

MODULE 8

SECURE TENURE RIGHTS TO LAND





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TARGET 1.4: *By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance*

Indicator 1.4.2: *Proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure.*

1.

INTRODUCTION

1.1 Background

Secure land and property rights for all are essential to reducing poverty because they underpin economic development and social inclusion. Secure land tenure and property rights enable people in urban and rural areas to invest in improved homes and livelihoods. Although many countries have completely restructured their legal and regulatory framework related to land and they have tried to harmonize modern statutory law with customary ones, millions of people around the world still have insecure land tenure and property rights.

Land tenure systems are diverse and complex. They can be formal or informal; statutory or customary; legally recognized or not legally recognized; permanent or temporary; of private ownership or of common property; primary or secondary. Tenure systems in many developing countries have been influenced by former colonial land policies that overlaid established patterns of land distribution. Thus, many national and local systems are made up of a multiplicity of overlapping (and, at times, contradictory) rules, laws, customs, traditions,

perceptions and regulations that govern how people's rights to use, control and transfer land are exercised.

Lack of access to land and the fear of eviction epitomize a pervasive exclusion of poor people from mainstream social, economic and civic opportunities, especially women and the vulnerable. To address these problems, tools and strategies to increase people's access to secure land need to be devised. Secure tenure rights to land and property are critical for poverty reduction and for improving economic development, gender equality, social stability and sustainable resource use. Secure land tenure and property rights can exist in a variety of forms in rural and urban areas. All forms of tenure should provide people with a degree of tenure security, with states protecting legitimate tenure rights, ensuring that people are not arbitrarily evicted and that their legitimate tenure rights are not otherwise extinguished or infringed.

The Philippines

Brief description of current tenure systems

Various tenure systems exist in The Philippines. These include private land ownership, where owners have titles and enjoy exclusive rights; public land, which is owned by the government and for which leasehold and permits can be granted for parts of public land; communal tenure in rural areas for indigenous communities who own land and resources collectively. In some forest areas, users only have usufruct rights.

Status of tenure security

Although The Philippines has tried to implement a redistributive land reform programme since the 1980s, land ownership is still characterized by huge inequalities between rich and poor people. This gives rise to tenure insecurities as policies regarding security tend to be biased towards the rich, politically influential property owners. There have been many improvements in tenure security; however, these are more through agrarian and constitutional reforms than land redistribution.

Land Tenure Security in Selected Countries: Synthesis Report. UN-Habitat (2014).

1.2 Rationale for Monitoring

Secure tenure is, in part, a matter of perception and relationships of trust and can be safeguarded by various mechanisms if the rights of land users and owners are clearly assigned. In addition to formal titles, security can be achieved through long-term rental contracts or formal recognition of customary rights and informal settlements. This range of possible forms of tenure are internationally recognized as being a ‘continuum of land tenure’, along which each form of tenure provides a different set of rights and different degrees of security and responsibility.

While some governments allocate varying degrees, and recognize a range of different forms of tenure as being legitimate, “tenure security” still tends to be strictly defined in more statutory forms of legal documentation, such as individual land titles. This has not only failed to reflect tenure realities on the ground, but it severely reduces the number of women and men who can afford such “formal” tenure security, particularly those living in poverty and other vulnerable groups in rural and urban areas.

Indicator 1.4.2 aims to measure the relevant part of target 1.4 which is to ‘ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, ownership and control over land and other forms of property, inheritance, natural resources. It helps assess policies that strengthen tenure security, embrace continuum of tenure rights and expand the legal recognition of the range of existing rights, to protect property and tenure security for all

including women, communities and territorial rights of indigenous people.

By tracking the extent to which these rights are documented (Part A), the indicator captures governments’ steps to formally grant legal documentation of tenure and protection of such rights.

By tracking individuals’ perceptions of their land rights as secure (Part B), the indicator captures the perceived economic, social, and political risks affecting individuals, their households, and their communities. Individuals may face different kinds of threats to their land rights. Examples of these threats include the possibility of losing land due to adverse economic circumstances, to conflict in their communities, to large-scale land acquisitions, or as it is often the case for women, to intra-family dynamics such as losing a husband. Documentation and perceptions provide fundamental and complementary information on tenure security.

