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# REPORT

on the role of property rights, property ownership and wealth creation in  
eradicating poverty and fostering sustainable development in developing  
countries  
(2013/2026(INI))

Committee on Development

Rapporteur: Nirj Deva

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### **on the role of property rights, property ownership and wealth creation in eradicating poverty and fostering sustainable development in developing countries (2013/2026(INI))**

*The European Parliament,*

- having regard to Article 17 of the United Nations Universal Declaration of Human Rights concerning the right to property,
- having regard to the Millennium Declaration of 8 September 2000 setting out the Millennium Development Goals (MDGs), in particular goals 1, 3 and 7,
- having regard to the Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy: ‘The European Consensus’ signed on 20 December 2005, in particular paragraphs 11 and 92 thereof,
- having regard to the Commission Communication of 19 October 2004 entitled ‘EU Guidelines to support land policy design and reform processes in developing countries’ (COM(2004)0686),
- having regard to the Commission Communication of 31 March 2010 on ‘An EU policy framework to assist developing countries in addressing food security challenges’ (COM(2010)0127),
- having regard to the Commission Communication of 13 October 2011 entitled ‘Increasing the impact of EU Development Policy: An agenda for change’ (COM(2011)0637),
- having regard to the Commission Communication of 27 February 2013 entitled ‘A decent life for all: Ending poverty and giving the world a sustainable future’ (COM(2013)0092),
- having regard to the ‘EU Land Policy Guidelines: Guidelines for support to land policy design and land policy reform processes in developing countries’ adopted by the Commission in November 2004,
- having regard to the 2008 United Nations Human Settlements Programme (UN-Habitat) study entitled ‘Secure Land Rights for All’ and the UN-Habitat guide on ‘How to Develop a Pro-Poor Land Policy: Process, Guide and Lessons’,
- having regard to the report of 11 June 2009 by the United Nations Special Rapporteur on the Right to Food, Olivier De Schutter, entitled ‘Large-scale land acquisitions and leases: a set of core principles and measures to address the human rights challenge’,
- having regard to the declaration on ‘Urbanisation Challenges and Poverty Reduction in ACP States’ adopted in Nairobi, Kenya, in 2009,
- having regard to the declaration of the World Summit on Food Security, adopted in Rome

in 2010,

- having regard to the declaration on ‘Making Slums History: A worldwide challenge for 2020’ adopted at the international conference held in Rabat, Morocco, from 26 to 28 November 2012,
  - having regard to the declaration on ‘Sustainable Urbanisation as Response to Urban Poverty Eradication’ adopted at the 2nd Tripartite ACP-European Commission-UN-Habitat Conference held in Kigali, Rwanda, from 3 to 6 September 2013,
  - having regard to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and to the Indigenous and Tribal Peoples Convention (no. 169) of 1989 of the International Labour Organisation (ILO),
  - having regard to the Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources (PRAI), to the Food and Agriculture Organisation’s Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, and to the African Union’s Framework and Guidelines on Land Policy in Africa (ALPFG),
  - having regard to the recommendations of the High Level Panel on the Post-2015 Development Agenda to include a goal on governance of land tenure for women and men, and to recognise that women and girls must have, inter alia ‘the equal right to own land and other assets’,
  - having regard to its resolution of 27 September 2011 on an EU policy framework to assist developing countries in addressing food security challenges<sup>1</sup>,
  - having regard to Rule 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Development and the opinion of the Committee on Women’s Rights and Gender Equality (A7-0118/2014),
- A. whereas property rights can be defined as the rules that regulate the terms by which individual stakeholders, communities, and public and private actors acquire and maintain access to tangible and intangible assets through formal law or customary provisions; whereas according to UN-Habitat, land tenure specifically can be formal (freehold, leasehold, public and private rental), customary or religious in origin; whereas the EU Land Policy Guidelines state that land rights are not always limited to private ownership in the strict sense, but can resort to a balance between individual rights and duties, and collective regulations at different levels;
- B. whereas 1.2 billion people worldwide inhabit property for which they do not hold formal rights and live without permanent homes or access to land; whereas, in particular, more than 90 % of the rural population in sub-Saharan Africa (of which 370 million people are considered to be poor) access land and natural resources via legally insecure customary and informal tenure systems;

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<sup>1</sup> OJ C 56 E, 26.2.2013, p. 75.

