
LEGEND

*Land: Enhancing Governance
for Economic Development*



Briefing

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Agri-investments and land disputes

**How to resolve pre-existing community conflicts
over land identified for commercial or development
projects**

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Who this briefing is for

This note is for public and private sector project implementers (commodity producers, government bodies, and NGOs) and financers (development finance institutions, international development agencies, commercial lenders and equity investors) seeking to invest responsibly in new greenfield sites in low and middle-income countries. It aims to provide practical guidance on identifying and addressing community land conflicts to prevent them escalating into disputes between the project and local communities.

Introduction

Over the past decade, a spike in demand for agricultural land in developing countries has generated a great deal of political and media attention. While many investments bring opportunities for communities, some have wrongfully pushed residents and workers off their lands or have caused social and environmental harm. Some development projects, including agroforestry initiatives and irrigation schemes, have also become embroiled in land conflict.

In some cases, disputes between project developers and communities are rooted in pre-existing conflicts within or between communities. Such conflicts are common in countries where land governance is weak, yet can be hard

for newcomers to spot. Failure to identify and address these conflicts in a timely manner can result in disputes escalating into wider conflicts that affect commercial or development projects.

These wider conflicts can negatively impact communities, causing serious harm to vulnerable groups. This includes effects on people's livelihoods, which may significantly depend on acquired land and resources. But it includes wider effects too. Land is often more than a commodity to be traded. It can carry religious or cultural meaning and represent the backbone of a local economy.

Left unaddressed, escalating land disputes can result in project delays, increased operational, labour and legal costs, supply chain issues, damage to property, security concerns, and reputational harm. Costs may be high and drawn out, nullifying return on investments or resulting in stranded assets. Investors may be inadvertently complicit in the wrongful displacement of people, which can lead to revocation of operational licenses or undermine their social license to operate.

Causes and types of community land conflict

Land conflicts can result from historical injustices, ill-advised government policies, conflicts of interest, corrupt leadership, or more generally from competition over land and resources. Conflicts can be clearly apparent,

involving violence or damage to property, or may be latent or dormant. By raising the economic stakes in the area, new commercial or development projects can revive old conflicts, and ignite ongoing tensions. Watch out for common types of land conflict detailed in the table below.

Five warning signs of community land conflict

There are often signs that community land conflict may exist. Look for the following five drivers of land conflict as part of your due diligence checks.

- i. **Population increases.** As towns and villages grow, people begin to compete over increasingly scarce land and resources. This can cause younger generations to worry about their future and families to fight over inheritance claims.
- ii. **Migration into the area.** Some communities may expand into new areas in search of farmland, forests, pastures or water. Authorities may also ask people to relocate to make way for new infrastructure. Such migration can drive up land value, put pressure on resources, and create tensions between ethnic groups.
- iii. **Increases in land value.** Where ownership is unclear, increases in land or resource values can trigger conflict. Officials and community leaders may be tempted to profit unfairly from such increases, and the discovery of valuable minerals can trigger a rush to lay claim to land.
- iv. **Previous land transfers.** Transfers may mean that communities lose homes, livelihoods and access to important resources or sacred sites. They may be unable to expand and provide lands for their children. This can lead to subdivision of land into increasingly small parcels.
- v. **Unreliable land information.** Land records may be out of date, inaccessible or missing, and boundaries can be inaccurately mapped. Community understanding of borders may also not align with the official government position.

Project design and due diligence

Effective conflict management is best achieved when community land conflicts are identified and addressed in the due diligence or project design phase. The following five steps, which should be undertaken with the support of experts, can be used to integrate community land conflict into enhanced project risk assessments. They take time and cannot be rushed. Such activities are generally required as part of due diligence for agri-investments, but are especially important in the context of community land disputes as they are so difficult to identify.

Step 1: research the history, economy, culture and politics of the region

Get acquainted with the local area – is there a history of insecurity and conflict over land or other resources? Is the population changing? What are the local power dynamics, income sources, and resource patterns? How do people resolve disputes? Answering these questions can help investors and implementers identify red flags early on and develop strategies to address problems.

Step 2: get to know the national legal framework on land and dispute resolution, and customary rights and practices

The national legal framework should be thought of as establishing the minimum necessary standards an investment or project must meet. As countries with weak judicial and land governance systems may keep unreliable records and important customary rights may go unrecognised in law, it is important to think beyond national legislation and take rural practices into account during project design.

Step 3: review land disputes in the area and local land and court records

Review formal land and judicial records and consult with responsible government officials about existing land disputes. Take care, as even government assurances of

Disputes within communities

- **Leadership disputes:** Two or more people may claim to be the traditional leader of a community with the authority to allocate land or approve transactions. Negotiating with one leader exposes the project to the risk of contestation from other pretenders and their followers.
- **Generational disputes:** Young people may contest their exclusion from land allocation decisions, which is often in the hands of elders. Failure to reach out to young people could create resentment about the project.
- **Boundary disputes:** Families may dispute boundaries and disagree over access to resources, especially where population pressures are increasing. Local disputes may escalate if communities perceive the project to compensate the wrong people for loss of land and resources.
- **Discrimination against women:** Women's land rights are often ignored where customary practices prevail. Widows and children may face abuse from relatives who attempt to grab land following the death of a male head of household. Adhering to customary practices can entrench discrimination against women and implicate the project in such abuses.

