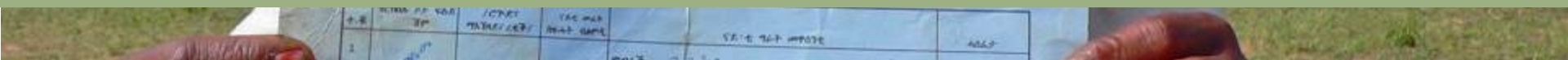




Policy induced constraints to intensification & land market operation: Evidence from 10 African countries



# Some stylized facts on land in Africa

- ▣ **Farmers are rational and respond to incentives**
  - Inverse farm-size productivity relationship evaporates if profits used
  - Fragmentation helps minimize risk and crop shocks
  - Land market participation depends on transaction costs
- ▣ **Tenure security key constraint, especially for women**
  - Credit effects are -at best- some way in the future
  - Reduction of transaction cost in land rental markets in Rwanda
  - Investment impact in Rwanda (double for women)
  - High demand for more secure tenure (Tzn, Nigeria), especially from women
  - But often the Government is at the root of insecurity (e.g. Nigeria)
- ▣ **Institutional & political economy issues often neglected**
  - Insecurity from many sources (urban expansion, expropriation, parks)
  - Simple fixes transferred from elsewhere of limited use
  - Institutions do not serve the majority of land users
- ▣ **A broader view of land governance is needed**
  - Linked to local processes: Diagnostic, advice, and monitoring

# Key issues to be considered

## ▣ **Legal & institutional framework**

Laws & institutions recognize existing rights and allows users to exercise them at low cost, in line with their aspiration, and in ways that benefit society as a whole. Policies are clear, equitable, gender sensitive, and their implementation is monitored.

## ▣ **Land use planning & taxation**

Land use planning and taxation avoid negative externalities, allow provision of services at low cost, and support effective decentralization

## ▣ **Management of state land**

State land is unambiguously identified and managed efficiently to provide public goods; expropriation is used as a last resort for public purposes only with quick payment of fair compensation and effective appeals mechanisms; divestiture of state lands is done in a transparent way that maximizes public benefit

## ▣ **Public provision of land information (registry & cadastre)**

Spatial & textual information on land ownership is accessible, comprehensive, current, reliable

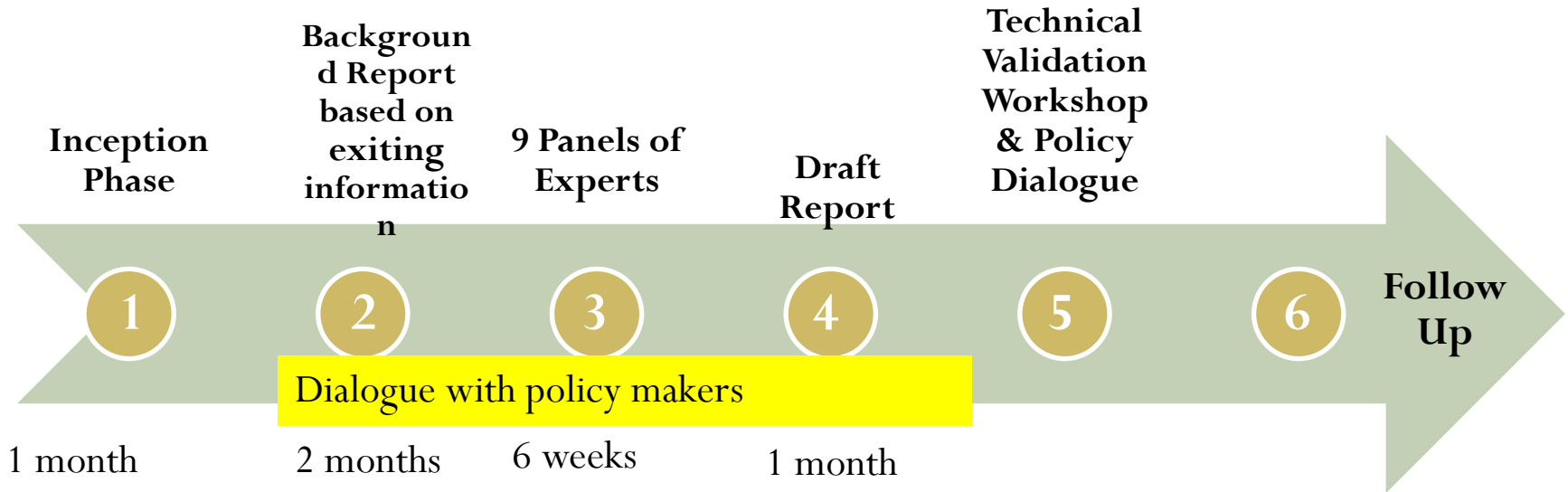
## ▣ **Dispute resolution & conflict management**

