



How to Develop a Pro-poor Land Policy

Process, Guide and Lessons



UN-HABITAT



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United Nations Human Settlements Programme (UN-HABITAT)
P.O. Box 30030, Nairobi, Kenya
Tel: +254 20 7621 234
Fax: +254 20 7624 266
Web: www.unhabitat.org

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This guide was written by Clarissa Augustinus, Chief, Land Tenure and Property Administration Section and Erika Lind, Programme Officer, Land Tenure and Property Administration Section, Shelter Branch, UN-HABITAT. Special thanks go to Klaus Deininger of the World Bank for technical input and editorial assistance by Paul Mundy.

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Further Information:

Clarissa Augustinus, Chief
Land, Tenure and Property Administration Section,
Shelter Branch,
United Nations Human Settlements Programme (UN-HABITAT)
P.O. Box 30030
Nairobi 00100, Kenya
E-mail: clarissa.augustinus@unhabitat.org
Web site: www.unhabitat.org

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1. Introduction

Developing new land policies can be a long and difficult process. It is even more so if the policies are to be pro-poor – if they are to help correct the disadvantages that poor people typically suffer in many areas of land policy.

This guide suggests a way forward. Based on experience in various countries in Asia and Africa, it is not a recipe-book, but outlines a process that can be adapted as appropriate to the situation in each country and the specific aspect of land policy that needs to be addressed. This process is participatory: it involves a wide range of stakeholders from all aspects of land policy, including civil society and the poor themselves. Including all these groups is vital if the resulting policies are to be politically acceptable, technically feasible, pro-poor and capable of being enforced.

This guide is intended for Ministers and senior policymakers responsible for land issues, donors, professionals, consultants, and NGOs involved in developing land policies.

1.1 Choosing a pro-poor policy

What does **pro-poor** mean? A pro poor approach is one that takes into account people living in poverty. In the case of cities, this means treating all its citizens equally, including those living in slums, in regard to access to land and services.

In most countries, most land policies, laws and procedures are **biased against the poor**. The poor remain trapped in poverty in part because they cannot access and use land they need to grow crops, build houses and establish businesses. Without secure tenure, they have no incentive to invest in the land. Many land procedures – such as registering a piece of land or transferring it to a new owner – are too expensive for the poor to afford. As a result, the urban poor are forced to live in slums that lack such basic services as sewerage, running water and electricity. The rural poor are deprived of access to grazing land, forests and water. And they have no reason to prevent erosion or to invest in irrigation for their land.

Women are especially disadvantaged. In many countries they cannot own or inherit land or register it in their own names – either because of the formal legal system or because of informal rules. They are more likely than men to be





evicted from their homes, and they have less access to officialdom, lawyers and private-sector services.

Yet the **process of policy development** itself is also biased against the poor. It is dominated by elites: politicians, commercial interests, land owners and developers, and technical specialists such as lawyers and surveyors. The poor have little political clout, and they lack the technical background and resources to contribute to the policy discussion.

Pro-poor policies are needed to overcome these barriers. Such policies should provide a range of land rights, suited to different situations. They should ensure that the poor have access to land and land services, at a price they can afford. They should give security of tenure – at a minimum, preventing people from being arbitrarily evicted from their homes in urban or rural areas. And they should aim to redress injustices that force so many urban dwellers to live in slums squeezed onto a tiny proportion of a city's land.

2. Political vs. technical issues

Land is one of the most sensitive political issues in any country. It is also very complex, both in technical and legal terms.

- Land is linked to **political** patronage and the vested interests of elites. Land is often a politically explosive issue, and the source of many potential and actual conflicts.
- Land is also highly **technical**: it involves skilled professions, dealing with complex legal procedures in a complicated historical, cultural and economic context.

It is vital to deal with both political and technical aspects. Several countries have tried to keep the process entirely political; they have had to go back to the drawing board and re-design the process to take technical constraints into account. Some countries have tried to keep the process entirely technical; they have struggled to get new laws and approaches enforced and operational on the ground.

