

Executive summary

The stated goal of land titling and administration projects supported worldwide by development agencies like the World Bank is to strengthen property rights for the poor. Formal property rights, it is argued, lead to increased tenure security, which in turn encourages property rights holders to invest. Hence, strengthening property rights for the poor contributes to facilitate pro-poor economic growth and a more equitable development. However, the link between formal land titles and tenure security is assumed rather than based on empirical evidence. This DIIS-brief reviews this and other key assumptions underlying land titling and administration interventions. Findings from research that explores rural landowners' own perceptions of the factors that constitute tenure security highlight the importance of formal titles for perceived tenure security, but only in combination with other resources. Therefore, to single out formal titles as being equal to or the most important element in tenure security does not correspond with people's perceptions. Thus, promoting land titling as **the** policy intervention to strengthen tenure security does not appear to be a feasible strategy for addressing the highly complex problem of insecure land tenure for the rural poor. On the contrary, emerging evidence suggests that land titling tends to make land more readily available to a larger and more resourceful circle of potential buyers. Thus, rather than facilitating pro-poor and equitable development, land titling projects may clear the road for large-scale concentrations of land that gradually exclude the rural poor.

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Land titling and tenure security in the context of inequality

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INTRODUCTION

A renewed focus on agriculture and agricultural growth and their potential contribution to poverty reduction has put land tenure and the distribution and security of property rights back on the development agenda. Land titling projects are often justified with reference to their effects in terms of strengthening the tenure security for landowners. Since it is mainly the poor who lack land titles, land titling projects are argued to be a pro-poor policy intervention. Furthermore, improved access to credit and a more active land market, which is able to allocate land to the most productive owners and uses, are argued to result from titling and strengthened tenure security; the latter, it is argued, helps re-distribute land to small-scale farmers.¹ Finally, land titling is expected to create stronger incentives to invest in land improvements, since land owners are assumed to invest in long-term land improvements only when they feel secure about their present and future land ownership. As environmental improvements tend to provide mainly long-term benefits, environmental benefits are often expected to derive from land titling projects.

Several bilateral and multilateral donors, including the World Bank, provide large-scale credits for land titling and land administration projects in Latin America, Africa and many post-socialist countries in Europe, Central and East Asia. According to the Land Policy and Administration Thematic Group's database, 55 World Bank projects have been implemented or are under preparation since 1990 with land administration as the primary project component. Many more projects include land titling and administration components as a secondary element, just as there are many other donors contributing within this field.

¹ This is based on an argued – but much disputed – competitive advantage of small-scale, family-run farms over large-scale agricultural enterprises with hired labour.

Tenure security is a key element in the above argument about the expected benefits of land titling. However, the link between land titles and tenure security is often *assumed*, rather than empirically tested. As an indication, in many econometric studies, 'tenure security' is often operationalized as 'having formal title'. Recent empirical research critically questions this assumption by focusing on what according to rural landowners characterizes situations of high and low tenure security, respectively. Land administration projects are also based on other assumptions, such as that enforcement of titled rights is readily available to the right-holder, that there is equal access to the legal system for rich and poor and that everyone is treated equally.

UNDERSTANDING TENURE SECURITY

What is it that creates tenure security in people's own understanding? The results from tenure security rankings show that titles and registration constitute important but far from the only elements in the creation of tenure security. Having bought or inherited the land; having possessed the land for a long time; having the recognition of land rights from local institutions and from neighbours; having economic wealth; and having social contacts to influential individuals, as well as participating in various forums are other important elements contributing to tenure security. Thus, while formal titles and written documents are important for the level of perceived tenure security, they are only important *in combination* with other resources. A formal title without the necessary economic resources and social contacts to enforce this title does little to improve perceived tenure security. Thus, the tendency to single out formal land titles as the key element in strengthening tenure security is not supported by empirical evidence of what constitutes perceived tenure security.

Land titles do not benefit the poor to the same extent as the non-poor. Even when the poor have titles and can raise the money to obtain access to formal institutions dealing with property rights and conflicts, they are not treated in the same way as the non-poor. For example, in many developing countries, the legal system is extremely expensive to use in relation to the income of the rural population, thus excluding most poor people from defending their rights through the legal system. More important, however, where the judicial system is under the direct influence of the political system, favourable court sentences are available to the highest-bidder or the best connected. A Central American saying captures the ‘class justice’ function of the judicial system in the following way: *“The jaws of justice only bite the bare-footed”*.

The high costs of using formal authorities prevent the poor from including such authorities in cases of conflict. Another reason for the low level of involvement of formal authorities by the poor is their low level of trust in authorities and in receiving fair treatment vis-à-vis wealthier and more influential actors. High levels of inequality in formal education, including legal literacy, and in access to information and legal advice further exacerbate this unequal opportunity to defend one’s rights.

In situations where land titles can only be enforced, and thus only create tenure security, if combined with other resources, and consequently where poor and non-poor do not have equal opportunities to defend their property rights, it is not surprising that formal land titles make little or no difference for the poor people’s perceived tenure security. Therefore, much land remains without formal titles. A recent study from Nicaragua shows that even for land purchased through the land market, titles and inscriptions of titles in the registry remain, more often than not, without updating (Broegaard 2008:175ff). This

‘informalisation’ process combined with an active land market threaten to undermine any public investments in land titling and registration activities such as those carried out by donors and the state, since these rapidly become out-dated.

Furthermore, once land is titled, it becomes more accessible on the formal land market, thereby making it more easily available to larger-scale land-buyers and private companies. Despite claims by the proponents of titling projects that the land market serves as a mechanism for distributing land to the small-scale farmers, recent research shows that, on the contrary, land markets tend to concentrate land among larger land-owners, leaving more rural families landless or near landless. The above-mentioned PhD-research found that a quarter (24%) of all the land included in a survey of rural households in Northern Nicaragua had been purchased during the past 10 years. Looking at urban-based owners of rural land, they had purchased forty-four percent of their current land-holding during the past 10 years. Despite the much smaller sample of the urban-based owners of rural land (N=30), compared to the rural-based owners (N=384), it is remarkable that a greater extent of rural land has been purchased by the urban-based owners than by the rural-based owners.

Tenure security is important, and land titles are much desired by small- and medium scale farmers. Yet, on a sloping playing field with unequal access to and enforcement from formal institutions, land titles alone will not contribute to the creation of tenure security for the poor. Although strengthening the formal property rights for the poor is important, access to legal advice and efforts to ensure a more equal access to institutions at all levels are just as or more important. Interventions that do not sufficiently take into account the profound effects of inequality on how institutions function, including the legal system

and the market, will achieve very little in terms of pro-poor economic growth.

POLICY RECOMMENDATIONS

- Land titles are important for people's perception of tenure security, *but only in combination with other resources*. It is therefore important to critically assess, in a given context, what is necessary to ensure that the poor benefit from titles to the same extent as non-poor.
- External engagement in strengthening land tenure security for the poor needs to be based on a political strategy that confronts the reality of *de facto* limited use and updating of formal land tenure documents, due to unequal access to formal institutions, especially the judicial system, and the biased functioning of these institutions for poor and non-poor.
- Profound reform of the legal system is a crucial basis for any effort to strengthen tenure security of the poor.
- More research is needed on the effects of land markets on land distribution and rural poverty in areas where land titling projects have already taken place.

FURTHER READING

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