▣ Interested parties have access to institutions that have well-defined mandates to authoritatively resolve dispute and effectively manage conflict

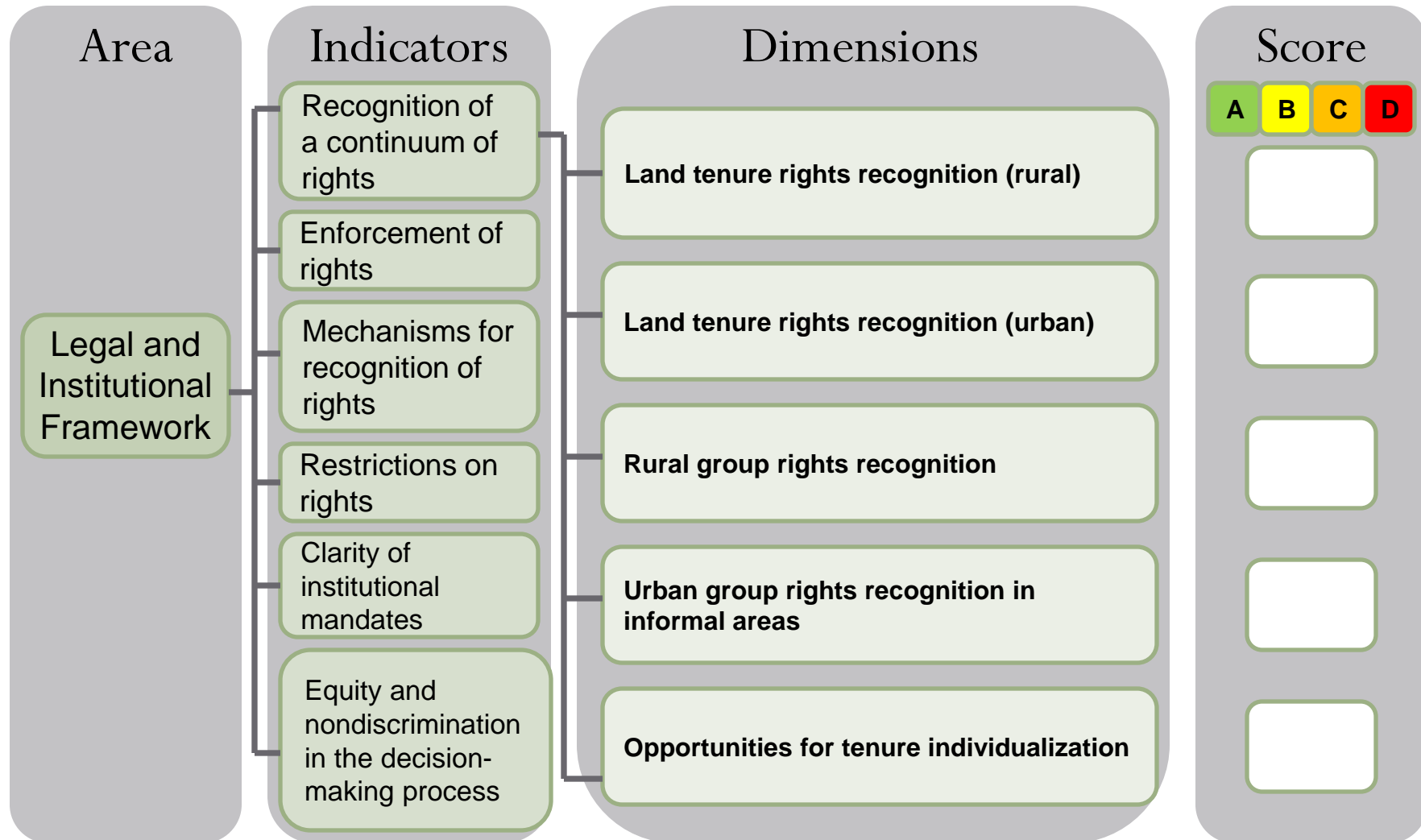
## ▣ **Large scale land acquisition**

Lands to be transferred to investors are identified in the context of a broader strategy, accessed on terms agreed with local stakeholders, public, create benefits for the local economy, with potential for redress where needed

# The Process



# Integrate this into a self- assessment



# Coded responses based on global experience

## LGI 16, Dim. I

Mapping/  
charting of  
registry  
records is  
complete

### Assessment

- A – More than 90% of records for privately held land in the registry are readily identifiable in maps held by the registry or the cadastre.
- B – Between 70% and 90% of records for privately held land in the registry are readily identifiable in maps held by the registry or the cadastre.
- C – Between 50% and 70% of records for privately held land in the registry are readily identifiable in maps held by the registry or the cadastre.
- D – Less than 50% of records for privately held land in the registry are readily identifiable in maps held by the registry or the cadastre.

# Implementation methodology

- ▣ Pre-coded framework based on global experience
- ▣ Led by a local country coordinator, working with national specialists to prepare background analysis
- ▣ Using existing studies, information and data
- ▣ Rankings assigned by panels of local experts (land users)
- ▣ Goal is to arrive at consensus scoring
- ▣ Results validated in national technical workshop, translation into policy recommendation
- ▣ Present conclusion to policy makers for concrete follow-up



# Implementation status

Pilots	Completed	Ongoing	-starting
Benin	Congo	Bangladesh	Burkina Faso
Ethiopia	Georgia	Brazil	Burundi
Indonesia	Ghana	Cameroon	Guinea
Kyrgyzstan	Madagascar	Colombia	Honduras
Peru	Malawi	Rwanda	
Tanzania	Nigeria	South Sudan	Tanzania
	South Africa	Mali	
	Ukraine	Vanuatu	
	Senegal	Vietnam	
	Gambia		
	Mauritania	India, Sudan	
	Moldova	Uganda	



