

Chapter 24:

Sector Guidelines for Countries Proposing Property Rights and Land Policy



REDUCING POVERTY THROUGH GROWTH

Sector Guidance for Countries Proposing Property Rights and Land Policy Programs

Considerations for the inclusion of Property Rights and Land Policy Programs in Compact Proposals

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MCC Compacts with Benin, Nicaragua, and Madagascar include comprehensive support to governments in addressing property rights and land policy issues, while in other cases land activities have been incorporated as a means to remove constraints to other compact objectives such as expansion of horticulture (e.g., Ghana), and irrigation schemes (e.g., Mali). There are many and varied ways that a proposal might address one or more aspects of property rights and land policy. These can be organized into three main issue areas: 1) activities to *strengthen elements of the property rights system* (improving tenure security and reducing costs of doing land-related transactions); 2) actions that *facilitate access to new or expanded rights* (e.g., the allocation of state land or facilitating land markets); and, 3) activities in other sectors (e.g., agriculture) that have important *property rights and land policy implications* that may need to be addressed.

Interventions to Strengthen Elements of the Property Rights System:

An activity to strengthen all or part of the property rights system seeks to make rights to land and other real property more effective for individuals, communities and enterprises. “More effective rights” means improving tenure security, transferability and/or reducing transactions costs in property transfers (sales, leases, inheritance, concessions, pledging). Investing in strengthening the property rights system might be justified when: a) the time and cost to register a right in property are high; b) rights in property are insecure and/or informal; c) there are many or increasing conflicts about rights in property; and, d) incentives to make the most efficient use of property and increase its value. Some key challenges to address include in a proposal could include:

A Property Rights Systems refers to the laws defining land tenure including the assignment of rights through contracts; other forms of ownership in addition to individual title such as titles to communities or cooperatives and usufruct rights; the institutions such as the property registry and cadastre that record (both physical and legal attributes), authenticate and enforce such rights; and, all the complementary laws which affect the ability of one to conduct transactions in real property.

- how to make property registration and the cadastre broadly accessible, efficient for clients, and sustainable;
- how to reduce disincentives for landholders to register their land rights and transactions such as sales, inheritance or other transfers;
- how to ensure that the legal framework facilitates rather than inhibits effective property rights; and, where relevant; and,
- how to promote the harmonization of customary and civil/common laws of the nation within an integrated system of land administration.

Interventions to Improve Land Access: Interventions to *improve land access*

Facilitate project beneficiary access to land e.g., expanded investor access to land for commercial farming. Often this will mean packaging measures on land rights within other sector projects. These measures might support allocation of state land or seek ways to improve access to land through market mechanisms, such as easing access to credit or removing constraints of transfers of land. It is also important to identify the limitations on access to land and the proper functioning of land markets that necessitate intervention in the first place, and to propose steps to eliminate these limitations in the long run. In the design of interventions related to land access, some issues to consider include:

- If public land is to be allocated, does the proposal identify clear criteria for beneficiary selection and for transparent processes to apply the criteria?
- Are there adequate supporting institutions and services; e.g., land registration?
- Do beneficiaries have the capacity to or means to make the land acquired productive, such as product market information, appropriate inputs and finance?
- Will property rights over the newly accessed land be adequate in terms of incentives for productive investment and efficient land use?

Land in Relation to Other Sectoral Activities: Eligible countries sometimes propose projects and activities in sectors such as agriculture and infrastructure that

have important property rights and land policy implications. An agricultural project, for example, may need changes in tenure rules so that project beneficiaries have the incentive and flexibility to plant the crops that are most profitable for them, as the market changes. An infrastructure project, for example, might increase land values and warrant the inclusion of an activity to improve tenure security and to increase understanding of land markets.

In such cases, the proposal needs to provide a clear strategy for dealing with the property rights and land issues. This could be as simple as incorporating some small measures for MCC support -- or, just committing to undertaking these -- or, it could be more involved.

Cross-Cutting Issues: In general, to develop a sound proposal, consider these points:

- Has the approach proposed been used successfully in the same or similar circumstances? Does the proposal reflect lessons learned from those cases?
- Do existing institutions have the capacity to carry out the PRLP-related tasks involved? If not, are measures being taken or proposed to strengthen them?
- Are the technological choices for PRLP tasks appropriate in the context?
- How will the land rights of various social and economic groups be affected?
- Is land conflict, actual or potential, adequately considered?

MCC understands that each country may face different property rights and land policy problems and challenges. There are no one-size-fits-all solutions. Property rights and land policy reforms can be complex – socially, economically and politically – yet there are effective approaches that can bring far-reaching social, economic and political benefits. Proposals must be realistic in terms of capacities, costs, outcomes, and vulnerabilities. A sound proposal will discuss the sequencing of interventions in relation to one another and in relation to past and on-going reform initiatives. Drawing on lessons learned locally, regionally, and even globally is a good tactic. A sound proposal will identify risks associated with the reform process and include appropriate mitigating measures. Overall, a sound proposal will clearly identify the weaknesses in the existing property rights systems and/or land access, analyze the

needs of beneficiaries carefully, and identify the specific measures needed to meet them.