

**“Monitoring Land Tenure Rights” by Fernando Eguren, CEPES-Peru
Summary translation**

I. Introduction

The fight against poverty has been part of the international agenda for many years, but with only mediocre results. This was the motivation behind the development and agreement on eight basic development indicators, the Millennium Development Goals (MDGs), in 2000, the first being the eradication of extreme poverty and hunger.

In order to reach this first goal, a deeper analysis is needed of the causes of hunger and poverty in vulnerable rural areas, including particular attention to the interaction between land policies and access to land, trade and investment, as well as macroeconomic and socioeconomic policies. In this sense, this discussion paper focuses on tenure security over land as one of the contributing factors to the reduction of poverty, as well as linking land policies to the need for adequate institutional support (credit, infrastructure, etc.).

On the one hand, studies such as by The World Bank have shown that tenure security to private property supports investments in the land and better access to credit. On the other hand, other studies have concluded that tenure security to common property has favorable long-term impacts on food security and agronomical practices. What is needed is not only the application of different measurements that contribute to realizing the goals proposed, but also an adequate and constant monitoring of these, which requires a review of the indicators related to the different goals.

According to Wilusz (2006), quantitative indicators are tools that can provoke action to reduce poverty, since they permit us to better understand the gravity of the problem, and the results achieved by taking different steps. Therefore, they may place political pressure on governments and other institutions, increasing and/or improving their involvement in campaigns to realize these goals, and give impetus to revising indicators or targets based on evaluations that are made.

For practical reasons, the MDGs are general and internationally comparable. As such, there aren't indicators that refer to very precise aspects, such as monitoring the land rights of rural communities, even though there is understood to be a relation between land access and poverty reduction, and between land loss and rural poverty. The more particular the social or economic phenomena that you are observing, the more clearly seen are its specificities. For gains made in precision and detail, there are losses in generalization and comparability. For this reason, it is necessary to develop indicators on different scales, some which allow for comparison across countries, and others that can allow comparisons within national or sub-national spaces.

This discussion paper presents an overview of indicators on land tenure security, some of which allow for cross-national comparison within the Andean region, and others which may allow comparison at national levels.

II. Motivation

This document intends to advance the development of a system for monitoring and reporting on land rights of the rural poor. Primarily, it seeks to establish the most suitable indicators for carrying out monitoring of land rights. As a second step, it needs to consider what institutional design and methodology could be used in this work.

The paper draws on studies on the measurement of conditions and land rights efforts at the national level, by IFAD, ILC/CAPRI, USAID, The World Bank and UN-Habitat, as will be presented below.

III. Objectives

The overall goal is to propose a system for monitoring access to and tenure security over land by poor rural communities in the Andean region. This requires a definition of the indicators, an institutional proposal and a working methodology.

In terms of the indicators, the objective is to recognize – and compare across time and space – the situations of land access by the rural poor, and security of rights over land and resources.

More broadly, though, the work with indicators intends to contribute at local, national and international levels to improving land access by the rural poor, and consolidation of their rights. The monitoring system should be useful for alerting relevant authorities about the obstacles to accessing land and resources, and the threats to land rights.

Furthermore, they should be oriented toward:

- a) relevant international institutions
- b) national governments
- c) local institutions
- d) rural communities and civil society organizations

They should contribute in this way to adequate monitoring of:

- International agreements
- National policies and their applications
- Development of land markets and the concentration / individualization of properties
- Abuses by public and private institutions
- Discrimination on the basis of gender, ethnicity, race, religion, etc.

Specific Objectives

- A. Indicators oriented to *inform public policies* relevant to resource property rights. These can be used for campaigns around land registration, agrarian reform,

support services (e.g., technical extension, rural finance, etc.), land markets, conflict management, etc.

- B. Indicators oriented toward *the protection of rights* of farmers and indigenous peoples. These can be used to detect violations to laws, processes of land concentration or fragmentation, displacement, and actual and potential conflicts.

These may be used by: government agencies, intergovernmental organizations, academics, development bodies, farmers unions, etc.

IV. Principal Elements of Land Policies and International Development Themes

As reported by Quan (2007), among the principal elements of land policies and international development themes are the following: security of tenure, access and distribution of land, investment facility, and land administration. Each one is composed of other characteristics:

Security of tenure

- Land rights are submitted to a variety of norms and institutions
- Levels of security are provided for depending on different elements of tenure: content, prescription, transferability, exclusivity and applicability of rights
- Legal protection of customary rights and “good faith” occupation
- Access and extension of registered and documented rights
- Land disputes and mechanisms of conflict resolution
- Security of rights to resources managed as common property
- Rights of specific groups: women, indigenous peoples and other minorities
- Evictions without legal process or land-rights arbitration
- Perceptions of security

Access and distribution of the land

- Equity, productivity and economic growth; inequity among groups and social justice
- Levels of landlessness and inequity in the distribution of land
- Legal provisions, programs and mechanisms for specific groups
- Time, costs and steps to register the rights to land, broken down by urban/rural and occupants/investors
- Access to natural resources and common property resources; frameworks for negotiation and management