- C. whereas total extra-legal and unregistered wealth is estimated at over USD 9.3 trillion, which is 93 times larger than the total amount of foreign aid given to developing countries over the past 30 years;
- D. whereas although MDG7 (Target 11) –aimed at improving the lives of 100 million slum inhabitants by 2020 – has been attained, the number of such inhabitants (estimated at 863 million in 2012), in absolute terms, continues to grow; whereas UN-Habitat estimates that as many as one billion people live in slums, and it is thought that an estimated three billion people will be residing in slums by 2050; whereas Article 11 of the International Covenant on Economic, Social and Cultural Rights recognises a universal right to housing and to continuous improvement of living conditions;
- E. whereas in rural areas, some 200 million people (almost 20 % of the world’s poor) have no access to sufficient land to make a living; whereas rural land is coming under multiple pressures, such as population growth, land-use conversion, commercial investments, environmental degradation due to drought, soil erosion and nutrient depletion, as well as natural disasters and conflicts; and whereas securing land rights is necessary to promote social stability by reducing uncertainty and conflicts over land;
- F. whereas private investors and governments have shown a growing interest in the acquisition or long-term lease of large portions of arable land, mostly in developing countries in Africa and Latin America;
- G. whereas by setting mandatory targets and subsidising biofuels, the EU contributes at least indirectly to land-grabbing in developing countries, given that it encourages speculation over arable land, in particular those most fertile of lands and those located near ports or roads; whereas threats to the security of tenure for small-holders are further increased as a result, with potential negative consequences for the food security of local communities;
- H. whereas arbitrary land allocation by political authorities breeds corruption, insecurity, poverty and violence;
- I. whereas land governance issues are closely linked with the key challenges of the 21st century, namely food security, energy scarcity, urban and population growth, environmental degradation, climate change, natural disasters and conflict resolution, reinforcing the need to prioritise comprehensive land reform;
- J. whereas an estimated 1.4 billion hectares worldwide are governed by customary norms; whereas existing land tenure structures in Africa, Asia and Latin America are considerably different from each other and the local, customary arrangements that have developed – whether they be freehold or communal – cannot be disregarded when formalisation of land is undertaken;
- K. whereas under Article 25 of the Universal Declaration of Human Rights, everyone has the right to take possession of the resources or means needed to produce or obtain food in sufficient quantities for existence;
- L. whereas the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) states that women and spouses shall have equal rights in respect of the

ownership and acquisition of property; whereas, however, many land tenure and property rights regimes discriminate against women either formally or in practice;

- M. whereas, in many developing countries, women's property rights, secured access to land and access to savings and credit are not socially recognised; whereas, starting from such a discriminatory basis, it is particularly difficult for women to assert their property rights, and especially rights to inheritance, by legal means;
- N. whereas in particular women's land rights in developing countries are being violated through the increasing incidence of large-scale land acquisition by developed countries for commercial or strategic purposes, such as agricultural production, food security and energy and biofuel production; whereas women often lack the opportunity to harness legal aid and representation to successfully challenge violations of property rights in developing countries;
- O. whereas providing secure land rights for women is important for poverty reduction, in view of women's roles as food producers in rural and peri-urban areas, their responsibilities for feeding family members; whereas women, who represent 70 % of Africa's farmers, formally own as little as 2 % of the land; whereas recent programmes throughout India, Kenya, Honduras, Ghana, Nicaragua and Nepal have found that female-headed households have greater food security, better health care and a stronger focus on education rather than male-headed households;
- P. whereas more than 60 % of chronically hungry people are women and girls and, in the developing countries, 60-80 % of food is produced by women<sup>1</sup>;
- Q. whereas an estimated 370 million indigenous peoples worldwide have a strong spiritual, cultural, social and economic relationship with their traditional lands, the management of which is usually community-based;
- R. whereas Article 17 of the Universal Declaration of Human Rights recognises the rights of everyone to own property either alone or in association with others, and that no one should be arbitrarily deprived of his or her property;
- S. whereas access to land for indigenous people has been afforded specific forms of protection under Convention no 169 of the ILO and the United Nations Declaration on the Rights of Indigenous Peoples;
- T. whereas Article 10 of the UN Declaration on the Rights of Indigenous People guarantees the right not to be forcibly removed from one's lands or territories, and that no relocation can take place without the free, prior and informed consent of the indigenous people, and following agreement on just and fair compensation as well as wherever possible, the option of return;

***Land rights, including property rights, and wealth creation***

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<sup>1</sup> Food and Agriculture Organisation of the United Nations (FAO), Policy Brief No 5 – Economic and Social Perspectives, August 2009.