# 1. Recognition and Respect for Existing Rights: Legal and Institutional Environment

	DRC	GMB	GHA	MDG	MWI	MRT	NGA	ZAF	SSD*	SEN
<b>Recognition of a continuum of rights</b>										
Land tenure rights recognition (rural)		A	A	A	B	C	A	B	C	A
Land tenure rights recognition (urban)	A	A B	A	C	C	A	A	B	D	C
Rural group rights recognition	C	C	A	B	C	C	C	B	B	A
Urban group rights recognition in informal areas	B	C	B	D	C	B	C	C	C	C
Opportunities for tenure individualization	D	C	B	A	C	A	C	C	C	B
<b>Enforcement of Rights</b>										
Mapping/registration of communal land	D	D	D	D	D	D	D	D	D	D
Registration of individual rural land	D	D	D	D	D	D	D	A	D	D
Registration of individual urban land	D	A D	D		C	A	D	A	C	D
Formal recognition of women's right		D	D	C	C	A	D	A	D	D
Condominium regime	A	C	C	A	C	D	B	A	D	A
Compensation due to land use changes	D	C	C	C	C	B	B	B	D	B
<b>Mechanisms for recognition of rights</b>										
Non-documentary evidence to recognize rights	B	A	C	C	B	B	C	C	D	C
Recognition of long-term possession	B	D	C	A	B	A	D	C	A	D
Formal fees for 1st time registration low		D	C	D	B	B	D	D	C	D
No high informal fees for 1st time registration		D	D	D	B	A	C	B	D	A
Formalizing housing is feasible & affordable	C	C	C	D	D	A	C	C	C	B
Clear process for formal recognition of possession	D	B	C	B	B	D	C		B	
<b>Restrictions on Rights</b>										
Restrictions on urban land use, ownership and transferability	B	A D	B	B	B	C	B	B	C	B
Restrictions on rural land use, ownership and transferability	B	A	B	B	B	D	B	B	D	B
<b>Clarity of Institutional Mandates</b>										
Clear separation of institutional roles	B	C	B	C	C	C	B		D	
Institutional overlap	C	C	C	B	C	D	C		D	
Administrative overlap	C	C	B	B	B	A	B		D	
Information sharing among institutions	B	D	B	D	C	D	B		D	
<b>Equity and Nondiscrimination in the Decision-Making Process</b>										
Clear land policy developed in a participatory manner		D	B	C	B	D	C	C	C	
Meaningful incorporation of equity goals		D	C	B	C	A	C	C	C	
Cost of implementing policy is estimated, matched with benefits, and adequately		D	C	B	C	D	D	C	D	
Regular, public reports indicating progress in policy implementation		D	C	B D	D	D	D	C	D	

\*Scores yet to be validated

## 2. Land Use Planning, Management, and Taxation

	DRC	GMB	GHA	MDG	MWI	MRT	NGA	ZAF	SSD*	SEN
<b>Transparency of Land Use Restrictions</b>										
Urban planning based on public input	D	D	B	B	D	C	C	B	D	A
Rural planning based on public input	C		D	B	D	D	D	B		B
Public capture of changes in land use	C	D	C	D	D	C	C	B	D	C
Speed of land use change	B		B	B	A	B	D	A	D	C
<b>Efficiency of Land Use Planning</b>										
Planned development process: Largest city	B	C	C	B	A	B	D	A	D	C
Planned development process: Next 4 major cities	D	C	C	C	C	C	D	A	D	C
Planning copes with urban growth	D	D	C	C	C	C	C	C	C	C
Plot size adherence	B	A	C	D	D	C	C	A	C	D
Plans for other uses in line with reality	C	D	D	B	C	D	D			A
<b>Speed and Predictability</b>										
Requirements for building permits are affordable/transparent	C	B C	C	C	C	C	C	B	B	A
Time to get building permit	A	A	C	C		B	C	A	A	B
<b>Transparency of Valuations</b>										
Clear process of property valuation	C	D	C	C	B	D	C	A	D	C
Public availability of valuation rolls	B	D	C	B	A	C	C	A	D	D
<b>Tax Collection Efficiency</b>										
Property tax exemptions justified	B	A	C	C	A	A	B	A	D	B
Completeness of tax roll	C	D	D	C	A	C	D	A	D	D
Assessed property taxes are collected	C	D	C	D	A	C	C	B	D	D
Taxes higher than cost of collection	C	A	C	B	A	A	D	A	D	D