Access to land markets

- Access and distribution of lands, including also the concentration and loss of land rights
- Property transfers and use rights; development of restrictions in rental and sales markets
- Access to land markets by the poor

- Use of land as collateral and development of credit markets
- Access to clear, flexible and sure contracts, with protection to both parties
- Effectiveness of the procedures to register transactions; cost and time of transactions

Facility of investments in the land

- Enterprise structures, access to capital, investment incentives, internal and external investments
- Accessibility to land and security of rights for investors
- Procedures for access, transaction and registration: cost, time, steps and transparency (World Bank Doing Business Survey)

Land administration

- Equity, accessibility, efficiency and level of implementation of laws
- Time and cost of registration
- Percentage of land that is registered
- Percentage of data that is complete and included in the cadastre
- Difficulties, incompatibilities, and delays in the system
- Rent-seeking and corruption

V. Indicators of Tenure Security

In this section, different sets of proposed indicators are presented, with the goal of understanding the range of possibilities that would permit the selection of those which are most relevant and pertinent to the reality of Andean countries.

1. *Summary of Indicators developed by international organizations (summaries)*

- **World Bank Doing Business Survey:** Collects precise information on access to land, tenure and administrative processes that cover only urban commercial property. Publishes information on the basis of this information for the purpose of informing and stimulating policies.
- **IFAD:** As part of its program development process, IFAD collects studies and expert opinions on the access of land by poor and vulnerable households, tenure security, land market functioning, and management of common property in rural areas.
- **UN-Habitat:** Elaborates a household survey and groups together expert opinions on the tenure security to property in urban areas (residential), with the goal of monitoring progress on objective 11 of MDG 7 (improve the lives of urban slum dwellers).

- **USAID / Inter-American Alliance for Real Property Rights Blueprint:** Establishes standards and indicators for the evaluation of rights to property, land markets and systems of land administration in the Americas.
- **ILC / CAPRI:** Discussion paper on developing indicators of secure access to common property.

2. Types of Indicators

This section discusses sets of potential indicators that others have identified.

A. Dano Wilusz, paper on Indicators of Secure Tenure over Common Property, prepared for ILC

Four types of existing indicators are most relevant to common property settings:

1. Trends within populations of “CPDPs” or common-property dependent persons
2. Presence of conflicts
3. Perceptions of future rights by CPDPS
4. Documentation of rights

In addition, indicators that measure institutional performance would be valuable to assessing rights in common property systems – measuring security of tenure as a function of certain characteristics of the institutions or organizations involved in managing land and resources as common property.

B. Millennium Challenge Corporation (MCC)

MCC has identified three sets of indicators for use in assessing project opportunities: IFAD’s indicators for access to land, IFC’s indicator of days needed to register property, and IFAD’s indicators of the costs to register property. The IFAD access to land indicator includes five components:

- Extent of tenure security provided to the poor by law
- Extent of tenure security provided to women, indigenous peoples and other vulnerable groups by law
- Extent to which registration and titling is facilitated by law
- Status and functioning of formal land markets
- Extent to which regulations recognize the management of land and resources as common property

3. Levels of coverage by indicators

Indicators can refer to different levels: local, national, global. Obviously, each one corresponds to different characteristics. This was reflected in discussion on indicators in Indonesia [at IASCP global conference on Common Property in 2006]:

- *Community level.* Indicators that are **useful to** and **usable by** community members to track security of rights to the commons – both by groups and individuals within groups – can play a role in empowering communities to claim and defend rights to the commons. Indicators can help community groups identify trends that affect their livelihood, and integrate this information into community organizing and local campaigns.
- *National level.* Indicators that depict how tenure security is changing over time on a country-wide basis can link rights to the commons to other changes in the national context, such as policy or legal reforms. Focusing at this level may provide analysis that can support campaigns for national reform, improve the accuracy of existing administrative data on the commons, or increase the accountability of national governments in the implementation of laws or regulations related to the commons.
- *Global level.* Indicators at the global level might be useful in making comparisons across countries, or to bolster analysis of the links between global policy trends and security of tenure over the commons. This could be valuable in terms of increasing visibility in international forums of the links between access to the commons and other global development priorities, such as the eradication of hunger and poverty or environmental sustainability.

4. *Heterogeneity*

Heterogeneity in relation to rights to natural resources is very broad and common. Rural societies may vary significantly in terms of political, social and cultural organization, and have distinct historical processes (colonial presence, agrarian reforms, level of market insertion, etc.), as well as very different kinds of resources. The more universal the indicators, the less specificity it may give to regional and national contexts. Possibly a middle road is desirable: a combination of universal indicators along with more context-specific ones. For this work, the intention is to develop some indicators for the Andean region as a whole, and more specifically for the physical and social characteristics of three countries, Bolivia, Ecuador and Peru.

