



# **Natural Resources Conservation and Development**

## **Level II**

# **Learning Guide-57**

**Unit of Competence: Promote Implementation of  
Property Rights, Land Laws and Regulations**

**Module Title: Promoting Implementation of  
Property Rights, Land Laws and Regulations**

**LG Code:                    AGR NRC2 M13 LO-2 LG-57**

**TTLM Code:                AGR NRC2 M13 TTLM 0919v1**

## **LO 2: Facilitate land transaction**



This learning guide is developed to provide you the necessary information regarding the following content coverage and topics:

- Identifying and applying land transaction activities
- Identifying and documenting changes in land rights, property formations, Land parcels and land holding
- Applying appropriate updating and recording system

This guide will also assist you to attain the learning outcome stated in the cover page. Specifically, upon completion of this Learning Guide, you will be able to:

- Identify and apply land transaction activities
- Identify and document changes in land rights, property formations, Land parcels and land holding
- Apply appropriate updating and recording system

### **Learning Instructions:**

1. Read the specific objectives of this Learning Guide.
2. Follow the instructions described below 3 and 4.
3. Read the information written in the information “Sheet 1, Sheet 2, Sheet 3, Sheet 4 and Sheet 5”.
4. Accomplish the “Self-check 1, Self-check t 2 and Self-check 3 ” in page - 7, 18 , and 21 respectively.



### **1.1 Concept of transaction activities**

**Transaction:** - is a generic term used to describe a Transfer, or an Easement, authorized pursuant to another.

Making land rights more secure is a precondition for land-related investment; however, unless rights are transferable, both the magnitude and incidence of such benefits may be limited.

Land transactions can play an important role by

- Providing land access to those who are productive, but who own no or little land;
- Allowing the exchange of land as the off-farm economy develops; and
- Facilitating the use of land as collateral to access credit markets where the conditions for doing so exist.

The ability to transfer land also increases the incentive to undertake land-related investments. Traditionally, much of the discussion on land markets has focused on the permanent transfer of ownership through sales. However, similar benefits can accrue from often informal transactions in land rental markets that are widespread across the world and that are less likely to be affected by, or can adjust more easily to, the market imperfections that are pervasive in rural areas of developing countries. To address these issues this chapter first discusses key factors affecting the operation of rural land markets and their potentially differential impact on land rental and land sales, then reviews empirical evidence from different regions of the world and uses this to draw some policy conclusions. The opportunity for rights transfers will be important in many settings, both rural and urban, but the functioning of other markets, in particular, those for labor and credit, will affect the ultimate impact of land markets.

### **1.2 Key Factors Affecting the Functioning of Rural Land Markets**

In a world of perfect information, complete markets and zero transaction costs, the distribution of land ownership will affect households' welfare, but will not matter for



efficiency outcomes, and everybody will operate their optimum farm size (feder 1985). The following paragraphs illustrate how imperfections in labor and credit markets affect the performance of both land rental and land sales markets.

### **1.2.1 Labor Market Imperfections**

Imperfect rural labor markets imply that land-scarce households that have to sell their labor in the market will face some transaction costs, which will imply underemployment and a marginal value of labor time below the market wage. Land-abundant households that, in a world without transaction costs and imperfect supervision capacity, would contract labor to cultivate their land, will have a marginal cost of labor well above the market wage. In this case the complete absence of land markets would force households to cultivate the land they happen to own, implying that land-abundant households would need to cultivate their land with expensive labor and land-scarce households would be trapped by underemployment in low-return, own-farm activity. The latter would be particularly disadvantageous if opportunities existed for off-farm labor market participation that would require farmers to forgo the income from renting out their land. Assuming that other factors such as ability, access to capital, and technology were equal between the two types of households, the ability to obtain additional land would improve the livelihood of land-scarce, labor-abundant households by allowing them to employ their underutilized labor more effectively and increasing their shadow wage. Indeed, such inefficiency, especially in the employment of labor, is of considerable relevance for China, where the functioning of land markets is significantly restricted.