This guide outlines a way to reconcile these difficulties.

3. Time line for the policy process

Reforming land policies and land administration systems involves many issues. It concerns numerous government agencies and other stakeholders. Expect that it could take a long time: at least 10–15 years. That requires a long-term, high-level commitment from all parties such as government, civil society and land owner groups, land professionals and the banks.

With such a long time horizon, it is a good idea to outline strategies for the short, medium and long term. Make sure the budget is adequate: it should cover not just the costs of the series of workshops outlined in this guide, but also all the related activities: studies, consultancies, training, as well as the management of the planning process itself.

4. Linking products and processes

It is necessary to think in terms of both “products” (revised policies, draft laws, land information systems etc.) and “processes” (how to get agreements to get to these products). The perfect policy, or the perfect technical solution, is useless if the various stakeholders do not buy into it – and they are likely to reject it if they have not been involved in the drafting process.

Keep in mind also that the 10–15 years needed for an overhaul of the land system is a long time in politics. Politicians, and other stakeholders, need to be able to show that they are making progress to their various constituents and supporters. That means that the process has to produce outputs – policy proposals, draft laws, etc. – more frequently. In turn that means slicing the topic area into manageable chunks that can be dealt with within a reasonably time.

An agreed “road map” for each of the phases of the land policy process will be needed, as well as for various scales – national, regional and local. There may be major differences within the country – from one province to another, or between urban, farming and dryland areas. It may be that one solution does not fit everywhere. The reforms may have to start in one area before they are implemented in others.



5. Managing potential conflict

It is natural that different organizations and groups have differing views on land issues. The purpose of the land policy process is to get agreement among these groups. But given the political nature of land issues, it would be surprising if conflicts did not occur. Someone, at some point, is probably going to walk out, declaring that the proposals are unacceptable.

Plans to deal with this should be made. Ways will need to be found to keep all the disparate organizations and interests engaged in the process. And if some do walk out, ways will need to be found to bring them back into the process again in a way that caters to their concerns but does not compromise the integrity of the process itself.

5.1 A tentative approach

- **Set up a coordination unit** to manage and plan the land policy process. This unit is best located in the lead national ministry and should be staffed with credible government representatives. It should maintain linkages to multi-stakeholder networks and expert groups throughout the entire process.
- **Gather background information** on the existing land systems and the problems they entail. Information can be gathered in various ways: participatory appraisals, discussions with NGOs and community organizations, formal surveys, review of secondary data, and public hearings. Analyse what is found, preferably together with the people who implement or are affected by the systems. Then develop short concept papers describing the problems, summarizing the various positions and changes needed, and suggesting a rough outline of how to develop new policies. These will probably have to be continually reviewed as people think them through over time.
- **Plan a series of workshops.** The workshops enable all the various stakeholders to discuss and contribute to the development of policies. The stakeholders should be able to state their positions, document existing systems, identify problems and possible solutions, plan the process of developing new policies, and negotiate details. A single

workshop is not enough: a series of workshops, over a long period, will be needed – perhaps at national, regional and local levels. It's not necessary to have a precise blueprint at the outset, but have an initial idea how each workshop feeds into the national land policy process. Adjust the process if necessary as you go along.

- **Make sure all stakeholders are represented** at the workshops, especially those with enough political clout to prevent success. Key stakeholders include government (local, state, national), land professionals, civil society, and researchers. Invite additional people who are relevant to the topic of each workshop. Make sure to invite all key stakeholders – and do not omit civil society in a mistaken effort to avoid argument. Getting participants' buy-in is vital, so outline the process envisaged to them early on, and incorporate their ideas.
- **Start with the politics.** The first workshop(s) should get the political positions on the table and get buy-in and trust for the process. Until this happens it will be difficult for the participants to focus on technical issues. Do not just focus on political issues, though; the early workshops should also include some technical issues to build capacity. The political issues can always be revisited later in the process if needed. This may depend on elections or other political events in the country. Always be aware of political sensitivities, and be ready for troubleshooting.
- **Go on to technical issues.** After getting political buy-in, move on to discussing the technical topics. The workshops should seek to identify and agree on specific problems, then identify solutions. Continue to include all stakeholders in workshops. That keeps people involved.
- **Develop an action plan.** Once the technical discussions have started in earnest, a structured action plan can be developed. This should lay out a road map for achieving a set of outputs – draft policies that can be presented to decision makers. It should handle both political and technical issues. The budget must be realistic.