VI. Review of proposed indicators [section not translated]

VII. Indicators and Specificities for Rural Society in Peru

1. Mapping of rural society in Peru

It has been noted that rural situations are very heterogeneous. This section intends to make a typology of right-holders, in order to locate their rights and their place in social and power hierarchies.

| Type of productive unit | Socioeconomic subject | Principle characteristics |
|---|--|---|
| Large agro-enterprise | Corporate investors with diverse economic interests | Modern enterprise, quite possibly linked to international markets. May control hundreds of hectares of land. May be part of larger economic holdings, and/or property of foreign investors. Modern technology and management, high level of capital investment. Managed by technical professionals; labor is salaried. Almost exclusively in the coastal area. |
| Modern agro-livestock enterprise | Agro-business | Modern enterprise, dedicated to export, domestic market and/or supplying agro-industry. Modern management and technology, with high level of capital investment. Labor is salaried. Holds between 30-100 hectares. Mainly in coastal region; some presence in mountains and more in the upland forest areas (<i>selva alta</i>). |
| Medium-scale agro-livestock enterprise | Agro-business | Land areas are smaller than groups above; also less professionalized and have fewer socioeconomic linkages. Have many modern characteristics, particularly management and technology. Medium-level capital intensity. Labor is salaried; there may be significant work role by family. Most present in the coastal area, but also in the valleys and in upland and low forests. |
| Small, specialized commercial agriculture | Medium-scale commercial farmers (<i>agricultores</i>) and families | Areas less than 20 hectares. Medium level of professionalization; few socioeconomic links. Show some entrepreneurial characteristics. Management by family; labor is mostly family. Technology is in process of modernization; capital intensity is limited. Many on the coast, but also in valleys and in the upland and lowland forest areas. |
| Small-scale commercial agriculture | Smallholder commercial farmers (<i>agricultores</i>) and families | Areas less than 10 hectares with low irrigation. Integrated to markets, but also some production for direct consumption. Management, labor is family; occasional contracting of outside labor. Technology is more traditional. Household income is supplemented with off-farm income. Many on the coast, but also in valleys and in the upland and |

| | | |
|---|---|--|
| | | lowland forest areas. |
| Small, family farmers (<i>campesinos</i>) | Smallholder farmers (<i>campesinos</i>) and families | Generally carries out, in manners similar to group above, multiple activities besides farming and livestock, including via seasonal migration. Family management. |
| Smallholder farming communities (<i>campesinos comuneros</i>) | Smallholder farmers (<i>campesinos</i>) and families | Similar to group above, but member of a farming community (<i>comunidad campesino</i>). This group constitutes the majority of the peasantry. |
| Land-poor farmers (<i>minifundista</i>) | | Refers to families which do not possess sufficient resources – land, in particular – to survive, let alone improve their socioeconomic conditions. Agricultural activities must be complemented by other activities. |
| Indigenous communities | Ethnic indigenous groups | Extended families of ethnic groups that live in the Amazon region. Control vast territorial areas. |

2. Mapping of types of threats to secure land rights among smallholder farmers, peasants, land-poor farmers and indigenous communities.

| Social group | Economic threats | Political / Policy threats | Social threats | Institutional deficiencies |
|---|---|--|--|--|
| Smallholder comercial farmers (Aprox. 380,000 families, with 5-20 ha.) (1) | Lack of or insufficient access to productive inputs impedes efficiency, places at risk property rights (e.g., land embargoes) | Lack of titles and registration of lands | | Lack or insufficient access to means of production (because of formal barriers) |
| <i>Campesino</i> communities in the Andean region (Aprox. 6,000 communities, including 3 million people, or 40% of the rural population) (2) | Presence of large-scale mining | - Laws that favor of large investors over communal lands - large-scale irrigation projects in comunal lands, destined for large private investors - terrorist violence - return of refugees from terrorist violence | - Conflicts among communities - conflicts within communities | - Lands considered abandoned by the government (but are really without water) - Lack of titling and registration of communal lands |
| Indigenous communities (Amazon region) (Aprox. 300,000 people in 1,345 indigenous communities) (3) | - Presence of large-scale mining (gold) and oil exploration - Abuses because of lack of information about market regulations by indigenous communities | - Conflicts with government agencies - terrorist violence - “Silent” violence by mining and timber companies | - Occupation of Amazon forest areas by migrant farmers, drug-traffickers, terrorist groups - Ocasional violence by new migrants | - Inadequate legislation and/or lack of implementation and monitoring of existing regulations - lack of titles and registration - Lack of official |

| | | | | |
|---|-----------------------------------|--|--|--|
| | | | | recognition of common property. |
| Migrant farmers (migrants from the Andean region to the Amazon basin) | Mining companies | | | - Lack of titles and registration |
| Peri-urban farmers and peasants | Expanding interests by urbanizers | | | Laws that favor the interest of urbanizers |
| Landless peasants | | Public investments in large-scale irrigation that exclude the landless | | |

VIII. Our proposal for classifying types of indicators

This will be sent around at the end of the first week of the e-forum