\*Scores yet to be validated

### 3. Management of Public Land

	DRC	GMB	GHA	MDG	MWI	MRT	NGA	ZAF	SSD*	SEN
<b>Identification and Clear Management of Pulic Land</b>										
Public ownership is justified	B	C	B	B	B	D	C	B	D	B
Complete recording of public land	A	C	C	C	B	D	C	A	C	C
Management responsibility for public land is clear	B	D	B	B	C	B	C	B C	D	B
Institutions are properly resourced	C	D	C	D	C	C	D	C	D	D
Public land inventory with public access	C		C	D	C	D	C	B	C	
Key information on land concessions is public	C		B	C	C	A	B	C	C	C
<b>Incidence of Expropriation</b>										
Expropriated land is used for private purposes	A	A	A	B	A	A	C	A	D	A
Speed of use of expropriated land	A	A	D	A	A	A	C	A	D	A
<b>Transparency of Expropriation Procedures</b>										
Fair compensation for expropriation of ownership	C	A	C	C	B	A	C	A	C	B
Fair compensation for expropriation of other rights	C	C	C	C	C	A	C	C	D	C
Promptness of compensation	D	D	D	C	C	D	D	B	D	A
Independent & accessible appeal	D	C	C	B	A	A	D	B	C	C
Time it takes for a first-instance decision on an appeal	D	D	D	C	A	C	C	D	C	D
<b>Transparent Processes for Divestiture</b>										
Openness of public land transactions	D	D	D	D	D	D	D	D	D	D
Collection of payments for public leases	D	A	D	C	D	A	C	C	C	D
Modalities of lease/sale of public land	D	B	D	D	B	D	B	C	D	D

\*Scores yet to be validated

## 4. Public Provision of Land Information

	DRC	GMB	GHA	MDG	MWI	MRT	NGA	ZAF	SSD*	SEN
<b>Completeness of Registry Information</b>										
Mapping of registry records	D	A	B	D	B	C	D	A	D	B
Relevant private encumbrances	A	C	A	C	A	B	A	A	D	A
Relevant public restrictions	A	D	C	D	A	C	C	C	D	A
Searchability of the registry	D	A D	C	C	A	B	A	A	A	C
Accessibility of registry records	A	B	A	A	B	A	B	A	C	A
Timely response to requests	C	A D	B	C	B	D	C	A	D	B
<b>Reliability of Registry Records</b>										
Registry focus on client satisfaction	D	D	B	D	B	D	D	C	D	D
Cadastral/registry info up-to-date	C	D	B	C	C	C	D	A	D	B
<b>Cost Effectiveness, Accessibility, and Sustainability</b>										
Cost for registering a property transfer	B	D	C	D	D	B	D	C	D	D
Financial sustainability of registry	A	A	D	B	D	D	D	A	C	A
Capital investment in the system to record rights	C	D	C	C	D	D	D	A	C	B
<b>Transparency</b>										
Schedule of fees for services is public	A	B	C	B	B	A	C	A	D	A
Informal payments discouraged	D	D	D	C	D	B	B	A	D	D

\*Scores yet to be validated

## 5. Dispute Resolution and Conflict Management

	DRC	GMB	GHA	MDG	MWI	MRT	NGA	ZAF	SSD*	SEN
<b>Assignment of Responsibility</b>										
Access to conflict resolution	B	A	B	A	B	A	B	B C	B	B
Informal dispute resolution is available and recognized	A	C	A	C	C	A	A	C	D	C
Scope for forum shopping minimized	B	B	B	B	C	C	B	C	C	C
Possibility of appeals at reasonable cost	C	C	C	C	C	A	C	C	C	B
<b>Low Level of Pending Conflict</b>										
Land disputes in the formal court system are low	C	C	C	B	B	C	B	A	D	B
Speed of formal resolution	D	D	D	D	D	D	D	D	D	C
Number of long-standing conflicts	D	D	D	C	C	C	D	D	D	C

\*Scores yet to be validated

# Large Scale Land Acquisition

	DRC	GHA	MDG	NGA	ZAF	SSD*	SEN
<b>LSLA</b>							
Most forest land is mapped; rights are registered	C	D	C	D	A	D	D
Few conflicts generated and how they are addressed	D	D	D	D	C	D	D
Land use restrictions on rural land parcels generally identifiable	A	D	C	D	C	D	D
Clear, consistent public institutions in land acquisition	D	C	C	D	C	C	D
Incentives for investors are clear and consistent	A	C	B	C	C	C	A
Benefit sharing mechanisms for investments in agriculture	C	C	C	C	C	D	D
Direct/transparent negotiations between right holders and investors	D	B	C	C	D	D	B
Sufficient information required from investors	D	C	B	C	D	D	A
Investors provide required information	C	B	C	C	C	C	C
Contractual provisions on benefits/risks sharing	D	D	D	D	D	D	C
Duration of procedure to obtain approval	D	D	D	B	C	D	A
Social requirements clearly defined	D	D	B	D	C	D	B
Environmental requirements clearly defined	D	C	A	D	C	D	B
Procedures for economically, environmentally, and socially beneficial investments	D	D	B	C	C	D	D
Compliance with safeguards is checked	D	D	D	D	C	C	C
Procedures to lodge complaints	D	D	C	D	C	D	C

