



## **LEGEND Analytical Paper: Addressing land disputes in private sector or development interventions**

### **Terms of Reference**

#### **Background**

Land disputes remain widespread in many low and middle-income countries, often arising within and between 'communities'. They include disputes over boundaries or tenure rights, conflict linked to overlapping resource uses, and contestation over the authority or legitimacy of customary chiefs.

These intra- or inter-community land disputes may be associated with growing land scarcity, especially in high-value areas, and profound social transformations – particularly urbanisation, agricultural commercialisation, the rise of the cash economy, changing social differentiation, the emergence of unregulated land markets, and the erosion of traditional tenure systems. Land disputes are particularly difficult to address when entangled with ethnicity, politics and armed conflict.

Intra- or inter-community land disputes can profoundly affect the agricultural development and investment context, as development projects or commercial investments may find themselves entangled in complex disputes that had not been properly identified at project design stage.

For example, evidence suggests that some land disputes arising from the recent wave of agribusiness investments were rooted in pre-existing disputes between customary chiefs (with the company having acquired a land lease from one chief, triggering contestation from supporters of the other chief), or between different lineages (with one group contesting investments supported by the opposing faction).

If not properly identified and addressed, intra- or inter-community land disputes can evolve into investment-related disputes. Experience also illustrates how neglected land disputes can undermine development projects, for example where ill-designed irrigation development projects unwittingly fuelled land conflict.

Addressing land disputes, and the risks associated with them, is an important part of promoting supportive development and investment climates. Equally, companies, their investors, DFIs and development agencies need to identify intra- and inter-community land disputes, their potential reverberations, and practical ways to address them at different stages of project development and implementation. Currently, databases used to assess investment risk do not have appropriate indicators, data, and systems available to assess the conflict risk related to tenure issues.



There is considerable literature on intra- and inter-community land disputes in low and middle-income countries. Field-based ethnographic and other academic research has explored these issues in particular contexts. There are also some regional-level overviews, particularly in relation to sub-Saharan Africa, and valuable tool-kits such as the Initiative on Quiet Diplomacy's handbook on "Land and Conflict Prevention".

However, some of this material is not accessible to practitioners, whether in development aid or the private sector. There is little research and there are next to no robust tools on how private sector or development actors can identify and address land disputes capable of affecting their operations.

### Scope of work

The analytical paper will provide clear pointers on how to identify and address intra- and inter-community land disputes in the context of development or private sector projects, focusing on the agriculture sector. The paper will:

- i) Develop a brief, simple typology of land disputes and their documented or potential reverberations for agribusiness investments and development interventions;
- ii) Distil lessons from practical approaches to identify and address land disputes at different stages of project development/investment deal identification and implementation; and
- iii) Develop a clear set of actionable recommendations both for public policy and for development and private sector practice, to ensure that investments 'do no harm' in the context of land disputes and that donor-funded programmes do no harm and maximise development impacts<sup>1</sup> and to minimise disputes in the context of private sector investments.

The paper is expected to result in more grounded understanding of 'land tenure risk', and in clear ways forward for policy and practice. The findings will be presented in an analytical paper and in a short briefing note targeting an audience of policy makers and development and private sector practitioners.

### Methods

The paper will draw on a literature review, covering both research and 'grey' literature. It will primarily draw on experience from selected country cases in sub-Saharan Africa (e.g. possibly Sierra Leone, Tanzania) and Southeast Asia (e.g. Myanmar). Country selection will be finalised based on discussions with LEGEND CLST and DFID.

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<sup>1</sup> See e.g. "How Aid Organizations Become Party to Land Conflicts: An Exploration of Peacebuilding and Development Programs in Eastern Congo and Do No Harm", <https://repository.library.georgetown.edu/handle/10822/1040723>; "Public Overseas Investments: Ensuring Respect for and Protecting Legitimate Land Tenure Rights. A Rapid Evidence Assessment", <http://r4d.dfid.gov.uk/Output/201893/Default.aspx>.



Developing a clear conceptual framework for analysing the material, and providing actionable recommendations and concrete ways forward for both policy and practice, are a key part of the assignment.

Detailed methodology, conceptual framework and an annotated report outline to be proposed by the consultant(s) and finalised based on discussions with LEGEND CLST.

## Outputs

- A 30-page max Analytical Paper in plain English summarising findings. Consultant(s) to propose an annotated outline covering the following issues: i) introduction, including topic and rationale, methods and limitations, structure of the paper; ii) brief/simple typology of intra- and inter-community land disputes, based on evidence from the literature review, including reverberations for development programmes and private sector investments; iii) ways to identify and address intra- and inter-community land disputes at different project stages; iv) conclusion and actionable recommendations. Examples of previous analytical papers are [Tackling corruption in land governance](#) and [Addressing 'Legacy' land issues](#).
- A four-page briefing note summarising key findings and actionable recommendations for an audience of policy makers and development and private sector practitioners.

## Budget

A maximum of 38 days is allocated to this consultancy contract. This includes 30 days for a consultant and 8 days for a research assistant. Please indicate your fee rate in your Expression of Interest application.

## Timeline

Time	Outputs delivered by the consultants
1 October 2016	Annotated outline and methodology
2 December 2016	First draft Analytical Paper
13 January 2016	Revised draft Analytical Paper, draft briefing note
1 February 2017	Revised briefing note
28 February 2017	Publication of Analytical Paper and briefing note

**NB** A more detailed timeline reflecting LEGEND CLST Quality Assurance process will be shared with the consultants at contracting stage.

## Expression of Interest deadline

The deadline for expressions of interest is **Thursday, 8<sup>th</sup> September 2016**. Please send CV(s) and a short note (one page) outlining the approach you would take to work on the paper to [legend@odi.org.uk](mailto:legend@odi.org.uk) For additional information about this EoI, please contact Lorenzo Cotula, [lorenzo.cotula@iied.org](mailto:lorenzo.cotula@iied.org) or Ore Kolade, [o.kolade@odi.org.uk](mailto:o.kolade@odi.org.uk) .