Table 1: Perception of Eviction by Tenure Type and Trust on Authorities (component b)

GENERAL TENURE TYPE	% NOT AFRAID OF EVICTION	N	% TRUST AUTHORITIES	N
Dwelling owners	78.6	3170	24.4	178
Renters	77.8	757	20.3	36
Occupier/ invader	38.4	73	20.6	20
Number responded		5196		1004

Source: UN-Habitat (2010) Secondary analysis of Urban Inequities Survey data for Sao Paulo, SEADE (2006)

The findings indicate that the level of fear among the inhabitants of São Paulo is very high (Table 1). More than 20 per cent of owners or tenants are afraid of being evicted.

Although the reasons for their expressed fear was not captured during the survey, a closer look at the types of households shows that their tenure acquisition was not recognized by local authorities/government. For example, 61 per cent of occupiers and invaders of dwellings/land indicated fear of eviction.

The survey also sought to find out the people’s perceived confidence that the governments had capacity and intentions to protect the rights of evictees in the event of possible evictions. The findings revealed that the vast majority of the citizens of São Paulo – approximately 80 per cent – do not trust the government whether they are owners, renters or invaders.

Regular reporting on indicator 1.4.2 will provide an impetus to improve the availability of data from surveys as well as regularity of reporting on land administration service delivery to people by registries and other line agencies. Indicator 1.4.2 thus measures gender disaggregated progress in tenure security. This indicator will inform policy and allow for the assessment of specific outcomes and practical priorities for further improvements of tenure security in rural and urban areas. Regular reporting on the two components of Indicator 1.4.2 will:

- Provide incentives for governments to improve performance on progress with responsible land governance
- Inform governments and non-state actors to what extent countries’ legal and institutional frameworks recognize and support different land-tenure categories
- Provide information on implementation capacity to protect such rights in practice, as well as progress
- Identify the scope for additional action required at the country level as well as at a subnational level or for certain categories, geographic entities or ecosystems, and
- Provide for equity between men and women in land rights.

1.3 Monitoring and Reporting Process



DATA COLLECTION

Primary responsibility of national land agencies and National Statistical Organisations (NSOs). Administrative data is regularly collected by most countries and can be reported annually. Survey data will be available every 3 to 5 years depending on the frequency.



DATA RELEASE

The data will be released annually and the monitoring of the indicator can be repeated at annual interval, allowing for at least thirteen (13) reporting points until the year 2030.



CAPACITY DEVELOPMENT

UN Habitat and World Bank will work closely with country and regional statistical agencies and global partners to provide capacity development support for country data collection, analysis and reporting, as part of the national statistical capacity development (NSDS), in coordination with UNSD and initiatives to strengthen statistical capacity.

FAO, the World Bank, IFAD, UN Habitat, the Global Donor Working Group on Land, and other partners collaborating in the GLII platform will support capacity strengthening at country and regional level for data providers and reporting mechanisms; and promoting understanding of this indicator at all levels; and establish the link with other land governance monitoring efforts.

Coordination and support from Civil Society Organisations (CSOs), private sector entities, research and academia will be promoted and encouraged at national, regional and global consultations, with facilitation of GLII and other actors

1.4 Concepts and Definitions

Tenure security: All forms of tenure should provide all persons with a degree of tenure security, with states protecting legitimate tenure rights, and ensuring that people are not arbitrarily evicted and that their legitimate tenure rights are not otherwise extinguished or infringed.

Secure tenure rights: comprised of two sub-components: (i) legally recognized documentation and (ii) perception of the security of tenure, which are both necessary to provide a full measurement of tenure security.

Legally recognized documentation: Legal documentation of rights refers to the recording and publication of information on the nature and location of land, rights and right holders in a form that is recognized by government and is therefore official.

Perceived security of tenure: Perception of tenure security refers to an individual's perception of the likelihood of involuntary loss of land, such as disagreement of the ownership rights over land or ability to use it, regardless of the formal status and can be more optimistic or pessimistic. Although those without land rights' documentation may frequently be perceived to be under threat, and those with documentation perceived as protected, there may be situations where documented land rights alone are insufficient to guarantee tenure security. Conversely, even without legally recognized documentation, individuals may feel themselves to be protected against eviction or dispossession. Therefore, capturing and analysing these diverse ranges of situations will enable a more comprehensive understanding of land tenure security, based on a country specific context.

Total adult population: A country's adult population is measured by census data or through surveys using an adequate sample frame.

2.

