Access to and control and management of natural resources, especially land, is a key determinant of income, power, status and rural livelihoods. The legal recognition of customary rights and other policies to increase the tenure security of vulnerable groups can decrease poverty, vulnerability, food insecurity and conflicts. Increased tenure security can provide incentives and opportunities for investing in sustainable agriculture and rural development, including the environmentally sustainable, efficient and ecologically sound management and use of land, water, forests, and fisheries.

**Sustainable Agriculture and Rural Development (SARD)**

Agriculture and rural development are sustainable when they are ecologically sound, economically viable, socially just, culturally appropriate, humane and based on a scientific approach.

Rural development policy must aim to meet the nutritional and other human needs of present and future generations, and maintain, and where possible, enhance the productive and regenerative capacity of the natural resource base. It must also provide for the durable employment of those generations, reduce their vulnerability and strengthen their self-reliance.

**Did you know?**

- Land distribution and tenure security directly affect the 900 million poor people who live in rural areas and the 2.5 billion rural people who depend on agriculture and natural resources for their livelihoods. 
- Some 25 percent of small-scale agricultural households in Ethiopia, Kenya, Rwanda, Mozambique and Zambia are almost landless; the households with the least land are the poorest. 
- Worldwide, women make up the majority of the rural population and 70 percent of the agricultural labour force, but own less than 10 percent of property and gain access to land through their male relatives.

**Why is action needed?**

- Insecure access to land and other natural resources reinforces the poverty cycle by reducing income opportunities, social status and resilience to shocks. Conversely, tenure security can reduce the impacts of climate change, drought, disease pandemics, conflict and global market fluctuations, which disproportionately affect the poor. Tenure security reduces conflicting claims and stimulates investments that decrease environmental degradation and enable land occupiers and resource users to realize the full potential of their land.
- Governance and natural resource management reforms in the colonial and post-colonial eras weakened customary institutions and systems, creating a gap at the local level which has escalated conflicts. These reforms also favoured the formalization of rights and registration of titles to stimulate land markets and investment. In many cases, these policies have not produced the expected benefits, particularly for the poor. There is, however, no consensus on alternative land policies.

- Many policies, programmes and public services privilege sedentary agricultural systems and exclusive, alienable and legally registered individual land rights over the flexible, diversified, decentrallized and common pool land and natural resource customary systems that have historically provided the greatest opportunities to pastoralists, indigenous peoples, and other vulnerable groups.

- The “historical injustices” of land expropriation, resettlement and grabbing continue to reduce the economic, social and political opportunities of the poor.

- In many countries, both statutory and customary tenure systems are biased against women.

- The reallocation of rural land and water to commercial agriculture and to growing urban centres is reducing the resources available to the poor.
What are the policy goals?

Sustainable agriculture, fisheries, forestry and rural development depend on policies and legislation that ensure clear, secure and enforceable rights to land and natural resources for rural producers and particularly for the poor. Policies need to address simultaneously the legal, economic, institutional and social dimensions of property rights, to optimize use, promote equitable distribution, prevent resource degradation and ensure economic sustainability. Policies should aim to:

- protect and enhance the rights of vulnerable groups to natural resources, including their secondary rights;
- create opportunities for vulnerable groups to participate in the definition of legislation and policies for agrarian reform and land and natural resources tenure and management;
- build administrative capacities to facilitate enforcement of legislation and timely pro-poor dispute settlement;
- promote sustainable use and management of land, water and natural resources.

The policy issues

Regulation by competing authorities (legal pluralism)

Customary tenure systems and statutory laws often overlap and are inconsistent, and their relative strengths vary in urban and rural areas. Customary systems tend to be better known and enforced in rural areas; statutory law is more important in urban and other contexts not clearly defined by customary systems.

Exclusion of vulnerable groups

Tenure systems are characterized by multiple and overlapping individual and group rights over different resources in common spaces and over different times. Secondary right holders, such as fuelwood collectors and transhumant pastoralists, are often overlooked when rural property rights are formalized. Title deeds and other legal recognition tend to simplify these rights under individual ownership, excluding the periodic rights of others to use, access, traverse, or extract from them. The financial, social and physical access to registration procedures and institutions also varies across social groups, depending on the types of rights amenable to formalization. Procedures to formalize property rights are often too costly, information is unavailable or difficult to understand, and legal and paralegal services are inaccessible or prohibitive. Rights of access and use which are important to the livelihoods of vulnerable groups are often excluded from registration.

