessment will also need to include the identification of local initiatives, and local processes and practice associated with land, as well as the land's legal status. An assessment should be taken of local administrative capacity as well as co-management

capacity, including the status of community leadership. Also, a risk assessment, particularly of the local political economy, needs to be undertaken which includes actors, institutions and patron-client relationships, corruption issues, the contradictory land law systems that impact the area, and the impact of external factors in the area, including the commodification of the land.

The design will have to be adapted for national and local conditions drawing on the assessment.

## **6.2. Built on community tenure practices**

The pro-poor land recordation system should be built on existing local approaches. In many situations the social land tenure system includes elements which would form an integral part of the pro-poor system. Community rules in identifying leaders should be followed which could be a chief and elders in customary areas, and in informal areas local community leaders, ward or block heads, as well as possible special land committees working under the leader/s. In some communities religious leaders may be important. These types of leaders know the local land tenure rules and their current interpretation in changing circumstances. They also know the position and land interests of the different people in the community. During a transaction the leadership will know whether the person selling the land is entitled to sell it, and whether the buyer meets the criteria to acquire the rights. They will also know the family law appropriate to the parties such as for example, a lineage might have a pre-emption right when land is being sold, or the land rights of orphans when there is a sale. Leaders will also be used to acting as witnesses to the parties' intentions and recording the knowledge in their heads and/or on paper.

Not all communities have stable leaders, or leaders who give equal and fair treatment to members of the community. However, the pro-poor system needs to be built on community leaders because the conventional land registration system has not been able to cater for the needs of the poor. The capacity of leaders and communities will need to be developed through awareness creation, manuals, training and advice by the (bare foot) land officer and/or the local record keeper. This will take time, but it is the only way forward to extend security of tenure to the poor and build the systems over time.

## **6.3. Formalization and a land officer**

There is an increasing trend for non formal land transactions to be recorded on paper. The pro-poor land record design is intended to build on this, and improve it where it exists. The first step would be the use of standardized forms being used for transactions (pre recordation). Standard formats will:- assist people to remember certain elements; allow for the slow introduction of equitable policies through for example, the manner in which items on the form are formulated (e.g. like expecting the inclusion of both spouses by leaving specific space for two names); and facilitate the later recording, processing and re-use. The forms should accommodate diversity and overlap in tenure arrangements and family relations, but bring clarity if, and when, possible.

Ideally, filling in the form should be supported, or even be done, by a neutral person with more appropriate knowledge than average. The (barefoot) land officer could also act as the secretary to the communities' leaders, but should maintain a neutral position. Their primary task is to identify clearly the intentions of buyer, seller and community, and have them documented correctly and understandably. Their role is not to decide about the relationship between the parties or the changes being negotiated, but just to facilitate. Advice on adherence to broader policies, such as national laws, can be added to the responsibility of the land officer in due course, but should not be rigid as this could stifle the land recordation system in its early stages.

The prime qualifications of the land officer at the outset would be literacy combined with acceptance within, and reasonable knowledge of, the community and its rules. Full capacity will not be possible at the outset, and capacity issues will be an issue right from the beginning. The knowledge of the land officers can be increased over time by offering additional training, e.g. through booklets and/or radio, and through mobile teams of trainers. Their funding as well as their appointment will depend on local circumstances and could be based in the municipality, district council, NGO and/or the community. The governance aspect needs to be dealt with appropriately, otherwise informal fees could appear in this pro-poor system. In terms of co-management it would be necessary to get buy-in from both the state and the community.

#### **6.4. Recordation**

The next step is the recordation of the information in the land recordation system. This is only possible if standardized forms and the land officer are already operating. The filled in forms would be presented to the local records office at community level. The ideal location for the records would differ according to local circumstances. In rural areas with a tribal structure not every village will need to have a land records' office. In larger cities, different districts, or slums, or areas which have been settled/invaded will need to have their own land records' office. An important criterion when designing the boundaries of the jurisdiction of the records is that the community using the records must feel that they own the records and that the records do not just belong to a higher authority.

A key function of the land officer is to take the standardized form to the land records' office. At the land records' office the form will be received by the record keeper. The record keeper's role will include undertaking a very quick check to identify serious mistakes and they may also use this opportunity to build capacity in the land officer for the next case by giving advice. Although there are some overlaps in the functions of the land officer and the record keeper this is necessary to create enough checks and balances in the system.