1. Considers registered property rights and secure land rights to be a catalyst for economic growth, provided that land can be used as collateral and enhance access to capital, and therefore stimulate productivity and investment, while also promoting social cohesion and peace;
2. Emphasises that securing land rights and greater equity in land access provide a secure foundation for livelihoods, economic opportunities, and in rural areas, for household food production;
3. Underlines the fact that besides individual land titling, a variety of alternative tenure options, including building on customary tenure systems to legally secure rights to house plots, farmland and natural resources, should be recognised, as advocated by UN-Habitat;
4. Stresses that land tenure security for smallholders, who constitute 95 % of potential landowners in developing countries, stimulates local economies, increases food security, decreases migration and slows down slum urbanisation; points out that, in Ethiopia for example, where property rights have been introduced, productivity increased by up to 40 % per acre over three years, on account of this change alone<sup>1</sup>;
5. Notes with concern that cultural traditions often leave women dependent on male relatives for tenure security and without legal protection; stresses the international obligations of States to ensure minimum economic social and cultural rights, which include the obligation of governments to ensure that land management is not discriminatory, in particular with regard to women and the poor, and that it does not violate other human rights;
6. Highlights the fact that empowering people to make decisions about their own resources, combined with formal inheritance provisions, strongly encourages smallholders to invest sustainably in their land, practise terracing and irrigation, and mitigate the effects of climate change; notes, in this connection, that studies have shown that a household with fully secure and transferable land is estimated to be 59.8 % more likely to invest in terracing than a household that expects to be redistributed within the village during the next five years;
7. Notes that with title deeds to land, a person may borrow money at reasonable rates of interest, which can be used to establish and develop a business; emphasises that the protection of property rights may promote a competitive business environment where the entrepreneurial and innovative spirit can grow;
8. Recognises that the challenge is to overcome the dissonance between legality, legitimacy and practices by building land tenure mechanisms based on shared norms, starting from a recognition of existing rights, while making sure that men and women, as well as vulnerable communities in developing countries, have secure rights over land and assets, and are fully protected against vested interests that could seize their property;
9. Strongly condemns the practice of land-grabbing which, in particular, illegally

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<sup>1</sup> USAID Ethiopia, <http://ethiopia.usaid.gov/programs/feed-future-initiative/projects/land-administration-nurture-development-land>

dispossesses the rural poor and traditional Nomad populations of land without adequate compensation; highlights the fact that at least 32 million hectares worldwide have been part of at least 886 transnational large-scale land deals of this kind between 2000 and 2013<sup>1</sup>; highlights the fact that this figure is likely to represent a significant underestimation of the accurate number of large land deals concluded;

10. Calls on the Commission and the Member States, in their development assistance policies, to take account of large-scale land acquisition processes by developed countries' investors in developing countries, and on the African continent in particular, which are affecting local farmers and which have a devastating impact on women and children, with a view to protecting them from impoverishment, famine and forcible eviction from their villages and land;
11. Stresses that the removal of public incentives for the production of crop-based biofuels and subsidies is one way to combat land-grabbing;
12. Recalls that when land rights are not secure and governance is weak, high risks are brought about for local communities, in terms of food insecurity, risk of displacement, and the eviction of farmers and herders; urges the Member States, in this connection, to support the national capacity of developing countries to strengthen their governance systems;
13. Highlights the fact that both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights recognise the right to self-determination, which is defined as the right of all people to dispose freely of their natural wealth and resources, and that both stipulate that no person may be deprived of his or her own means of subsistence; stresses, in this connection, that the negotiation of large-scale leases and the acquisition of lands must entail transparency, adequate and informed participation on the part of the local communities concerned by land leases or purchases, and accountability in the use of revenues that should benefit the local population;
14. Calls on the Commission and the Member States to examine, via the UN, the impact that such acquisitions have on the desertification of farmland, on the loss of women's rights of residence and access to land, with particular reference to single women and those who are the head of the family, on food security and on their livelihood and that of their children and dependent persons;
15. Stresses that investment agreements on large-scale land acquisitions or leases should duly take into account the right of current land-users, as well as the rights of workers employed on farms; takes the view that the obligations of investors should be clearly defined and should be enforceable, for instance by means of the inclusion of sanction mechanisms in cases of non-compliance with human rights; considers that all land deals should also include a legal obligation whereby a certain minimum percentage of crops produced should be sold on the local market;

***Roadmap to secure land rights, including property rights, and sustainable land governance in the developing world***

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<sup>1</sup> <http://www.landmatrix.org/get-the-idea/global-map-investments/>