Subdivision and land fragmentation

Land fragmentation and the subdivision of common property into individual holdings can undermine economically and environmentally sustainable uses of land and other resources. Transhumant pastoralist livelihoods are usually more sustainable under common property systems, while the opposite is true for farming. Even in agricultural systems, however, very small holdings and severe land fragmentation can hinder economic and environmental investments, such as tree planting, irrigation and terracing. Agro-ecological conditions also influence optimal farm sizes: in some regions, land fragmentation is a way for the poor to diversify livelihood strategies, as in Rwanda.

Land markets

Secure and recognized land rights are necessary for well-functioning land markets. Tenure security creates incentives to invest in agricultural production and can be a condition for obtaining access to credit and other rural services. Property claims can be secured through investment in and use or occupation of land and natural resources, when formal titles are not available. For example, tree planting can extend the duration of rights to land.

Gender equity

Worldwide, women enjoy fewer and less secure property rights than men. In some countries, both statutory and customary law forbid land ownership by women or only allow for secondary and derivative property rights: temporary use rights are obtained through marriage, children, or other relationships with men. This hinders women’s ability to manage land as they choose and to define, liquidate, trade and enforce their land rights, particularly when they lose their male links. In these contexts, male authorities, local elites, and customary and national land administrations may hinder women’s efforts to obtain clearer and more secure, direct and defensible rights.

Property grabbing from AIDS widows and orphans

Although probably underreported owing to its complexity and sensitivity, this problem appears to be increasing. AIDS widows are prone to losing their rights to natural resources at much younger ages. However, these same demographic trends can also provide an opportunity for social change, because they undermine the rationale for discriminating against women’s property rights, as fewer households contain the male link required to obtain access to natural resources.

What are rural property rights?

Natural resource property systems define individual and group bundles of rights, including rights of passage, use, extraction, management and transfer. Bundles of rights fall along a spectrum that roughly corresponds to degrees of power and ultimately defines the benefits that different users derive from a particular resource. Rights to exclude, manage and transfer land are stronger than, and often conflict with, rights of passage and extraction. The latter are called secondary or derived rights and can be enjoyed by people other than the principal owners. Property rights are dynamic and define access to different resources located in a single space and to different uses of a single space over time. They derive their authority from multiple sources, such as State, customary and religious regulatory systems and have multiple characteristics: security, durability, transferability, divisibility and enforceability. Tenure security over time is the perceived certainty that primary or secondary rights are recognized by others and protected against competing claims.
Traditional cultural significance
Land and other natural resources often have social, cultural, religious and spiritual significance that goes far beyond their financial value. Statutory systems and formal rights often fail to recognize and protect these values, and overlook the role that shared resources play in social cohesion and sustainable natural resource management.  

What are the policy options?
Ensure political will and financial commitments
If the poor are to benefit from land policy, government, donor and the international commitments, as well as widespread support from different social groups, particularly powerful ones, are critical. Policy reform and land redistribution are highly political issues because they profoundly affect the distribution of power and wealth. Given the diversity of agro-ecological and aquatic systems and social, historical and policy contexts, no single model can fit all situations. National laws and regulations must recognize the multiplicity of rights and the coexistence of statutory and customary tenure systems, accommodate and build on customary norms, and allow for regional variation. In some cases, land registration may not be necessary at all; it may be more urgent to clarify rights over disputed land and other resources in peri-urban areas and high-potential zones, where stakeholders are not fully covered by customary systems. Consultations with traditional authorities, landowners, women, tenants, sharecroppers, rural workers, the landless, pastoralists, fishers and forest people at key stages of the reform process can improve consistency among different systems, increase the benefit of reforms for the poor, and ensure ownership and legitimacy of the policies.

Target the poorest and most marginalized
Promote land and natural resource tenure arrangements, including common property systems, which recognize and protect the rights of indigenous peoples, pastoralists and other poor groups. Support mechanisms and legislation that secure both primary and secondary rights, as these are key for the poorest and most marginalized people. Create, revise and enforce laws that uphold women’s property and inheritance rights and encourage changes in attitude towards more gender-equitable access to resources, in order to reduce discrimination in land access, occupation, use and transactions.

Foster economic sustainability and well-functioning markets
Even when rights are secure, supportive institutional environments are required to ensure that landowners and users have access to the agricultural inputs, services, output markets, processing, storage and transport services and facilities needed to profit economically from natural resources. Without profits, resource users risk losing their rights through sale or encroachment.

Share the benefits from State natural resources with local communities
Compensate the communities living around parks, wildlife reserves, fisheries and forests for the land expropriated and/or the crops damaged and lost to wildlife. Involve local communities in policing and surveillance to ensure that forests, coastal reserves and other areas are effectively monitored, and provide incentives to ensure that relevant authorities take action against infractions. Where possible and environmentally sustainable, provide local communities with opportunities for selective access, gathering, and passage rights through multiple-use zones to reinforce their interest in sustaining the resource base.