#### **6.5. Land records, indexes and the record keeper**

The record keeper will store the forms in an orderly fashion, normally by order of receiving them and numbering them in such a way that they can be easily retrieved by number. The record keeper will keep indexes of the forms. They will make a note of each form in a number of indexes linked to the forms. The first set of indexes is the name index, where one can search for a person by name, both as a seller and as a buyer. This can be challenging if the writing of names is not standardized, or when different scripts are used and transcription rules vary. It is prudent to enter the same transaction under two separate spellings rather than run the risk of not finding the name at a later date. Indexing can be done by using a card index box based system, or a bound book. The former is more flexible but can be manipulated more easily. Auxiliary indexes can also be set up in this way.

The second set of indexes is about the land. This index is considered vital in any modern land system. Land is more stable than people and therefore safer to use as the base of the documentation system. Each piece of land that is linked to a form or transaction should receive a number which is also used for all subsequent forms linked to the same piece of land. The weakness of this indexing system is how to establish whether a subsequent transaction affects the same land or not. This can be improved (definitely in urban areas) by placing the number visibly on the house structure. A further improvement can be made by putting the number also on some kind of graphical index (map) (see 5.6). A range of methods can be used, including existing maps and plans. It is possible to derive a base map of a semi-developed area from a satellite image, and supply a paper print out to put the

numbers on, and make subsequent changes, such as subdivisions. After a while this approach becomes more difficult as the area changes, densifies and is (re) developed. A comprehensive cadastral map with subdivision surveys should not be considered at this stage. Again the first steps should be modest, and use whatever is available or can be done realistically.

#### **6.6. Inspection**

As indicated, the pro-poor system should have buy-in from both the community and the state. The state should have regional or national inspection mobile units which travel to all the pro-poor systems to make inspections. They could undertake training and capacity development of the record keepers and land officers, based on weaknesses noticed in the records. They could also make backups of the records to limit the impact of disasters, violence or accidental fires. The community leadership, be it local government, customary or informal, could also play an inspection role, as and when necessary. This would show mutual inter-dependence and be vital to improved governance.

#### **6.7. Important land information, but not the sole source of evidence**

The pro-poor design is certainly not a title system. Nor is it a fully-fledged deeds system. Evidence which is counter to that on the recorded land documents should still be allowed in the pro-poor system. Over time the information on the records will be seen as more certain if recorded information is perceived as more credible relative to verbal information, and if earlier recorded information has priority over information that is recorded later. Some of these advantages can also be introduced at later stages. They should fit the way the community understands its tenure system and the role the land records should play in it. Whatever the status of the evidence, people who start a transaction will benefit from the land record information, as they will be able to undertake a form of status check on the land.

#### **6.8. Dispute Resolution**

Land conflict is common and disputes arise frequently. Dispute resolution mechanisms need to be put in place. Many communities have traditional, local or alternative dispute resolution mechanisms. The proposed pro-poor system could build on these systems. However, some communities might not have existing systems and a dispute resolution system might need to be set up to deal with conflicting opinions on who has access to which land, and on what rules to apply, and how to interpret them. The dispute resolution mechanism should be acceptable to the disputing parties and the wider community, including those who make and implement the decisions. The dispute resolution mechanisms should be coordinated with the land records' office, both to assist in making the decisions as well as in the recording of the decisions. The records should be one source of evidence.

If a more systematic adjudication is done it should be a transparent and participatory process. During adjudication most of the (dormant) conflicts will emerge and should be settled. This will mean that fewer conflicts will emerge after such an adjudication exercise. Again it will depend on local conditions as to whether the community goes through a systematic adjudication or deals with disputes on a sporadic basis. Ultimately to ensure security of tenure of the poor, they will need to be mobilized around the land records' office and be part of the design and roll out.