### **1.2.2 Capital Market Imperfections**

The positive impact of rental market activation on land access by the poor is diminished if access to capital depends on initial wealth, because of the need for up-front working capital to acquire inputs in addition to land and labor. Such quantity rationing in credit markets arises from the presence of asymmetric information and moral hazard (Stiglitz and Weiss 1981). In informal credit markets, credit providers use close familiarity and social control to select promising clients or projects. This implies, however, that the scope for diversifying risks across space and different types of clients is limited and



means that lending entails high levels of risk, resulting in high interest rates and relatively short-term credits. Formal credit markets can overcome problems of asymmetric information by using collateral, often in the form of land. However, the costs of and political impediments to foreclosing on smallholders' land are often quite significant, implying that the transaction costs associated with providing credit to small producers may be so high as to exclude small farmers. Thus credit market imperfections can offset the supervision cost advantage family farmers enjoy. Consequently, in the presence of credit market imperfections the supply of working capital depends on the amount of land owned. The optimal size of the operational holding varies systematically with the size of the owned holding, even if land rental markets operate perfectly. While the magnitude and direction of this effect depend on the elasticity of output with respect to effective labor and of labor effort with respect to supervision, it can overwhelm the productivity advantage of family farmers and give rise to a positive relationship between owned farm size and productivity. Working capital constraints could therefore have significant impacts on land sales, and even on rental markets. Interventions in credit markets to overcome these shortcomings are difficult and often have not had the desired effect (Brummer and Loy 2000; Kochar 1997).

### 1.3 Application of land transaction

This application provides you the opportunity to propose:

- ✓ An Exchange of land, **or**
- ✓ A Purchase of State-owned land. Please **check one** of the following:

<b>EXCHANGE</b>
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<b>PURCHASE</b>
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<b>OTHER</b>
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Fair market value of the privately-owned land proposed to be offered in exchange must be approximately equal to or greater than the fair market value of the State-owned land desired. The public use potential or natural resource value of the offered lands must be equal to or greater than that of the desired lands. Each application will be evaluated on its own merits. Certain lands are not available for sale or exchange. Attach map(s) and



additional pages, if necessary. Complete the information requested on the reverse side and sign.

Region	Township Name (wereda)	Parcel ID	Section(s)	Town ( kebele)	Range
Description					
Hectares: _____					

**Table 1**  
**Land offered in exchange (if any)**

country	Township Name	Section(s)	Town	Range
Description:				
Minerals to be conveyed to the State? Yes <input type="checkbox"/> No <input type="checkbox"/> other <input type="checkbox"/> Hectare _____				

Table 2 Source: Michigan Department of Natural Resources (adapted to our situation)



<b>Self-Check - 1</b>	<b>Written Test</b>
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**Directions:** Answer all the questions listed below. Use the Answer sheet provided in the next page:

1. Define land transaction. (2pts)
2. Discuss on advantages of land transaction. (2pts)
3. What are factors affecting rural land markets? (2pts)

**Note: Satisfactory rating - 3 and above, points**

**Unsatisfactory - below 3 points**

You can ask you teacher for the copy of the correct answers.

**Answer Sheet**

Score = \_\_\_\_\_

Rating: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

**Short Answer Questions**



### **2.1 Documentation in land transaction**

Land records are the evidence of ownership and use rights. There is a growing outcry for a better land management and development controls by the public sector. Generally, knowledge is not enough, what is required is detailed information about land use who owns the land, who occupies and work on it, what is pattern of land use etc.

### **2.2 Land information systems**

**Definition:** LIS is a tool for legal, administrative and economic decision making and an aid for planning development which consists, on the other hand, of a data base containing spatially referenced land related data for a defined area and on the other hand, of procedures and techniques for a systematic collection, updating, processing and distribution of the data.

The elements of land related information:

- A. Socio economic information
- B. Environmental information
- C. Geographic information
  - Topographic maps
  - Thematic maps
  - Administrative economic maps
  - Special purpose maps
- D. Fiscal-legal information

### **2.3 Types of land registration**

**Land registration:** is a process of recording rights on land which provides safe and certain foundation of acquisition and disposal of rights in land, where disposition includes transfer, leasing and mortgage (investors) of the holding rights in the context of land policy.

There are three systems of recording rights in land. These are the following:

- Private conveyance,





- The registration of deeds and
- The registration of title.

### 1. Private conveyance

- Cost borne by the owner
- Need assistance from solicitors, surveyors etc
- Security is dependent on the integrity of professionals
- Defects in private convincing
  - Duplication
  - Slow
  - Expensive
- Used In USA- insurances
  - Fraud
  - Non- access by the state.

### 2. Registration of Deeds

Definition: Registration of deed is a contractual document of transferring a property right. The deed itself that is registered, the registration of deeds provides notice to third parties of the contractual arrangements.

Under a system of registration of deeds, a copy of transfer document is deposited in deeds registry. An entry in the register then provides evidence of the vendor's right to sell.