16. Highlights the fact that land reform requires flexibility, tailored to local, social and cultural conditions, such as traditional forms of tribal ownership, and should be focused on empowering the most vulnerable;
17. Highlights the fact that the co-existence of customary land regimes and imposed colonial models represent one of the main causes of endemic land insecurity in developing countries; stresses, in this connection, the imperative to recognise the legitimacy of customary tenure arrangements that provide statutory rights to individuals and communities, and prevent dispossession and abuses of land rights, which are especially prevalent among African communities and the large indigenous populations of Latin America;
18. Emphasises that regularising tenure security for urban squatters has a significant effect on residential investment, with studies showing that the rate of housing renovation increases by more than 66 %;
19. Emphasises that land tenure reform should begin with accurate land data collection and with systematic titling by means of cadastral mapping using low-cost technologies, such as mobile technologies, GPS, GPRS and GIS monitoring tools; calls for complete openness and encourages the development and regional sharing of geographical information systems, including satellite and aerial imagery, taking into account technologies for participatory mapping; congratulates Rwanda on the progress it has made with regard to land data, which has made it possible to register all land in the country within a remarkably short period;
20. Warns against applying a one-size-fits-all approach in order to achieve land security; underlines the fact that formal land administration services are most effective when provided at local level; takes the view that the effective delivery of secure land rights may therefore depend on the reform of centralised state land agencies with a view to devolving responsibilities to local and customary institutions; considers that land registration can then be improved by means of the computerisation of land records and cadastral systems;
21. Recalls that agriculture remains a fundamental source of livelihood, subsistence and food security for rural communities; notes, however, that rural land is coming under multiple pressures, because of population growth, land-use conversion, commercial investments, and environmental degradation due to drought, soil erosion and nutrient depletion, as well as natural disasters and conflicts; believes, in this connection, that securing land tenure for rural communities is essential to achieve the millennium development goals (MDGs); takes the view that a range of policy instruments can help address these challenges, and they must be adapted to meet local conditions;
22. Believes that government officials should first identify those land management and tenure systems that already exist and that they should, secondly, build on these systems for the benefit of the poor and vulnerable groups;
23. Trusts that the decentralisation of land administration empowers local communities and individuals, and draws attention to the need to eliminate corrupt practices imposed by local chiefs through deals struck with foreign investors and any claims to unregistered individual plots of land;

24. Stresses that any shift in land use should only take place with the free, prior and informed consent of the local communities concerned; recalls that indigenous people have been granted specific forms of protection of their rights on land under international law; insists, in line with the United Nations Declaration on the Rights of Indigenous Peoples, that states shall provide effective mechanisms for the prevention of, and redress for, any action which has the aim or effect of dispossessing indigenous peoples of their lands, territories or resources;
25. Notes that the limited proportion of land which is registered in Africa (10 %) is recorded via outdated erroneous systems; underlines the fact that, according to World Bank estimates<sup>1</sup>, the 27 economies that modernised their registries in the past seven years cut the average time for transferring property ownership by half, thereby increasing transparency, reducing corruption and simplifying revenue collection; emphasises that a high priority for development policy should be to establish and improve land registries in developing countries;
26. Recalls that tenure security can be safeguarded under various forms, provided that the rights of land users and owners are clear: recalls that in addition to formal titles, security can be achieved through clear, long-term rental contracts, or formal recognition of customary rights and informal settlements, with accessible and effective dispute settlement mechanisms; calls for the EU to channel support towards capacity development and training programmes in land management with the aim of securing land rights for the poor and vulnerable groups, including through cadastral surveying, registration, and efforts to equip educational institutions in developing countries;
27. Calls for the EU to strengthen the capacity of courts in developing countries to enforce property law effectively, to resolve land disputes and manage expropriations as part of a holistic approach aimed at consolidating judicial systems and the rule of law;
28. Calls for the EU to help developing countries to implement their land reforms in order, to promote, in particular, the participation of all stakeholders, and in combination with awareness-raising programmes, so that the rights of all parties involved, especially the poor and vulnerable, are fully respected; cites the example of Madagascar and the local land offices, where simple local initiatives have greatly facilitated the registration of land titles;
29. Highlights the fact that building sound fiscal policies in developing countries by strengthening land registration and delineating valuation functions significantly increases annual land transaction revenue, such as in Thailand where it increased six-fold over a period of 10 years;
30. Calls for the EU to give strong assistance to newly empowered landowners to invest, by means of auxiliary support mechanisms, in new equipment, while facilitating the transfer of technology and the training of new landowners in the use of innovative techniques and best practices;
31. Points out that the formal recognition of land rights for women does not automatically

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<sup>1</sup> 2012b. Doing Business 2012: Doing Business in a More Transparent World. Washington, DC: World Bank.

entail the effective implementation of those rights; calls for the EU to pay particular attention in its land reform programmes to women's vulnerability to changes in family structure and the degree to which women can enforce their rights, as well as to ensure that in practice, household deeds have both spouses' names on the land title;

32. Calls on the Commission and the Member States, in their development and humanitarian policies, to ensure that developing countries introduce legislative measures to promote gender equality and prevent discrimination with regard to property rights based on ethnicity, race and civil status, and address the means of removing the significant social, political and cultural constraints on land rights acquisition;
33. Calls for the EU delegations in developing countries to monitor women's property rights to ensure they are not being breached, thereby protecting women from the risk of falling into poverty and social exclusion;
34. Calls for the EU to support the efforts of developing countries in reforming land rental markets to provide land access to the poor and promote growth, while avoiding excessive restrictions on lease markets;