\*Scores yet to be validated

# Insights & challenges I

- ▣ **Rights may be recognized on paper but not in practice**
  - Women's rights not registered, difficult to transfers
  - Little demarcation of communal lands – no decision-making structures
  - Secondary rights (overlapping resource rights) often not even recognized; resolve disputes
- ▣ **Public land management non-transparent**
  - Public interest not clearly defined (and root title with state)
  - Unclear rationale, no demarcation, over-acquisition with encroachment
  - Non-transparent divestiture of public land
  - Unclear responsibilities & overlaps (planning/rights) create additional uncertainty
- ▣ **Land use planning/zoning ad hoc & non-participatory**
  - Weak definition of rights, mis-information land-related corruption
  - Restrictions/zoning imposed without consultation – benefits often lost
  - Anything that goes to court stays there for a long time
- ▣ **Unsustainable ways of urbanization**
  - Ease of defining urban expansion zones: Reduce investment in most productive areas
  - Expropriation easy, compensation late or non-existent
  - Cost of services skyrockets – and informality institutionalized



# Insights & challenges II

## ▣ **Uncoordinated land institutions**

- Silos that fail to link to existing information (tax maps)
- Partial legalistic approaches that serve the elite only
- Monopolies by surveyors/notaries to protect rents rather than deliver value
- Focus on (individual) first-time registration rather than maintenance
- Few incentives to improve – no response to demands

## ▣ **Much potential for land tax revenue generation unused**

- Weak systems; no capacity/incentive for updating to reflect actual potential
- Few incentives for revenue collection for local governments
- Institutional reform (upside down), establishment of private surveyors

## ▣ **Large scale land acquisition brings problems to a point**

- Unable to integrate into broader land use plan/development strategy
- No information on existing land rights – have to negotiate ad hoc locally (impose)
- Lack of capacity for technical vetting, community support, incentive structures
- No publicity of contracts to clarify obligations & create security/commitment
- Mechanisms for arbitration/redress or bankruptcy undefined

# Advantages of the LGAF

- ▣ **Self-assessment, not ‘preaching’ by outsiders**
  - Helps people from different silos to talk to each other
  - Creates continuity across political regimes
  - Highlights magnitude of challenges; no easy fixes/magic bullets
  - Diagnosis only, requires more in-depth follow-up in priority areas
- ▣ **Starting point for monitoring**
  - AU political mandate can help to continue process; support by DPLs
  - 2-3 quantitative indicators per main topic area to quantify
  - Integration of more specific questions in hh survey modules
  - Linking spatial (admin.) land information to hh surveys & imagery
- ▣ **Comparable format highlights one can do better**
  - Help use in policy dialogue
  - Technical nature of instrument: Good practice exists
  - Philippines (indigenous rights), Brazil (LUP), Georgia (registry)

# Implications for research

- ▣ **Capacity building to feed into policy dialogue**
  - Institutionalize local efforts
  - Document benefits from proper arrangements
  - Quantify issues & support WGs to push agenda for reform (realistic targets)
  - Define meaningful indicators to monitor implementation
- ▣ **Evaluate & guide pilot efforts**
  - Efforts to increase tenure security multiplying but weak designs
  - Highlight issues in implementation to keep momentum
- ▣ **Link administrative and hh survey data in monitoring**
  - Land use monitoring (concessions in Malawi & elsewhere)
  - Link spatially explicit admin. data to hh outcomes