5.2 Establish an action plan of activities

The activities in the action plan may include:

- Workshops on specific issues and at national, regional and local levels
 - Study tours and evaluations of systems in other countries
 - Special studies
 - Presentations of “best practices”
 - Public consultations and discussion in the mass media
 - Activities to build political alliances
 - Improvements to the suggested model
 - User surveys and participatory assessments
 - Institutional and legal assessments.
-
- Establish working groups on specific themes. It can be easier to find solutions to problems in a smaller group than in a big workshop. Arrange problems into themes, and convene working groups of various stakeholders active in that field to deal with them (see Box). Working groups are also useful to ensure debate is constructive and honest. For example, if NGOs want free land services, the technical people can explain why this is not possible. And if technical people say what a brilliant system they have and that all they need is more resources and not large-scale reform, the NGOs can show how the service is not operating well.

5.3 Thematical working groups

Working groups are a good way to focus discussion on details that are hard to deal with in plenary.

Consider having working groups on the following themes:

- Institutional reform issues
- Technical systems and standards: surveying and information management
- Information, communication and dissemination
- Education and capacity building
- Legal issues, including conveyancing and land record systems.

Keep working groups diverse: include users and politicians as well as technical specialists. Appoint unbiased chairpersons to guide the discussion. Have a rapporteur from each working group report back to the plenary.

5.4 Taking gender into account

Gender is a vital topic in land issues.

- Make sure that the interests of women and men are specifically addressed in the draft policies in a balanced way, especially in regard to inheritance issues.
- Seek a gender balance among workshop participants
- Have special presentations on gender
- Ask speakers specifically to address gender in their presentations
- Have both men and women chair working groups
- Make sure that capacity building and knowledge transfer on the subject is for men and women

- Identify gaps. At the outset there is probably no overall description of how the country's land systems and laws operate. If this is the case, commission a study (or studies) by a relevant thematic group, and



have it presented at a subsequent workshop. The study should identify gaps, overlaps and conflicts in the various land policies and systems, including institutional systems. Knowing these will enable the various policies to be aligned. Identifying and filling gaps is not just a one-off activity – this will have to be done continuously throughout the policy development process.

5.5 Building on what already exists

It's important to understand what already exists. Perhaps some aspects of the existing system can be tweaked to make it work better, or to benefit the poor more, without having to reinvent the wheel, while major reform is required in other parts.

Stakeholders may suggest ideas about good approaches, or mention systems that “more or less” work and could be improved. Document these suggestions.

It may be possible to borrow and adapt approaches from other countries or regions.

Consider using short-term consultants to propose ways to improve all these suggestions.

- **Deal with specific topics.** Once these gaps and overlaps are identified, convene meetings of experts to discuss specific questions. Have the results reported back to the wider stakeholder group. Consider engaging short-term consultants to address particular topics.
- **Produce outputs as you go along.** Remember the need to have tangible outputs at each stage of the process. The various stakeholders – especially politicians – need to be able to show their supporters that they are making progress, and that the process is not just a talking-shop.
- **Draft the policy.** Write the final draft of the policy based on the outputs of the workshop series. This can be done in stages, along with a series of symposiums to review the draft. Drafting may well need assistance from national and/or international experts, as well as experienced drafters, before the policy is presented to the national parliament.

6. Managing the “politics” of the process

At the beginning of the land policy development process, the political should take precedence over the technical. Once the political cards are on the table, the discussion can focus more on the technical issues. The final policy should be both politically acceptable and technically appropriate.