***Placing land rights, including property rights, at the heart of EU development policy***

35. Highlights the fact that large-scale land acquisitions are, inter alia, a direct consequence of weak land governance in developing countries; emphasises that empowering individuals and communities through clear and secure property rights will open contractual arrangements to scrutiny and prevent land-grabbing; underlines that EU aid should contribute to building the institutional capability required for the granting of secure land rights, so as to tackle rent-seeking and bureaucratic inertia, as well as corrupt and unaccountable practices;
36. Commends the EU's participation in global land initiatives; highlights the fact that, as the world's leading development actor, the EU has the capacity to enhance its currently limited approach in terms of both scope and visibility with a view to addressing land tenure;
37. Notes that along with improving property rights systems in developing countries, the EU must aim to ensure that people have access to social protection and insurance schemes in order to protect their livelihoods and protect their assets in the case of a disaster or shock;
38. Recommends that an update be made to the 2004 EU Land Policy Guidelines in coordination with Member States in order to assess current tenure challenges and assist with the implementation of new low-cost technologies in land mapping and administration;
39. Calls for the implementation of the Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries and Forests;
40. Urges the Commission to set a clearly defined budget line for property rights, shifting from a small-scale perspective to long-term land governance reform, with a view to

streamlining land tenure;

41. Stresses that the challenge of providing secure land rights for displaced people and refugees is likely to increase under the pressures climate change; stresses equally that the establishment of legitimate institutions governing access to land for the re-settlement of migrants and refugees is essential, as is the case with restitution to original owners; urges the EU, in this connection, to enhance its assistance with respect to the inclusion of land rights in humanitarian and development responses to disasters or civil conflicts, whereby land policies must guarantee secure land rights for different ethnic, social or generational groups in an equitable manner;
42. Calls on the Commission and the Member States to empower women in their rights and access to land, inheritance, access to credit and savings in post-conflict situations, especially in countries where women's rights are not legally enforceable and socially recognised, and where gender-biased laws, traditional attitudes toward women and male-dominated social hierarchies pose obstacles to women attaining equal and fair rights; calls on the EU to promote the involvement of the newly created UN Women's Organisation in this issue;
43. Welcomes the Land Transparency Initiative, launched by the G8 in June 2013, on the basis of the Extractive Industries Transparency Initiative and the recognition of the fact that transparency as regards the ownership of companies and land, combined with secure property rights and strong institutions, is crucial for poverty alleviation; stresses, however, that efforts need to be increased in order to facilitate the implementation of efficient land reform;
44. Recommends that property rights and land tenure security for all be included as an objective on the post-2015 development agenda, with a view to sound land management as a key to achieving the MDG goals and eradicating poverty;
45. Reaffirms the EU's commitment to reduce poverty worldwide in the context of sustainable development, and reiterates that the EU should include a strong gender component in all of its policies and practices in its relations with developing countries<sup>1</sup>;
46. Emphasises the fact that the strengthening of policies to place women's access to property in developing countries on an equal footing with that of men is necessary; takes the view that this must be taken into consideration in the country programmes and must be accompanied by the requisite financial support mechanisms (such as savings, credit, grants, micro-credits and insurance); believes that these strengthened policies will result in the empowerment of women and NGOs and promote women's entrepreneurship; considers that they will improve women's legal and financial literacy, support girls' education, increase the dissemination and accessibility of information, and establish legal aid services and gender-sensitivity training for financial services providers;
47. Calls on the Commission and the Member States, in their development work, actively to promote female entrepreneurship and property rights, as part of the process of enhancing women's independence from their husbands and strengthening their countries' economies;

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<sup>1</sup> OJ C 46, 24.2.2006.

48. Recalls that 15 October is the International Day of Rural Women and calls on the European Union and the Member States to promote awareness-raising campaigns in developing countries;

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49. Instructs its President to forward this resolution to the Council, the Commission, the governments and the parliaments of the Member States, the Secretary General of the United Nations, the President of the World Bank, the Association of Southeast Asian Nations, the Euro-Latin American Parliamentary Assembly and the Africa Caribbean Pacific-European Union Joint Parliamentary Assembly.

## EXPLANATORY STATEMENT

### **Property rights and land tenure security status quo in the developing world**

Article 17 of the Universal Declaration of Human Rights states that ‘Everyone has the right to own property alone as well as in association with others’ and that ‘No one shall be arbitrarily deprived of his property’.

Nevertheless, 1.2 billion people worldwide occupy properties for which they don’t hold formal rights, live without permanent homes or access to land altogether.<sup>1</sup>

Moreover, although the MDGs recognised the need to address the security of slum inhabitants and urban squatters in developing countries and committed to account for at least 100 million slum inhabitants by 2020, the target is far from being on track; 90% of new urban settlements in Sub-Saharan Africa are taking the form of slums and 3 billion people are estimated to reside in slums by 2050<sup>2</sup>.