- Used in British and her colonies

#### Weaknesses of deed registration

- ✓ It is not conducive evidence of the present status of the present status of the real property.
- ✓ The state does not guarantee and insure the correctness of information in the deed transfer.
- ✓ It leads to storage of vast quantities of ancient document.
- ✓ Not only costly but the retrieval of data can be very difficult and time consuming depending on the volume of documents.

### 3. Registration of Title



Definition: it is the registration procedure evidence is recorded and more what in fact is the final and complete judgment of the current title.

The accuracy of information in the title registry is logically granted and issued by the state. Land parcel is identified on the map and the rights associated with it are recorded on the register.

- Used commonly in most countries(e.g. Ethiopia)

Advantages of Title registration

i. For individual

- ✓ Provides security of land tenure
- ✓ Reduce ownership and boundary disputes
- ✓ Makes land transaction simple and less costly

ii. For public administration

- ✓ Offers up to date land information
- ✓ Assist land use planning and development
- ✓ Improves land market
- ✓ Stimulates investment
- ✓ Creates a basis for land taxation

iii. For the society

- ✓ Promotes peaceful resolution of ownership and boundary problems
- ✓ Offers a uniform national system
- ✓ Accommodates customary law and special interest in law

In general title registration is

- ✓ Conducive
- ✓ No need of historical search
- ✓ State guaranteed.

iv. Assists the wise utilization of land resources



## 2.4 land rights

Since there can be a multiple of property rights associate with land and the resources on it/under it, we often refer to a “bundle of rights”.

These include:

- **Use rights**—rights to use land for grazing, growing crops, gathering NTFPs, hunting.
- **Control rights**—rights to make decisions how the land should be used including decisions on what activities will happen, and who is to benefit;
- **Transfer rights**—rights to sell or mortgage the land/resource and convey it to others.

On the other hand the property rights may be:

- **Customary Rights:** rights traditional/held in trust by elders/community committees/kin groups
- **Statutory Rights:** rights described in policy and law

### **Property rights may be delimited as:-**

- a) **Easement:** easement or servitude is a term rights exercisable by owners of one parcel of land over the other land. The creation of an easement often requires that there should be a dominant and servant property.
- b) **Encumbrance:** it is a right adversely affecting the land. It includes a number of burdens. Many are registrable in formal real estate registration systems.

## 2.5 Property formations

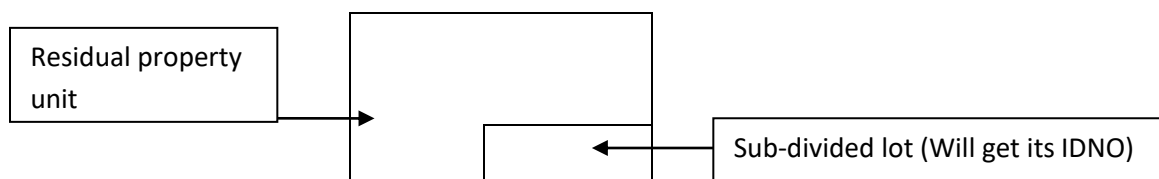
During land transactions there are changes in land rights and other issues related to land.

### **A. Sub Division**

A part or portion of holding or parcel may be divided and transferred to other holding which constitute in its own right. By means of subdivision one can divide a certain area

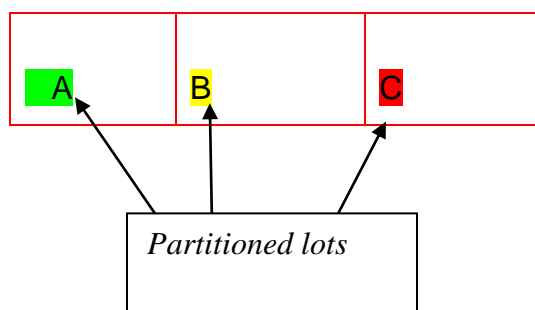


of land or water from an existing property unit to form an existing property unit. It is also possible to be divided from jointly owned land or from entire joint property unit. The area of land thus parcelled off from a jointly owned land becomes a property unit. The portion of a property unit parcelled off is called **subdivided lot**. What remains of the original property unit after parcelling is called **residual property unit**. The subdivided lot and residual property unit together called **subdivided parcel**. The whole of the original property unit with which subdivision begins called, in its undivided state as **subdivision unit**.