HOW DO WE MEASURE THE ADULT POPULATION THAT HAS ACCESS TO SECURE TENURE RIGHTS?

This section focuses on the potential data sources, criteria for assessing adult population that has access to secure tenure rights to land and property. This analysis requires data on two components, legalized documentations/prove of ownership, and perception data on secure rights to land.

Demographic and Health Survey (DHS)

- Ownership of structure
- Ownership of land
- Document to prove ownership of house
- Written contract for the dwelling
- Security from eviction

Multiple Indicator Cluster Survey (MICS)

- Ownership of structure
- Ownership of land
- Documents to prove ownership
- Security from eviction

National Census

- Ownership of structure
- Ownership of land

Urban Inequities Survey (UIS)

- Ownership of structure
- Ownership of land
- Prove of ownership of house
- Prove of written contract for the dwelling
- Security from eviction
- Permits to sell land
- Permit to sell property
- Permit to develop the property

UNIT 1: METHOD OF COMPUTATION

Indicator 1.4.2 is composed of two parts: (A) measures the incidence of adults with legally recognized documentation over land among the total adult population; while (B) focuses on the incidence of adults who report having perceived secure rights to land among the adult population. Part (A) and Part (B) provide two complementary data sets on security of tenure rights, needed for measuring the indicator.

Part A: Legalized documentation

This component is people-centred and focuses on tracking what proportion of the population can demonstrate tenure rights to at least one plot of land relying on the type of legal documents that the government recognizes. In order to consider that a person has legally recognized documentation of their tenure rights to land three conditions must be met:

1. **Tenure:** The person must have access to land through a type of tenure arrangement that is recognized and protected by the government. **Recognized tenure agreements by governments vary from one country to another.**

Table 2: Types of Tenure systems and their characteristics

Tenure system	Characteristics
Tenure system	Characteristics
Freehold	Ownership in perpetuity
Delayed freehold	Conditional ownership. Title is granted on payment or when developments have been completed
Registered Leasehold	Ownership for a specified period from a few months to 999 years
Public rental	Rental occupation of State- owned land or house
Private rental	Rental of privately owned land or property.
Shared equity	Combination of delayed Freehold and rental in which residents purchase a stake in their property (often 50%) and pay rent on the remainder to the other stakeholder.
Co-operative tenure	Ownership is vested in the cooperative or group of which residents are co-owners
Customary ownership	Ownership is vested in the tribe, group, community or family. Land is allocated by customary authorities such as chiefs
Religious tenure systems (e.g. Islamic)	Islamic tenure has four main categories: 'Waqf' is religious trust land and addresses landlessness; 'mulk', is full individual ownership; 'miri', is state owned/controlled land which carries usufruct rights, Whilst 'musha/mushtarak', is collective/tribal ownership

Tenure system	Characteristics
Intermediate, or temporary, tenure systems	There are many pragmatic arrangements, including land certification, 'Certificates of Comfort', Temporary Occupation Licenses, etc.
Non-formal tenure systems	These include many categories with varying degrees of legality or illegality. They include regularised and un-regularised squatting, unauthorised subdivisions on legally owned land and various forms of unofficial rental arrangements. In some cases, several forms of tenure may co-exist on the same plot, (e.g. tenants and sub-tenants), with each party entitled to certain rights.

Table 3: Types of Tenure systems/rights coverage Survey Sheet

Tenure system	Urban HS	Rural HS
Freehold		
Delayed freehold		
Registered Leasehold		
Public rental		
Private rental		
Shared equity		
Co-operative tenure		
Customary ownership		
Religious tenure systems (e.g. Islamic)		
Intermediate, or temporary, tenure systems		
Non-formal tenure systems		
Total		

2. **Legal Document:** The person must possess a document that the government legally recognizes as a proof of rights. Government recognized legal documents vary from one country to another, it is enforceable under the law and serve as protection claim for an individual or group on tenure rights to land.