However, these assets cannot be protected nor mobilised. They represent dead, extra-legal capital. Nobody can identify who owns what, resources cannot be turned into their full capital value, and wealth cannot be traded outside a narrow circle of local people who know and trust each other and cannot be used as collateral or guarantee against future investments.

At the same time, in developing countries, the process to escape informality and become a registered legal entity is fraught with high monetary and procedural costs, taking years to complete. Hernando de Soto’s survey teams identified that, in Peru, getting legal authorisation to build a house on state-owned land and to obtain a legal title for that particular land took 6 years and 11 months, involving 728 steps.<sup>3</sup>

This total extra-legal and unregistered wealth is estimated at over 9.3 trillion USD, which is 93 times larger than the total for all the foreign aid given to developing countries in the past 30 years<sup>4</sup>. As such, establishing legal property law systems and empowering people to govern over their own resources could turn out to be the greatest development story of the 21<sup>st</sup> century, but also the greatest challenge of all.

### **The potential impact of property rights and land tenure security in developing countries**

The knowledge that property rights radically impacts economic development and reduces poverty is not based on a hypothetical model. We only have the look at the 19<sup>th</sup> Century to recognise that the legal property system became the staircase that took the US and the Western States from the universe of assets in their natural state to the conceptual universe of

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<sup>1</sup> Tim Hansted, President and CEO Landesa (Rural Development Institute)

<sup>2</sup> Global Land Tool Network Brief 1, March 2010

<sup>3</sup> Hernando De Soto, *The Mystery of Capital - Why Capitalism Triumphs in the West and Fails Everywhere Else*, 2001.

<sup>4</sup> idem.

capital formation where assets can be used to their full productive potential.

Today's developing countries, like America 200 years ago, have three choices: to ignore the extra-legal arrangements made by the 'landless poor' and urban squatters, to make superficial concessions or to become the champions of extra-legal entities.

The key challenges of the 21<sup>st</sup> century - food security, energy scarcity, water shortage, urban and population growth, environmental degradation, climate change, natural disasters and state fragility – can all be correlated to issues of land governance, reinforcing the need to prioritise comprehensive land reform.

### ***Economic Growth and Poverty Alleviation***

Recognised and registered property rights are a catalyst for economic growth, enhancing investment opportunities through access to capital and low-cost credit, using land as collateral. Secure tenure generates higher productivity and stimulates entrepreneurship through access at functional rental and sales markets, boosting commercial values through adequate registration of land holdings and SMEs;

While non-transparent, corrupt and inefficient land administration systems constitute a major bottleneck for entrepreneurship and SMEs, easily transferable land titles reduce the cost of accessing credit and increases the opportunities for gainful employment, contributing to innovation and technological advancement.

In China for example, agricultural reform and improved land rights reduced the number of undernourished people from 387 million in 1969 to 150 million in the mid-2000s.

### ***Agricultural Productivity and food security***

Smallholders constitute 95% of the potential land owners in developing countries and are the most vulnerable. Having secure provisions for the land they cultivate, registered property rights and legal decision-making powers provides strong incentives for landowners to invest in innovative technologies that increase agricultural productivity and land fertility, guarantees their access to capital and markets, stimulates local economies, increases food security, decreases migration and slows down urbanisation.

In Ethiopia, USAID worked with the government towards the implementation of clear rights for landowners. In the 32 pilot districts that implemented the program, over the last 3 years, yields have increased up to 40% per acre with no other inputs<sup>1</sup>; The concerns the government had at the beginning of the project have thus been allayed, allowing for the development of a country-wide reform.

### ***Urban and Population Growth***

With a 70% urban population globally by 2050, the legal property system alone by registration has the capacity to bring slum inhabitants and urban squatters into the formal

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<sup>1</sup> USAID Ethiopia, <http://ethiopia.usaid.gov/programs/feed-future-initiative/projects/land-administration-nurture-development-land>

economy, converting their assets into real measurable and transferable wealth thereby producing future economic opportunities.

### ***Environmental Protection and Climate Change mitigation***

Empowering people to make decisions over their own resources, in addition to formal inheritance provisions and protection against vested interests that could seize their property, strongly encourages landowners to sustainably invest in their land to prevent environmental degradation and soil erosion by practicing terracing and irrigation. A study carried out by LANDESA found that ‘a household with fully secure and transferable land is estimated to be 59.8% more likely to invest in terracing than one which expects redistribution during the next 5 years.’

### ***Women’s land rights***

Women, who represent 70% of Africa’s farmers, are customarily locked out of legality. They formally own as little as 2% of the land. However, even where their rights are recognised and non-discriminatory policy reform takes place, traditional perceptions obstruct adequate implementation. More often than not, women are deprived of the mere knowledge of the rights they are entitled to claim and therefore awareness training programs become crucial for their development as decision-makers and economic agents.