## B. Partition

A co-owned parcel may be partitioned into lots to form holding in its own right. When partition takes place the whole of the property unit affected is divided up into new property units. The parcels are usually termed as **partition lots**. These lots form new property units. After the partition the original property unit no longer exists. Easement can be created between the different lots.



## C. Amalgamation



Entire property units can be amalgamated into a new property unit. Subdivided parcels can also be amalgamated to a complete property unit and subdivided parcel. In order for amalgamation of property to be possible, they must have the same owner. Property units belonging to different owners cannot be amalgamated to form a single property unit.

#### **D. Re-allotment**

Re-allotment means the reformation of existing property units. Re-allotment can mean the transfer of land from one property unit to another. Re-allotment can take place by agreement between the owners of property units affected. In a certain cases it can also take place coercively; i.e. against the wishes of property owners.

The two basic reasons for conducting re-allotment:

1. Protection of individual property; owners and proprietors of easement and beneficial interest, and
2. These for protection of public interests

#### **2.6 Land holding**

In general terms, holders of land and property rights can be individuals, groups of individuals (including married couples), communities, corporal bodies or a state. In most African countries, especially in rural areas, customary laws generally continue to regulate who can access, use and control land and property. They can specify certain conditions (e.g. use for a limited period, use to only plant annual crops, but not trees) and they can determine which bodies or who resolves conflicts.

Generally speaking, the underlying “management right” over a large area of land is held by a community, lineage or clan. Some resources are used communally, such as forests, grazing land and water sources. Others are held on a more individual basis, or by lower-level collective groups such as households. Many of these more individualized rights have the appearance of being “property” in the sense of “ownership”, and can be passed down from generation to generation. Many land areas may seem abandoned or they may be left for trees to regrow or for soil to recover. However, the regulatory



authority of the local customary structure with its own institutions stands over these areas.

Each household within a group requires access to and control over different types of land and resources over the course of a year. Even though land is held by the community (or lineage, clan or family), families and individuals usually have greater control and are responsible for the day-to-day management of the resource. While the lineage or other community hierarchy may have the power to approve or disapprove of land alienation, the families or individuals may negotiate many types of land transactions on their holdings. These rights include leasing, borrowing, lending and transmitting land by inheritance. Landholders may also sell certain rights of use but not the land itself.

The various rights on land, houses, cattle and other assets and belongings within the community area (e.g. the right to use, to benefit, to decide about the use, to transfer, to transmit by inheritance) are divided among members of the community on the basis of gender, age or other intra-community characteristics such as lineage, ethnicity, status or marital situation. The division of rights might also reflect the economic power of a given group or household where, for example, there are more people able to work and therefore able to use more land. With statutory law, the situation may be different. Most constitutions in African countries recognize the principle of equality between men and women and prohibit discrimination on the basis of sex, among other reasons.

### **Communities as holders of land and property rights**

In some countries, such as Mozambique or Tanzania, local communities or villages can hold rights over land and to obtain title to land. This enables the communities and villages to have and exercise legal rights over areas used in common.

### **Women as holders of land and property rights under customary systems**



Within a household, men and women are allocated different land parcels and use them in different ways (e.g. for different crops and for gathering on land). In case of a death in the family, different members of the family have different inheritance rights.

Women usually have access to land and other assets through male members of their families (as wives, sisters, daughters and nieces). In some cases, they can obtain access to land and rights to use it through marriage and investments of labor in cultivating land where the married couple settles – traditionally on the husband's family or lineage land.

Women's rights related to land, houses and other assets are limited and insecure. They are limited because women cannot control the land they cultivate and the produce of that land; this implies that they cannot use it as collateral for loans and credits or other agricultural services. A woman's economic dependence on her male relatives also makes her more vulnerable regarding her health because she is more exposed to various forms of violence and diseases including HIV and AIDS.

Such rights are also insecure because they do not give women the protection against arbitrary interference by others. This means that the land they use or the houses in which they live can be taken away from them. Women often lose access to and use of land when traditional family structures dissolve (which is often the case when HIV and AIDS appear). The household head's absence, whether temporary or permanent, leaves women struggling to deal with family affairs without the necessary authority over the land and assets under their care.

### **Women's inheritance rights**

Because they are not allowed to own property in their own names, women's and girls' inheritance, in case of the death of their husbands or fathers, is severely limited in both matrilineal and patrilineal systems. Because property is traditionally passed on along the male line, the sons of the deceased are the first to inherit. Widows only have the



right to inheritance if there are no male members in the family or if all of them refuse to accept the inheritance. Daughters' rights come only after widows' rights.