Because land is such a hot political topic, it will be necessary to have good political antennae if the land policy planning process is to be successful. Some guidelines:

- **Be strategic.** Know who the stakeholders are, understand their positions, and try to design a process that takes these into consideration. Knowing the political situation will also give guidance in terms of timing of workshops and events, selecting themes, allocating chairs, etc.
- **Make sure the government takes ownership.** The relevant ministry or state government body must take full ownership of the programme and be accountable for the outputs. This can be difficult because ministries may want to avoid the perceived political risk or not invite important stakeholders.
- **Allow for fatigue and resistance.** Reforming land policy is a long-term process, so fatigue is understandable. The process may be fraught with vested interests and conflicts. Seek to build alliances to make the process and outputs sustainable. Avoid relying on a single person or organization, even if this seems the most efficient way of getting things moving.
- **Build buy-in.** Give all the key stakeholders room on the agenda. That puts all the issues on the table and tells everyone they are being taken seriously.
- **Brief the facilitator and session chairs.** Choose the workshop facilitator and session chairs carefully. Ensure that they fully support the agenda, are aware of the politics, can guide discussion, and understand what outputs are needed.
- **Lobby key politicians.** They can make or break the process, so brief them beforehand and make them accountable for the outputs. Make



sure the Minister supports the agenda completely: other politicians will take his/her lead.

- **Choose the right coordinator.** It will be necessary to spend a lot of time in the political preparation for the process, especially at the beginning. This requires certain political skills, a knowledge of the agenda, skills in building alliances, and access to the Minister and other people of influence. Find someone who has these attributes.
- **Allow time for the political process.** The government must take ownership of the process, and there must be a certain level of agreement from key stakeholders on the process and outputs. There is little to gain from moving on to technical details before these conditions are met. After all, political agreement is vital if the policy is to be implemented once it is finalized.
- **Allow momentum to build.** At the same time, do not wait for everyone to agree before starting work. For example, local authorities may be reluctant to change their procedures to conform to new national standards. Get a few of them on board first; the others will follow when they see the benefits of the new system.
- **Build consensus.** Aim to build enough consensus from the major stakeholders to ensure that the draft policy has a good chance of being approved when it is presented to the legislature.
- **Keep donors in the background.** Support from donors may be vital for the reform process, but they should stay in the background. They must be flexible enough to accommodate a long-term programme where the ownership and risk is in the hands of the government.

7. Addressing the technical issues

There are many vested interests among the technical specialists involved with land issues: the public and private sector, different levels of government and multiple agencies each have their own history, views and procedures. There are likely to be gaps, overlapping mandates and duplicated activities. So it is important to have

the right technical and institutional stakeholders involved in the redesign process, in order to lend credibility, ensure that the designs are feasible.

Each group may have its own ideas for the way forward. Workshop presentations on technical issues, and the discussions in working groups, will probably not produce a structured way forward from the outset. Instead, the result may be a wish list that is insufficiently structured and even contradictory.

Technical people are often over-confident about their systems, and propose sophisticated, high-tech ways of expanding them. They resist change, especially if it does not match their technical vision. But this vision is often unrealistic – it is too expensive or requires too many skilled people to run. How can this be counteracted?

- Have outsiders assess the system, and get the technical people to agree on their findings.
- Enable users of the system to comment on it. They may point to problems such as lack of coverage, access for the poor and for women and so on. Make sure that those in charge of the system accept these comments.
- Estimate the costs and human resources needed for the high-tech vision. Are they realistic?

It is difficult to move forward unless those in charge of the existing system accept that the current system is not good enough, that it is not possible to realize the high-tech approach of their dreams, and that the system has to cover the majority of the population including the poor and women.

Once those responsible have accepted these points, they are more likely to accept and/or develop alternatives that are realistic and pro-poor. At this stage, if the political process is in place, it will be possible to re-think the technical and legal systems. This may include:

- Technical consultancies to assist in the re-thinking.
- Workshops to present the suggested changes, obtain stakeholder buy-in and allow users to assess the proposed new system.