### ***Post-conflict and state fragility***

Focusing on strong land governance systems and resolving land disputes to address underlying tensions in post-conflict countries and fragile states is one of the main pillars of stability and sustainable development.

### ***Large scale land acquisitions (land-grabbing)***

In Africa, as little as 10% of the land is formally registered, while 90% remains informally administered. National elites and local chieftains have historically controlled the unregistered individual parcels of land. In Ethiopia, where USAID has pioneered land registration and secured title deeds, farmers used to be subjected to recurrent, unanticipated land seizures, arbitrary redistributions and nationalisation.

Consequently, large scale land acquisitions are a direct consequence of weak or absent land governance in developing countries, taking place in a vacuum with countless opportunities for corruption, expropriations without adequate compensation and without the rights of all the stakeholders involved being respected. It is estimated that as much as 203 million hectares worldwide have been part of large scale land deals between 2000 and 2010<sup>1</sup>. Investigating the impact of the Swiss Addax Bioenergy large-scale plantations on the surrounding local communities in Sierra Leone, Action Aid has reported that 99% of those interviewed considered that, as a consequence, food production has declined in the region.<sup>2</sup>

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<sup>1</sup> <http://www.landmatrix.org/get-the-idea/global-map-investments/>

<sup>2</sup> Action Aid, *Broken promises: The impacts of Addax Bioenergy in Sierra Leone on hunger and livelihoods*, September 2013.



## **Steps to formal property rights and sustainable land governance in the developing world**

Institutional reform and capacity development underpins the sustainability of sound land governance and accompanies the process of registering individual land holdings and small businesses.

Government institutions must play an important role in defining and enforcing property rights through tribunals and state police. However, contrary to the general misconception, the state is not the source or distributor of property, but the defender of property. In many cases, national land titling systems have been converted from organisations which protect legitimate land claims into organisations which validate land theft.

Land reform and the development of property rights systems must be approached with a high degree of flexibility, on the basis of local, cultural and social conditions, under the following framework:

1. The collection of accurate land data and land surveying of the different types of land;
2. The registration of land and systematic titling through cadastral mapping via low-cost technologies and infrastructures;
3. The decentralisation of land administration empowers local communities and individuals and encourages the elimination of corrupt practices imposed by local chiefs through deals struck with foreign investors, claiming unregistered individual lands;
4. The modernisation and computerisation of land management increases efficiency, transparency and facilitates revenue collection. In India, Karnataka alone quadrupled its land-related revenue from 120 million USD in 2000 to 480 million USD in 2008. Moreover, computerisation avoided users 16 million USD in bribes.<sup>1</sup>
5. The participation and consultation of all stakeholders is of paramount importance in order to ensure that the needs and concerns of all parties, especially the poor and vulnerable, are fully respected.
6. Strengthening the capacity of courts to resolve land disputes and manage expropriations must be part of a holistic approach to consolidate judicial systems and the rule of law. At the same time, the local political organisations which have emerged to defend land rights can't be disregarded, they are often democratic and legitimate, but not transparent to outsiders and lacking the ability to document land rights accurately.
7. Developing countries require sound fiscal policies built upon a fair tax policy and a documented tax assessment, which in turn require strengthening land registration and delineating valuation functions, to record accurate annual land transaction revenue; in Thailand, as a result of reform, annual land transaction revenue increased six-fold over a period of 10 years.
8. Support mechanisms for newly empowered landowners create incentives for smallholders to invest in new equipment and boost agricultural production. Facilitating technology transfer and training new landowners in the use of innovative techniques and best practices is fundamental in the first years after land registration.

## **Placing property rights at the heart of EU development policy**

<sup>1</sup> Deininger, K., H. Selod, and A. Burns. 2012. "The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector." World Bank, Washington, DC.

The European Union must stand at the forefront of the fight against land grabbing. Overturning weak or even absent land governance in developing countries and empowering people through clear and secure property rights will open contractual arrangements to scrutiny, impede dispossession, redistribution without fair compensation and negligence. Secure land tenure systems are not a short-term endeavour, but require a long-term approach and the concerted commitment of a multitude of actors, from governments to civil society, from international donors to public and private agents.

In order for the European Union to become a major player in the advancement of property rights and in the fight against land-grabbing, this report recommends that:

- The European Commission opens a clearly defined budget line for property rights in developing countries, designed to support long-term land governance reform and to streamline land tenure in drafting and implementing Country Strategy Papers.
- The formalisation of property rights and land registration is placed on the post-2015 development agenda.
- An overarching accountability mechanism under the auspices of the United Nations to be developed, with the express purpose of supporting land reform, monitoring land governance in a transparent and accountable fashion, while encouraging states to respect and pursue land claims made by individuals and communities.