As a result, women lose their land, house or shelter and other belongings, and thus also the main source of their livelihoods and welfare, when they become widowed or separated. This makes them more vulnerable to various forms of violence and mistreatment, including forced labour and prostitution, which also raises their risk of contracting HIV and AIDS.

### **Women as holders of land and property rights in statutory law**

In many countries, the relevant statutory law recognizes women as holders of land and property rights.

### **Children as holders of property and inheritance rights**

In most legal systems, children enjoy their property rights independently when they reach adulthood; until then, their parents, guardians or caregivers do that on their behalf.

Traditionally, in most African countries, customary norms recognize children's right to inherit from their parents. However, the sons of the deceased often are the direct heirs, with the implicit duty to provide for their female siblings until they marry. Children will only directly own and decide over the property left to them by their deceased parents when they reach adulthood. Until this time, the extended family members have a duty to care for the children and manage their assets.

There are a growing number of double orphans as a result of the HIV and AIDS pandemic combined with growing weakening of extended family support systems in Africa as a consequence of larger social, economic and political changes. Children may lose both their parents, often within a short space of time, and are not old enough for customary inheritance mechanisms to come into play and safeguard their rights.







<b>Self-Check - 2</b>	<b>Written Test</b>
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**Directions:** Answer all the questions listed below. Use the Answer sheet provided in the next page:

1. Define the following terminologies. (4pts)  
A. Subdivision B. Partition C. Amalgamation D. Re-allotment
2. Discuss on land rights briefly. (3pts)
3. According to statutory law, which community group and gender group (individual) has the right to hold rural land? (3pts)

**Note: Satisfactory rating - 5 and above, points**

**Unsatisfactory - below 5 points**

You can ask you teacher for the copy of the correct answers.

### Answer Sheet

Score = \_\_\_\_\_

Rating: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

### Short Answer Question



<b>Information Sheet-3</b>	<b>Following up and applying appropriate updating and recording system</b>
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### 3.1 Land registration

**Land registration:** - refers to the process of recording rights in land either in the form of registration of deeds or else through the registration of title to land.

**Title registration-** is a system for improving the quality of ownership and proof of title.

**Deeds registration-** is a system of proof of property ownership and interests based on the registration of transfer and other deeds.

**Registration of transactions** is the process by which transactional changes in rights and interests are recorded in registers.

### 3.2 Stakeholders in an effective land registration system:

**a) Citizens:** for the security of rights, social stability, access to housing, access to credit through mortgage finance, mobility, and property transfer and improvement;

**b) Local Government:** for its planning, land valuation, land use, land management, and land information;

**c) National Government:** in its administration, taxation, economic development, land valuation, and market information; and

**d) Companies:** for the security of rights, access to loans, market opportunities and potential for development.

### Why support land registration?

A land registration system is necessary to determine record and disseminate information about the ownership, value and use of land.

**As such it also contributes to “good governance” objectives:-.**

- gives government capacity to manage a valuable natural resource



- sustains the rule of law by regulating real estate and land markets
- provides security for landowners but also for national and international investors and the finance sector
- assists the development of labour markets by easing labour mobility
- assists the development of financial markets by providing collateral security
- assists in the creation of new business entrants
- provides government with a source of revenue

**A land registration system and campaigns to increase or encourage registration may also  
Contribute to the “alleviation of poverty”**

- provides information for land reform or land redistribution policies
- provides access to a secure tradable commodity
- provides access to formal services and rights
- Provides access to credit for investment in either business or human capital

Land registration therefore, may reduce poverty by giving people guaranteed, protected land rights, which serve as a source of personal wealth and provide opportunities for economic independence.



<b>Self-Check -3</b>	<b>Written Test</b>
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**Directions:** Answer all the questions listed below. Use the Answer sheet provided in the next page:

1. What are advantages of land registration? **(3points)**
2. List and discuss types of land registration. **(4 points)**
3. Who are stakeholders in land registration? **(6 points)**

**Note: Satisfactory rating – 13 points**

**Unsatisfactory - below 13 points**

You can ask you teacher for the copy of the correct answers.

### Answer Sheet

Score = \_\_\_\_\_

Rating: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

### Short Answer Questions



## List of Reference Materials

1. ([http://www.hdr.undp.org/docs/events/global\\_forum/2000/eide.pdf](http://www.hdr.undp.org/docs/events/global_forum/2000/eide.pdf))