Disputes between communities

- **Border disputes:** Border disputes between communities often result from poor record keeping or boundary demarcation, and can represent long-standing struggles over power and control. Traditional leaders sometimes allocate land to commercial or development projects to assert their authority over the land vis-à-vis neighbouring communities. Failure to engage all communities with a potential claim could cause land to be contested at a later date.
- **Disputes involving migrants:** Disputes with migrants exist even where so-called 'outsiders' have been around a long time. Reach out to migrants while being sensitive to landowner concerns that the project could strengthening migrants' tenure claims. 'Innocent' actions, such as naming the project after the closest village, or encouraging villagers to plant long-term tree crops, could spark tensions if that village is inhabited by migrants without the necessary customary tenure rights.
- **Disputes between pastoralists and settled farmers:** Disputes between these groups often arise over access to water, or when livestock destroy crops. New investments can add additional pressures to resources and pasture land, causing disputes to flare up – for example, if farming communities sell land traditionally used for grazing or transhumance.

a clean title may not stand up in court or be accepted by local community members. Never rely solely on formal records, as they may be inaccurate, missing or inaccessible. Gather information from a broad range of stakeholders.

Step 4: engage directly with the affected community

Visit the project site early and often to engage communities and get a sense of existing/prior disputes and how they might interact with the project. Conduct broad consultations, including with women and any migratory groups that use resources, to identify all who use the land, how they use it, and the nature and source of their rights.

Step 5: conduct participatory mapping exercises supported by GPS/satellite imagery

Participatory mapping exercises can help communities reach agreement on boundaries and bring land disputes to light. Use GPS and satellite imagery or other low-cost methods to demarcate borders. Substantiate findings with community members using a transparent validation process. In some cases, making the results of mapping exercises publicly available can improve landholders' tenure security.

Greenlighting, adapting, or cancelling a project

If disputes are identified, you will need to weigh up the costs and benefits of proceeding, relocating, modifying or abandoning the project. Compromises may be found in cases where a small percentage of the land is disputed. Where substantial resolution cannot be reached, serious consideration should be given to foregoing the project in the relevant area. If deemed feasible, resolution should be attempted before the final decision to proceed is made. To facilitate resolution, provide access to appropriate, equitable and accessible mechanisms; make technical or legal assistance available; and compensate or otherwise provide redress to claimants.

Formal versus informal resolution processes

In attempting to facilitate resolution of land disputes, investors should seek to fit within existing, culturally appropriate resolution practices. Formal approaches, including courts or special land tribunals, can be expensive, slow, and involve geographic and cultural barriers. Alternative dispute resolution, often faster and more cost-effective, either involves mediation to reach a mutually agreeable solution, or third party arbitration to decide whose rights prevail. Some traditional processes may not adequately consider the rights of women or may be inappropriate where customary authorities are involved in the dispute. In cases involving politicised issues, it may be beneficial to set up or support multi-stakeholder dialogue.

Agreement and operational phases

In the operational phase, it is advisable to detail processes for resolving active disputes in project agreements. All parties should co-design and agree on dispute resolution procedures and grievance mechanisms. Once the site becomes operational, conduct ongoing community engagement to track disputes and put robust risk management and monitoring systems in place to flag budding conflicts. Affected communities should be included in monitoring activities and understanding, managing and resolving disputes should be a key responsibility for staff.

Recommendations for project implementers

- Engage a broad cross-section of a community when considering a project location. It is particularly important to speak with less powerful individuals (particularly women) and groups to understand if their rights have been abused and if new investments would further cement discrimination.
- Seek guidance from knowledgeable local counsel and academics, consultants and land tenure experts, and business partners from the outset. International consultants can be helpful in locating local expertise.
- Strengthen organisational policies and provide corporate training on land rights to ensure staff understand the importance of land conflicts, how to identify and assess conflicts, and how to develop strategies to manage attendant risks and reduce harms. Consider making effective community engagement an indicator in staff performance reviews.
- Continue to monitor for signs that disputes might resurface. Integrate land tenure issues into social and environment impact assessments and risk management or risk assessment tools.

Recommendations for project financiers

- Involve implementing partners and in-country staff with relevant experience in the design of projects, especially where they have knowledge relating to historical and current conflicts and local power dynamics.
- Make land tenure security a project activity. This could include raising awareness of land rights within the institution and among its external partners, building the capacity of local governance institutions, and supporting conflict resolution.
- Support participatory mapping exercises and, where appropriate, community dialogues and multi-stakeholder platforms.
- Continuously monitor and adjust activities to reflect changes in ongoing conflicts and perceptions of tenure security. Include land conflict indicators in monitoring and evaluation documents.

Land: Enhancing Governance for Economic Development (LEGEND) is a DFID programme that aims to improve land rights protection, knowledge and information, and the quality of private sector investment in DFID priority countries. It includes the development and start-up of new DFID country land programmes, alongside knowledge management activities, a challenge fund to support land governance innovations, and management of complementary DFID grants, MoUs and contracts, and supported by a Core Land Support Team.

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