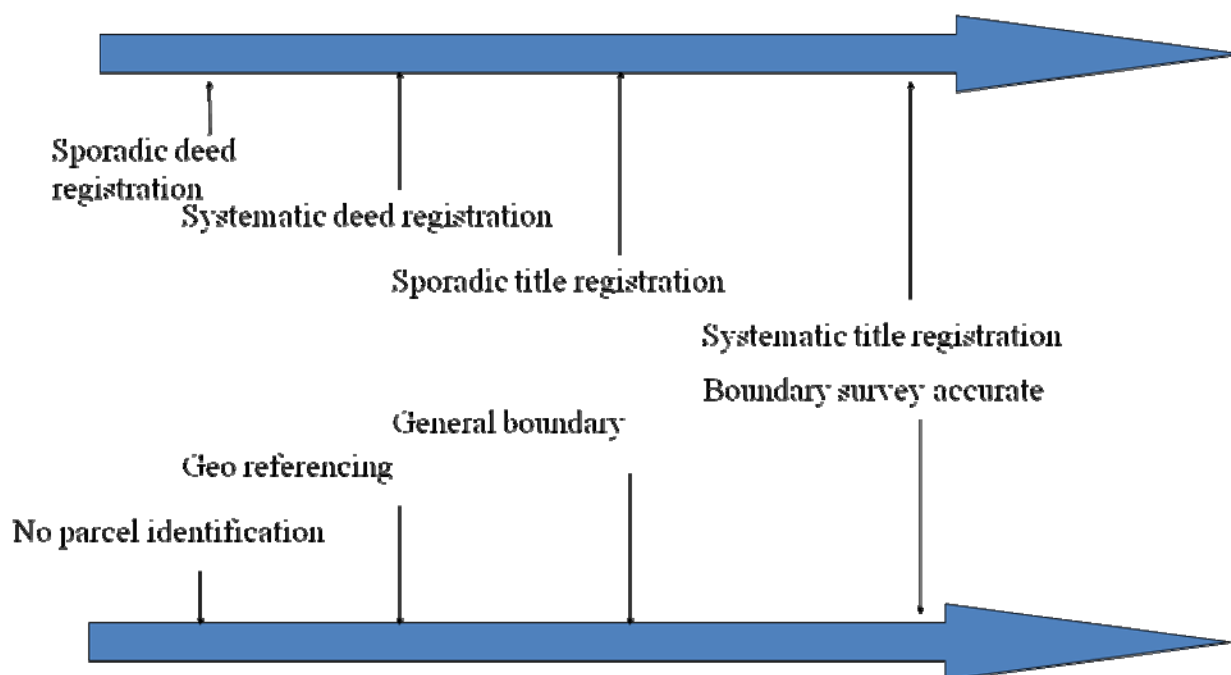
#### **6.9. Broader governance issues**

The governance of land includes a wide range of issues such as political will, supply and demand for land, system capacity, level of corruption in the society, the role of civil society, and many other aspects. Increased tenure security is only one element which contributes to building better land

governance. However, for the land records to contribute to better governance of land for the poor it will be essential that the land recordation system is owned both by the state and the local community.

## 6.10. Continuum of land recording

The pro-poor land recordation system should be the first step on the property ladder. These pro-poor land records should be part of a continuum of land recording. This idea was originally outlined by Van der Molen (2006) (see Figure 2 below). The pro-poor land recordation system under discussion here is one step before the Van der Molen approach.



*Figure 2: Growth path for land registration and cadastral systems (Van der Molen: 2006)*

The pro-poor system would be built on existing paper based approaches being used in communities and would be cheap and simple enough for local experts. Taking the step from informal paper systems into a pro-poor land recordation system would contribute to increased recognition of the communities' land rights by the state and facilitate local government land management activities. Both the exact shape of the pro-poor land recordation system and the point at which the pro-poor system would be upgraded to another major level would have to be determined during piloting and scaling and would also depend on the local situation. While the legal-administrative and mapping sides of the land records can evolve at different speeds, they should not get completely out of sync.

## 7. CONCLUSIONS AND NEXT STEPS

The core elements of a pro-poor land recordation system have been outlined above. These have been drawn from lessons learned with conventional systems, as well as experience by professionals, civil society and researchers on the way the social land tenures of the poor, operate both in customary and informal areas, as well as with participatory enumeration. Lessons have also been learned from piloting the Social Tenure Domain Model (a pro-poor land information system), and from understanding how land systems break down under conflict. Finally, the global land community has accepted that individual land titling on its own cannot deliver security of tenure to the majority of

people in the world and as quickly as needed and that a continuum of land rights needs to be adopted by countries. Any country adopting a continuum of land rights at scale also for the poor will need to introduce some form of land recordation. This paper and the elements discussed above outlines a possible approach.

However, political will is vital for the success and sustainability of this approach. “Land rights are social conventions about the distribution of benefits from land use” (Deininger N.D.). From another angle, this means that political elites will often try and set up a land registry and/or capture the land registry for their own purposes – that is to distribute the land use rights for their own benefit. This effectively means that to protect the land rights of the poor it is necessary, but not sufficient, to place these rights in a land recordation system. Such a system does not exist in isolation from the political system. Therefore to ensure security of tenure of the poor, the poor need to also be linked to and mobilized around the land records’ office. This means that both political understanding and political will by the community and its leaders relative to the system needs to become part of the system design and implementation. This aspect is key to the success and sustainability of a pro-poor system and will be explored by the Global Land Tool Partners in the future in other forums.

This paper is a first step in the process of developing a legally robust pro-poor land recordation system. This paper raises a number of issues and proposes many design elements that need to be critically reviewed. Firstly, we need to check if any key elements have been missed. Secondly, we need to assess whether the design elements are coherent as a package. Thirdly, we need to assess whether all the issues and challenges raised have been addressed robustly.