Simplify legal systems for more efficient administration and legal empowerment
Policies and legal systems should guarantee well-defined and enforceable rights of use, ownership and access to natural resources. Promote interventions that not only ensure consistent norms and regulations, but also guarantee

Community participation in land management: the case of Mozambique
Although land has been owned by the State since 1975, Mozambique’s Land Law (1997) recognizes customary tenure, while promoting sustainable and equitable land use and investment through secure and enforceable rights under a market economy. This law is innovative in:

- consolidating all land tenure rights under rights to land use and appropriation (DUATs – direito de uso e aproveitamento da terra);
- recognizing and protecting, without need for registration, the rights obtained through occupation under customary systems and “in good faith”;
- providing a flexible approach to prove and define DUATs;
- establishing rights and obligations of local right holders to participate in land allocation processes.

To legally empower and ensure that investors recognize existing customary institutions and rights, the Law allows verbal testimony as evidence of existing DUATs and delimitation of borders of community lands through participatory consultation. However, land pressure, economic growth and private investments in agriculture and tourism are making the DUATs acquired by occupation, which are particularly relevant to the poor, relatively invisible and vulnerable to expropriation. Through this flexible and participatory approach to formalization, registration becomes part of a broader set of strategies to improve tenure security for the poor and promote stronger collective action in land management in Mozambique.
access to legal systems and procedures for the poor, such as in Mozambique\(^6\) or through participatory negotiated territorial development approaches. Within the statutory system, promote consistency and streamline the different regulatory sources and bodies that cover access to and management of natural resources.

Improve access to and affordability of legal and paralegal services and local courts
Remove or reduce constraints in access to legal services, such as distances, real and perceived “red tape”, and financial costs. Increase the reliability of the justice system, including by building the capacity of communities to claim, defend and optimize their rights to land and natural resources. Ensure that dispute settlement systems are quick, accountable, responsive and enforceable. Strengthen customary and alternative dispute resolution mechanisms as options to protect the rights of the poorest.

Build capacities for improved enforcement administration, and monitoring
Build the administrative capacity of cadastral, land registration and customary land institutions and services. Ensure that reforms are administratively viable, set aside the necessary financial resources, and monitor their implementation. Clarify what is best managed under customary systems and reduce the role of over loaded and understaffed national administrations to the essentials that cannot be handled under customary systems. Provide training, awareness raising and information to the media, rural radio, schools and civil society to guide public opinion, behaviours, norms and attitudes towards the rights of the poor and the responsibilities of public service providers to uphold these. With the local administration responsible for implementation, publish and broadcast procedures in local languages.

Global commitments
At the International Conference on Agrarian Reform and Rural Development (ICARRD) in 2006, 92 governments agreed to support agrarian reform and rural development as a basis for social cohesion, food security, economic growth, environmental rehabilitation, and reduced conflict and poverty (www.icarrd.org).

Article 14 of the Convention on the Elimination of all forms of Discrimination against Women (1979) affirms that States shall ensure rural women’s right to “equal treatment in land and agrarian reform as well as in land resettlement” (www.un.org/womenwatch/daw/cedaw/).

The Commission on Legal Empowerment of the Poor aims to make legal protection and economic opportunity, including property rights to natural resources, the rights of all by 2008 (http://legalempowerment.undp.org).

Contacts
Food and Agriculture Organization of the UN (FAO)
Eve Crowley
eve.crowley@fao.org
Paul Munro-Faure
paul.munrofaure@fao.org
Rebecca Metzner
rebecca.metzner@fao.org
International Fund for Agricultural Development (IFAD)
Harold Liversage
h.liversage@ifad.org
Resource Conflict Institute (RECONCILE)
Michael Ochieng Odhiambo
ekmoo@africaonline.co.ke

References
This brief was prepared by Paola Termine in collaboration with R. J. de la Rosa, D. Palmer, V. Mosoti, V. Evtimov, E. Distefano and others (see Contacts).


Tools and resources
FAO Land Tenure and Management Unit: http://www.fao.org/nr/lten/lten_en.htm
Global Land Tool Network: http://www.gltl.net/
The International Institute for Environment and Development: http://www.iied.org/
The International Land Coalition: http://www.landcoalition.org/

The “SARD and...” Policy Briefs are designed to encourage and assist governments in developing and implement- ing policies to achieve sustainable agriculture and rural development.

This series is produced by the SARD Initiative, a multi-stakeholder framework established to support the transition to people-centred sustainable agriculture and rural development. It is led by civil society, supported by governments and inter-govern- mental agencies and facilitated by FAO.

www.fao.org/sard/initiative