- Different technical groups assessing each others' systems.
- Institutional strengthening.
- Negotiations between different institutions over functional mandates, custodianship of databases, human resources and funding.

National and foreign consultants may bring in valuable experience from elsewhere. But use their services cautiously to avoid resentment. Employ consultants to provide services in the background rather than in a prominent role.

8. Keeping people informed and involved

It is vital to understand the views and needs of the people and organizations that implement, use, and are affected by, the land systems under review. They should be given the opportunity to contribute to the new policy. That means talking not just with professionals and high-level government officials, but also with local residents, farmers, community groups, and lower-level staff who actually implement the procedures and are familiar with day-to-day problems.

Because land issues are complex and the rules and procedures are often obscure, it may be necessary to educate people on how the system currently works before they can make meaningful contributions to the debate. The policy development process should be accompanied by a strategic awareness campaign to keep stakeholders and the public informed about, and involved in, current activities. Make sure enough time and resources are devoted to this effort.

Another awareness campaign will be needed after the changes have been put into place. This is necessary to make sure that all concerned understand the reasons for the new procedures as well as how to follow them.

Such a campaign is also key to risk management for the government as they can keep citizens informed on new issues discussed and stakeholders involved in the discussion in a way that builds trust and credibility.

9. Supporting approval and implementation

Once the policy is drafted, the hard part begins: getting it approved and implemented.

- Get the policy approved. It will be necessary to shepherd the new policy through the approval process in the relevant ministry, and in the national parliament. This will require a champion (or champions) – an influential individual, a change team, or a coalition of interests. The champions are likely to have been involved in the process, are convinced of the benefits, and are prepared to expend energy into getting the changes approved.
- **Mobilize resources.** Launching reforms and maintaining progress costs money. It takes scarce management skills and staff time. This is not just a question of budgeting and workflow programming. It also means ensuring that people have adequate incentives and are committed to the reforms.
- **Create a framework for implementation.** Once the land policy is approved, it must be translated into an implementation framework. That means assigning new objectives and tasks to various agencies, involving new partners, introducing new procedures, changing the structure of existing organizations, and perhaps creating new organizations. It will be necessary to prepare concrete action plans and set performance targets and standards. It may be best to introduce the reforms gradually, perhaps trying them out in a pilot region first before adopting them nationwide.
- **Build capacity. New procedures mean developing human resources.** It will be necessary to hire staff with different skills, and retrain existing staff so they can handle the new approaches.
- **Implement and monitor progress.** Once the new policy is in place, it may need to be fine-tuned to make it work smoothly. Individual agencies should monitor their own activities, but new ways will also need to be found to monitor overall progress if more than one agency is involved. Non-government organizations can be especially useful for providing independent oversight of reforms.



10. The key role of land tools

A failing of many country's land policies is that they lack key "land tools": procedures or methods for handling specific aspects of the land system. For example, there may be a need for:

- A pro-poor regulatory framework covering the private sector involvement in land administration.
- Robust pro-poor deeds or titles.
- A pro-poor land information management system.
- A sustainable capacity-building programme.
- A pro-poor cost recovery system in land administration.
- Group forms of tenure, especially for tribal groups.
- Pro-poor tools for land acquisition, expropriation and compensation in urban and rural areas. These must accommodate customary land law, take into account livelihoods and natural resources, and work where no land records exist.
- Land tools that fit with the variety of local conditions in the country.

UN-HABITAT has set up a network, the Global Land Tool Network (www.glttn.net), to gather examples of such tools and developing new tools to fill important gaps. It may be possible to adapt these tools to suit conditions in the country.

For more on GLTN, see www.glttn.net.

11. Ten key ingredients of a land policy process

1. **Government and national leadership are crucial.** Outsiders cannot be the sole champions of change. Political will from national leaders is fundamental. However, there is a clear need to identify champions at many different levels, including professionals, grassroots, academia

and the media. National leadership and capacity building at all levels must be a priority throughout.