	TYPES OF DOCUMENTATION
Legal Documents	Land registration certificate
	Title deed
	Purchase agreement/receipt
	Lease agreement for land
	Certificate of occupation (without being registered another name adjudication certificate)
	Property tax certificate
	Community-issued certificate
	Utility bills
	Registered lease agreement
	Not registered lease agreement
	Informal agreement (written)
	Verbal agreement (no document)
	Occupied rent-free with knowledge of owner
	Occupied rent-free without the knowledge of owner

Table 4: Legal documentation Survey Sheet

Legal documentation survey		Tick where appropriate
Do you have property/tenure rights over this land/property or another property?	Yes	
	No	
What type of rights? (country specific coding)	Freehold	
	Delayed freehold	
	Registered Leasehold	
	Public rental	
	Private rental	
	Customary ownership	
	Shared equity	
	Co-operative tenure	
	Religious tenure systems (e.g. Islamic)	
	Intermediate, or temporary, tenure systems	
	Non-formal tenure systems	
	Others	

Do you have documentation of the tenure/property rights on this property and/or another property?	Yes, this property	
	Yes, some properties	
	Yes, all my properties	
	No documentation	
	Others	
What kind of document do you have for the ownership of this land/property?	Land registration certificate	
	Title deed	
	Purchase agreement/receipt	
	Lease agreement for land	
	Certificate of occupation (without being registered another name adjudication certificate)	
	Property tax certificate	
	Community-issued certificate	
	Utility bills	
Others		
Whose name is on the document and can you show the document? Code accordingly, whether document is seen or not	Name : - ID household roster	

Note: Derived from the list of essential questions (Annex 1)

For purposes of computing SDG Indicator 1.4.2, the country specific metadata will define what documentation on land rights will be counted as legally recognized.

Part B: Perception of secure rights to land as secure

Perceived security of tenure: We define perception of tenure to be secure if individual or households do not feel a threat of being deprived of legitimately acquired use or ownership rights to land or of these rights being disputed by others (either the Government or individuals).

Table 5: Perception of secure rights to land Survey Sheet

Perception of tenure security survey		
Do you feel secure from eviction?	Yes	
	No	
How strongly do you feel the authorities would protect you if somebody tried to make you leave your land?	Very strongly	
	Fairly strongly	
	Not strongly	
	Not at all	
Have you been evicted from your property/land at any time during the past 5 years?	Yes	
	No	
How likely are you lose your land/ property or use right in the next 5 years	Very likely	
	Somewhat likely	
	Not likely	
If very likely/somewhat likely. What is the source of the potential loss of land / property?	National government	
	Local authorities	
	Commercial interests	
	Family members	
	Other individuals	
Do you have the right to exclusively or jointly bequeath your land/property?	Yes, by my own/individually	
	Yes, jointly with others	
	No	

For this indicator, people will be categorized as perceiving their rights as secure if they indicate that they are likely to retain their tenure rights for the next 5 years. If respondents have access to more than one plot of land, they will be categorized as secure if they perceive their rights to at least one plot as secure.

The two sub-components of this indicator are measured in different ways. The two parts will be reported separately with columns to be provided to show country results on each part.

$$\text{Part A} = \frac{\text{People (Adult) with legally recognized documentation over land}}{\text{Total adult population}} \times 100$$

$$\text{Part B} = \frac{\text{People (Adult) who perceive their rights to land secure}}{\text{Total adult population}} \times 100$$

General Limitations

Data Limitations	Possible Solutions
<p>Tenure insecurity is partly caused by limited capacities for land management, data collection and monitoring, and inadequate existing land information systems, poorly kept land registries, and limited data on large or densely populated geographical areas</p>	<ul style="list-style-type: none"> Regular reporting on indicator 1.4.2 will provide an impetus to improve the availability of data on land tenure from surveys and to improve the regularity of reporting by registries and other line agencies holding administrative data, contributing also to in-country accountability. A standardized questionnaire for key land tenure issues has been developed and integrated in upcoming household surveys and will improve data comparability across countries
<p>Coverage of administrative data may however be geographically skewed</p>	<ul style="list-style-type: none"> Sub-national dimensions should be properly considered and conveyed in narrative reporting by countries to accompany the headline data.
<p>Logistical and cost constraints with the implementation of household surveys</p>	<ul style="list-style-type: none"> The World Bank and UN-Habitat, in coordination with FAO, will leverage the work of the EDGE project, which already is the most advanced in using and testing gender sensitive methodologies and approaches, in incorporating a more nuanced understanding of land tenure and security in household survey methodologies.
<p>Realisation of women's land rights is complicated by the interplay of intra-household and community level inequalities, along with different tenure regimes.</p>	<ul style="list-style-type: none"> Sample design is also important, where different members of the household and types of households are included.

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