The March 2011 Expert Group Meeting, with a small group of thinkers (see Annex 1), constituted the first assessment of these issues. The meeting’s discussions supported the design as such, but highlighted that a number of issues need to be further studied to support a more comprehensive design. These include a clear institutional perspective on communities, as well as the political economy within such a community, between state and community, and when introducing a pro-poor land recordation system. In addition to a thorough assessment of national and local conditions (6.1), further thoughts are needed on implementation issues like funding, training, awareness and material resources.

The paper in its current (slightly improved) version will serve as the basis for a larger consultation with professional organizations, Global Land Tool Network partners and other experts, and for a journal article. Parallel to this it will also serve as the base for awareness raising and advocacy for the need of a pro-poor land recordation system when going to scale on a continuum of rights approach.

Additional studies on institutional and political economy issues are foreseen, most likely leading to one or two additional papers. Furthermore it is foreseen to scope (local) initiatives that resemble the design and to document the experiences of these. Based on these further inputs and this paper, the design will be expanded and refined. Once a robust design exists, the pro-poor land recordation system will be piloted at country level, documented, improved and up-scaled.



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## ANNEX 1 - LIST OF PARTICIPANTS – EGM 15-16 MARCH 2011, PARIS

Participants	Organisation	Special Role
Jean-Paul Decorps	International Union of Notaries	Opening and welcome
Mohamed El-Sioufi	UN-HABITAT	Welcome
Leon Verstappen	IALTA / University of Groningen (Netherlands)	Welcome
Jaap Zevenbergen	University of Twente – ITC (Netherlands)	Background paper
Clarissa Augustinus	UN-HABITAT	Facilitator
Danny Antonio	UN-HABITAT	Rapporteur
Rebecca Sittie	Land Registration Division, Lands Commission, Ghana	
Philippe Lavigne Delville	GRET (France)	
Ibere Lopes	Brazilian land lawyer	
Robert Mitchell	Landesa (former RDI) (USA)	
Peter Rabley	ILS, a Manatron Company (USA)	
Jude Wallace	University of Melbourne (Australia)	
Lionel Galliez	International Union of Notaries	
Stephanie Zecevic	International Union of Notaries	
Willy Giacchino	CSN (French Notaries)	
Elena Bevilacqua	International Union of Notaries	Secretariat

**ANNEX 2 – UNEDITED NOTES OF THE DISCUSSION ON TOOLS AND SOLUTIONS -  
EGM 15-16 MARCH 2011, PARIS**  
(by the Rapporteur)

- If there is no law that prohibits or prevents...go ahead
- Immediate assessment of the situation
- Idea of the handbook ---models, scenarios, settings (process description, methods in making that document)
- Legitimacy – process and actors
- Choice of area (to be part of the assessment)
- Tools/solutions
- Forms/layout for transaction
- Large scale base map (google maps) of area
- Description of the process – beginning to end
- Handbook or methodology
- Inventories of housing, people in the area (thematic)
- Public awareness instruments
- Legal tools/instruments for transfers/inheritance
- Strengthening the rule making process within the community for the purpose of land recordation
- Will inventory (inheritance)...ie video documentation
- Oral testimony by elders, respected members of the community (inheritance)
- Recording of the results of the conflict resolution/settlement –
- [Building knowledge and capacity of the community]
- Keeping the institutional memory –
- Assessment – leadership capacity
- Tools for the validation process by the community...e.g. ceremony
- Identifying/allocation special jurisdictions/areas outside of the convention/formal systems – need legislation (exemption to the rule)
- Grassroots lens of the national/legal framework
- Tools to encourage women to participate, e.g. communication tool to target women
- How to do recording at community level including institutional arrangements /options to do this
- Menu of tools for different context and local peculiarities
- Training to transform community members into para-legal persons, recorder, etc.
- Grassroots code of ethics, transparency
- Special attention to marginalized members (check process, rule making process, methods)
- Statement of benefits/ (incentives in doing this)
- [what is the next step] – institutional design
- Sketch mapping/lay out schemes, listing of neighbours
- Consider use of technology as appropriate
- Tools on how to access data, general information to the people
- Use of (how to mobilise) CBOs/ existing community organisations in the process – possible entry points
- Recording of pledges, savings group data/information
- Through community – consider recording common spaces, utilities, common properties, wells, market - for protection and future use
- Use of institutional memory/rituals
- Use of existing dispute resolution; criteria for dispute resolutions
- Public displays as appropriate

- Organization of the records/ indexing
- Consider spatial index /sketch map/ descriptive (plot based) as convenient and as appropriate
- Including apartments...slums in high rise buildings...
- Financing mechanism?
- Duplicate copy of the filled up forms
- Records office/facilities to hold records?!