2. **Reconcile multiple stakeholders and visions.** Reform processes never run smoothly. Given the diversity of perspectives, the often overlapping mandates between and within ministries, institutional competition and the vested interests of all concerned will always generate conflict. These differences must be brought out early and addressed continuously.
3. **Need long time horizons.** Land issues are extremely complicated and do not lend themselves to a two-year project approach. Be wary of rushing to implement long-term solutions; existing solutions may not work, priorities may change. Constituency building is not a one-off task, but must continue over the life of reform implementation.
4. **Deliver both process and products.** How reforms are pursued can be as important as what policy products and outcomes are delivered. The support of policy champions and the creation of reform constituencies are important. Politicians are key constituents, but are in office for 3–5 year terms. So the process needs to deliver successes on a regular basis, perhaps taking advantage of opportunities as they arise rather than being constrained by a predetermined calendar of deliverables.
5. **Managing political risk is crucial.** Politics is part of the process, and cannot be wished away. Reforms can require strategies, structures, and mechanisms that reduce or neutralize the dominance of powerful actors. Building alliances across stakeholder groups is vital.
6. **Many existing technical solutions are inadequate.** There is a big gap between policy and implementation. Many of the existing tools are inadequate: they are expensive, complicated and bureaucratic, and cannot cater to (for example) group rights or other innovative forms of tenure. Appropriate technical solutions must be affordable both for the government and for users – the poor.
7. **Combine technical and grassroots experience.** Policy-making is generally dominated by technocrats. Grassroots realities and grassroots solutions also need to be understood and incorporated in the reform



process. That means using participatory processes, and making sure that the process is not again captured by technocrats or the better-off.

8. **Process support requires dedicated resources.** Technical solutions often attract donor and government interest, but support to participatory processes is often undervalued and therefore under-funded. A weak process can render irrelevant the most technically exciting solution – as shown by countless failed or stalled reform projects.
9. **An effective outreach strategy is critical.** Under pressure to deliver, reformers often neglect communication strategies. Yet without a dedicated outreach campaign, clients will rarely adopt the proposed reforms.
10. **Expect political ups and downs.** Because land requires long time horizons for delivery it often becomes the tool of politicians (national and local government) and civil society and donors), and just when everyone is in agreement, political pressure introduces new dimensions. Sometimes it is useful to continue with appropriate technical work and in that way introduce political change.

12. The objective of the Global Land Tool Network

The Global Land Tool Network (www.gltn.net) aims to develop pro-poor tools (guidelines, methods and procedures) in key areas relating to land. It is developing tools in the following areas:

12.1 Land rights, records and registration

- Enumerations for tenure security
- Continuum of land rights
- Deeds or titles
- Socially appropriate adjudication
- Statutory and customary
- Co-management approaches

- Land record management for transactability
- Family and group rights

12.2 Land use planning

- Citywide slum upgrading
- Citywide spatial planning
- Regional land use planning
- Land readjustment (slum upgrading and/or post crisis)

12.3 Land management, administration and information

- Spatial units

12.4 Land law and enforcement

- Regulatory framework for private sector
- Legal allocation of the assets of a deceased person (estates administration, HIV/AIDS areas)
- Expropriation, eviction and compensation

12.5 Land value capture

- Land tax for financial and land management

12.6 Cross-cutting issues

- Modernising of land agencies budget approach
- Measuring tenure security for the Millennium Development Goals
- Capacity building for sustainability
- Land access/land reform, governance





- Key characteristics of a gendered tool
- Grassroots methodology for tool development at scale
- Islamic land tools.

Visit www.glt.net for more information.

UNITED NATIONS HUMAN SETTLEMENTS PROGRAMME

P. O. Box 30030, GPO Nairobi 00100, KENYA;

Telephone: 254-20-7623120; Fax: 254-20-7624266/7 (Central Office)

Email: infohabitat@unhabitat.org; Website: <http://www.unhabitat.org>



GLOBAL LAND TOOL NETWORK

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