15.7.2011

## OPINION OF THE COMMITTEE ON WOMEN'S RIGHTS AND GENDER EQUALITY

for the Committee on Development

on the role of property rights, property ownership and wealth creation in eradicating poverty and fostering sustainable development in developing countries  
(2011/2009(INI))

Rapporteur: Silvia Costa

### SUGGESTIONS

The Committee on Women's Rights and Gender Equality calls on the Committee on Development, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. whereas women in developing countries face a serious gender gap in terms of property rights and ownership, especially in access to productive resources such as land and livestock; whereas women control less land than men and the land they control is often of poorer quality; whereas closing the gender gap in access to productive resources could reduce the number of hungry people in the world by 12-17%<sup>1</sup>,
- B. whereas more than 60% of chronically hungry people are women and girls and, in the developing countries, 60-80% of food is produced by women<sup>2</sup>,
- C. whereas, in many developing countries, women's property rights, secured access to land and access to savings and credit are not socially recognised; whereas, starting from such a discriminatory basis, it is particularly difficult for women to assert their property rights, and especially rights to inheritance, by legal means,
- D. whereas under Article 25 of the Universal Declaration of Human Rights everyone has the right to take possession of the resources or means needed to produce or obtain food in sufficient quantities for existence,
- E. whereas in particular women's rights to property in developing countries are being

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<sup>1</sup> Food and Agriculture Organisation of the United Nations (FAO), *The State of Food and Agriculture*, 2011, p. 5.

<sup>2</sup> Food and Agriculture Organisation of the United Nations (FAO), *Policy Brief No 5, Economic and Social Perspectives*, August 2009.

violated through the increasing incidence of large-scale land acquisition by the developed countries for commercial or strategic purposes such as agricultural production, food security and energy and biofuel production; whereas women often lack the opportunity to harness legal aid and representation to successfully challenge violations of property rights in developing countries,

1. Calls on the Commission and the Member States to allocate sufficient and utilise existing financial resources in a cost-effective, appropriate and practical way when providing development assistance, as well as adopt special policy provisions for closing the gender gap in secure access to land and other property rights and ownership, including through the elimination of all forms of discrimination against women under the law in line with the principles of the Beijing Declaration;
2. Reaffirms the European Union's commitment to reduce poverty worldwide in the context of sustainable development and that the EU should include a strong gender component in all its policies and practices in its relations with developing countries<sup>1</sup>;
3. Emphasises that the strengthening of policies to place women's access to property in developing countries on an equal footing with men's is necessary; takes the view that this needs to be taken into consideration in the country programmes and needs to be accompanied by the requisite financial support mechanisms (such as savings, credit, grants, micro-credits and insurance); believes that these strengthened policies will result in the empowerment of women and NGOs and promote women's entrepreneurship; considers that they will improve women's legal and financial literacy, support girls' education, increase the dissemination and accessibility of information and establish legal aid services and gender-sensitivity training for financial service providers;
4. Calls on the Commission and the Member States, in their development work, to actively promote female entrepreneurship and property rights, as part of the process of enhancing women's independence from their husbands and strengthening their countries' economies;
5. Asks the Commission and the Member States, in their development assistance policies, to take account of large-scale land acquisition processes by developed countries' investors in developing countries, and on the African continent in particular, which are affecting local farmers and which have a devastating impact on women and children, with a view to protecting them from impoverishment, famine and forcible eviction from their villages and land;
6. Calls on the Commission and the Member States to examine, via the UN, the impact such acquisitions have on the desertification of farmland, on the loss of women's right of residence and right to property, with particular reference to women who are single or the head of the family, on food security and on their livelihood and that of their children and dependent persons;
7. Calls on the Commission and the Member States in their development and humanitarian policies to ensure that developing countries introduce legislative measures to promote gender equality and prevent discrimination with regard to property rights based on

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<sup>1</sup> OJ C 46, 24.2.2006

ethnicity, race and civil status and address how to remove the significant social, political and cultural constraints on land rights acquisition;

8. Calls for the European Union's Delegations in the developing countries to monitor women's property rights to ensure they are not breached, thereby protecting women from the risk of falling into poverty and social exclusion;
9. Recalls that 15 October is the International Day of Rural Women and calls on the European Union and the Member States to promote awareness-raising campaigns in the developing countries;
10. Calls on the Commission and the Member States to empower women in their rights and access to land, inheritance, access to credit and savings in post-conflict situations, especially in countries where women's property rights are not legally enforceable and socially recognised and where gender-biased laws, traditional attitudes toward women and male-dominated social hierarchies pose obstacles to women attaining equal and just rights; calls on the EU to promote the involvement of the newly created UN Women's Organisation in this issue;

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	13.7.2011
<b>Result of final vote</b>	+ :            29 - :            0 0 :            1
<b>Members present for the final vote</b>	Regina Bastos, Edit Bauer, Marije Cornelissen, Silvia Costa, Edite Estrela, