



Policy pointers

Bottom-up approaches to developing and using land tools enhance legitimacy, local uptake and sustainability. Local leadership needs to be transparent and accountable to build trust in new approaches.

Community-based survey approaches that involve farmers and train para-surveyors can cut costs without sacrificing legal validity, and could become scalable and self-sustaining.

Ghanaian landowners and tenant farmers are starting to formally document tenancy rights in agreements between landowners and tenants. Template agreements, if developed with communities, can accelerate this, clarifying terms for tenants and landlords and reducing future conflicts.

Spousal transfer agreements have been developed but are a long way from widespread implementation. However, simply discussing such agreements can create awareness and lead to changes such as more equitable distribution of farming proceeds.

Land tool development in Ghana: building on local aspirations and innovation

Increasing pressures on land resources are putting strain on the traditional institutions and state agencies that jointly govern land tenure in Ghana. Challenges including time, capacity, accountability and cultural constraints mean imported models of land administration such as titling often fail in rural areas. Ghana is developing progressive land policies but securing local land rights in rural areas also needs innovative implementation tools that build on local practices and accommodate Ghana's legal pluralism and its diverse tenure and inheritances systems. This briefing shares lessons from three such tools piloted in Ghana's cocoa-growing regions: community-based surveying, tenancy agreement templates, and spousal transfer agreements.

Tenure insecurities fuel land disputes in Ghana's cocoa-growing regions

Land governance has risen up the political agenda in Ghana in recent years, and a land bill is in its draft stage. Meanwhile, practical tools and approaches are urgently needed to address many issues — including proliferating local land disputes.

Local farmers and authorities say many disputes arise because boundaries are not properly demarcated (see Box 1). Aggrieved parties may seek redress through the courts, but this is costly, lengthy, and can be untransparent. Farmers' income is diverted from productive investments and it is particularly difficult for those with the fewest assets.

In contrast, site plans could: assert and clarify rights of access among families and between sharecroppers and landowners; demonstrate

rights of access and use to others; help tenant farmers and landowners devise clear agreements; and open the possibility of registering a land title formally in the future, if desired.

But demarcating farmland boundaries, and documenting tenancies, can also stimulate new or latent disputes. Therefore, formal demarcation must involve all those affected by the process.

Policy and innovation

The Government of Ghana and its development partners such as the World Bank, the private sector and civil society organisations are exploring ways to secure local land rights. The Ghana Land Administration Project is now in its second phase (the first met significant challenges and barriers)¹ and is rolling out a new 'Systematic Demarcation and Documentation of Rural Parcel Rights' initiative.

Demarcating farmland boundaries and documenting tenancies can stimulate disputes

A Systematic Rural Land Title Registration programme by the Millennium Development Authority (MiDA)² and the 'ParcelCert' by Medeem³ are other examples of approaches being tested to secure land rights in rural Ghana. In most of these cases, the implementing agencies bear all or much of the cost of documenting land rights and land transactions. So although these

approaches may be useful, there are concerns about community ownership of the process, sustainability and up scaling.

The IIED-coordinated Securing Land Rights in West Africa project sought specifically to respond to some of these challenges and to local needs for greater certainty, clarity, equity and transparency in both land access and its use and management by communities. The project

developed three interrelated land tools in collaboration with farming communities. The rest of this briefing discusses the tools, and the lessons and policy implications generated through piloting them.

The community-based survey tool

For most farmers, registering for a formal title is not a priority — but documenting land use rights is. The principal challenges in this, for both farmers and national survey initiatives, are cost and complexity.

An affordable and sustainable means of surveying farms with appropriate technology is needed. By bringing costs down, surveying could, in theory, be financed by farmers themselves, creating a more sustainable and demand-driven approach.

It makes sense to develop a process for documentation that could be upgraded to register land titles in future. Using a high-precision system such as the *Total Stations* instrument and software produces cadastral plans based on the national coordinate systems. On the open market a survey of this type averages at GH¢250 per acre (about US\$125 during the project). But involving communities can considerably reduce costs in several ways. Surveying many farms in one go means that transport, accommodation and administrative costs of a surveying team can be spread. The community can also support the process. 'Para-surveyors' can be trained to support the less technical aspects of surveying. And where cement pillars are being used, communities can help mould and transport them and clear boundaries. This reduces costs and builds a sense of ownership.

Box 1. Insecure tenancies

Settler farmers have historically been an important labour source in Ghana's southern cocoa growing regions. While others can usually access family land allocated by the customary authorities, settlers traditionally negotiate tenant farmer arrangements (largely sharecropping but also caretaking).

Customary land transactions, such as agricultural tenancies, are usually oral (despite the requirement by the Conveyancing Decree, 1973 (NRCD 175) and the provision for registration of Customary Tenancies of "Abunu" and "Abusa" under the Land Title Registration Law, 1986 (PNDCL 152) that all such transactions should be documented). When they are informally documented, the terms and conditions are often unclear and the agreements usually lack provision for the uncertainties that sharecroppers and caretakers commonly face.

By and large, landowners and tenants lack full clarity on the specifics of the tenancy agreements in which they are involved. Disputes may arise, for example, over what should happen when a sharecropper is slower to develop the farm than agreed, or if the farm is destroyed by fire or disease. Crop failures can cause particular anxiety. Some landowners agree that where crops are lost to disease or bushfires, the sharecropper may re-establish the farm. Other landowners claim that such destruction means the land should be repossessed. This uncertainty creates a disincentive for good agricultural practices and can lead to a lose-lose situation for tenants and landlords alike.

Caretakers, who maintain farms rather than establishing new ones, are even more vulnerable. They do not get a share of the farm, but of the produce. They can be easily evicted with minimal notice, and may have to accept the absentee land owner's assessment of their farming effort — and perhaps a reduced share of the produce.

Uncertainties in oral agreements are compounded by difficulties in enforcement, as most rely on witnesses. Since the parties must pay the witnesses, impartiality is undermined. And not every witness will uphold the original terms of an agreement in times of dispute. Some witnesses testify for both parties in disputes, and since oral contracts can be long-term, witnesses may even die before disputes arise or are solved.

Table 1. Schedule of payment under the community-based land survey tool

Acreage	Cost (GH¢)
1	60
2	90
3	120
4	150
5	180
6	200
7	220
8	240
9	260
10	280
11	300
...	
20	480
Thereafter an additional 15GH¢ per acre	

In the pilot, community involvement brought the cost of surveying the first acre down to GH¢60, 76 per cent less than the open market cost with additional savings to the unit cost as more acres were included (see Table 1).

A dispute resolution committee can also be established and trained. Together with the existing traditional authorities, it can be on stand-by to quickly and peacefully resolve disputed boundaries. Such committees should reflect the interests of different groups including tenant farmers, landlords and both women and men. See Box 2 for the basic design principles behind a community-based survey tool.

The pilot also revealed several challenges, leading to the following recommendations:

- As there is a high proportion of absentee landlords in some cocoa farming communities, gathering neighbouring farmers for boundary demarcation takes time and needs advance planning.
- A year of poor income from cocoa can mean less cash available for paying upfront for the surveying, so a strategy for staggered payments could be useful and could be devised by the community and surveyor.
- Demarcation is likely to need to take place in the off-season as farmers are too busy to clear their boundaries in the cocoa harvest season. Para-surveyors are also farmers and will need to free up time.
- Clarity on para-surveyors' role and support should be agreed upon early by the community to avoid misunderstandings and therefore delays in the survey process.
- Para-surveying is likely to be perceived as a man's role and so women may need to be encouraged to volunteer.
- Neighbouring traditional authorities as well as neighbouring farmers should be informed of the process and involved in agreeing boundaries and demarcation methods from the outset.
- Authentication of site plans by traditional authorities may add weight but could increase costs and render the process less viable if high charges are made.

Tenancy agreement templates

This tool builds on existing local customs and tenancy arrangements and the slowly increasing use of written agreements between farmers (tenants and landlords) to improve clarity and security of their land rights.

Templates were developed iteratively with local

Box 2. Community-based surveying tool

The tool was designed to ensure three principles: validity, accessibility and sustainability.

- 1. Validity:** professional surveyors were engaged to use high precision equipment to ensure site plans could be upgraded in future.
- 2. Accessibility:** costs can be reduced by: (i) communities negotiating the surveyor's fee based on the cost savings of surveying many plots on one trip (ii) the surveyor training para-surveyors and the project establishing community-based committees to resolve disputes.
- 3. Sustainability:** although as yet unproven long-term, the project was designed so that communities should be able to afford to continue surveys after initial support and training ends. As a partial test of this the pilot project did not cover the surveyor's fee.

Box 3. A comment from a female community member from Assin South district on how the land rights tools project helped her negotiate farming income.

"One of my sons gained admission to study at senior high school but my husband insisted on making him learn a trade because taking care of a child at that level of formal education is expensive. But when you re-echoed the need for husbands to give part of their cocoa farm to us, I spoke to him. I told him to give me part of the farm so that I can take care of my son. After about two weeks, he told me that he will not give me part of the land as requested... He however promised to give me part of the proceeds from the sale of cocoa and he did. I have used my part of the proceeds to support my husband and my son is now in the secondary school"

communities. In-depth dialogues with a number of communities initially took stock of local customs in relation to tenancy arrangements. A wider group, including technical experts (such as land administrators) discussed these and drafted templates for written agreements. Lawyers also reviewed the draft templates to assure their legal validity, proposing a clause to confirm illiterate farmers understood the content. The draft templates were then validated and finalised through further community discussions.

For a small fee, paralegals or commissioners of oaths (as they are popularly known in Ghana) can oversee the signing of agreements and thereby enhance their legitimacy. The agreements are designed to be used together with site plans. Three copies of the agreements are stored — one by each party to the agreement and a third by the administrative offices of the traditional authorities. Once Customary Land Secretariats are established in the relevant office of the traditional council it may be logical for them to manage the records.

Spousal transfer agreements

Spousal transfer agreements have similar objectives to tenancy arrangements — to add

clarity to the terms of land transfers and to reduce future disputes. But this tool, which transfers land as a permanent gift following normal customs, also seeks to ensure that a spouse will have a guaranteed right to part of a farm that has been jointly established by a couple. Farmers agreed that a documented agreement would improve clarity on the rights of both spouses and their children, particularly when domestic circumstances change, or a spouse dies.

A spousal transfer agreement template was developed in the same way as the tenancy agreements — with an extensive and iterative deliberation, consultation and validation process. This consultation and validation included farmers, landlords, women's groups, lawyers and land administrators, and unsurprisingly prompted some lively debate. To some the agreements appeared to be prompting new practices and affording new rights. To others they simply secure existing usufruct rights (the rights to use and enjoy land) into the future. Certainly the notion of a written agreement governing how household assets are shared is an innovation that requires a change in mind-set and culture. Given this, a woman will need to feel sufficiently empowered before she will suggest to her husband that such an agreement is needed.

Indeed, this tool is not yet in use in Ghana — there is much still to be done in validating and discussing women's tenure insecurities at the local level. Yet discussions on the issue have created awareness and triggered debates, which appear in a number of cases to be empowering wives to negotiate more equitable ways of distributing proceeds from jointly established farms (see Box 3).

Indeed, ongoing dialogue on the issue in safe spaces may be as transformational, if not more so, as developing or implementing any one practical tool. For more on gender sensitive land tool development, see related IIED briefing, 'Gender-equitable land tool development in West Africa'.

Lessons learnt and policy implications

Land governance is a sensitive subject in Ghana, characterised by competing interests that mean attempts to improve or innovate systems or

practices tend to be met with caution and even fear of hidden motives. Taking time to stimulate communities' interest, engagement and trust is crucial. Everyone's interests and objectives must be clearly explained and mechanisms for open two-way dialogue are essential. Continuous dialogue needs to be inclusive, responsive, iterative and strong at communicating the potential benefits and pitfalls of new approaches if it is to build trust, clarify outstanding issues and resolve conflict.

At the national level, Ghana's draft land bill seeks to harmonise state land law and customary tenure systems for more effective land governance. The bill aims to establish a framework for efficient surveying and mapping and title registration, amongst other elements. These are welcome developments. But any successful policy needs appropriate tools and approaches. Some of the tools discussed here are already being adopted. Within Ghana's Systematic Demarcation Initiative (part of the Ghana Land Administration Project mentioned earlier), tenancy agreements and site plans for about 25,000 farms are expected to be prepared. The Office of the Administrator of Stool Lands, the state land agency supervising the process, has adopted the tenancy agreement templates discussed here, and the surveying component of the Demarcation Initiative is building on the tools' described here by engaging the team that piloted them to work with communities. Importantly though, these efforts will only succeed if capacity, transparency and accountability prevail within Ghana's land governance institutions at all levels.

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This briefing is part of IIED's Securing Land Rights in West Africa project. Related briefings include:

Developing tools to secure land rights in West Africa: a 'bottom up' approach. <http://pubs.iied.org/17216IIED>

Gender-equitable land tool development in West Africa. <http://pubs.iied.org/17215IIED>

Securing land rights in Mali: practical local solutions to thorny national problems. <http://pubs.iied.org/17222IIED>



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Ghana's Land Resources Management Centre is a non-profit, non-governmental organisation concerned with supporting education, research and publication programmes in land matters with a focus on property rights and ownership, land use and regulation and taxation of lands and buildings.

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Notes

¹ World Bank (2011) Implementation Completion and Results Report, Ghana Land Administration Project. Report No: ICR2083. <http://tinyurl.com/m8twvz> / ² Millennium Development Authority (2005) Reducing poverty through economic growth. Country proposal — Ghana. <http://mida.gov.gh/oldSite/index.php> / ³ <http://medeem.com/parcelcert.html>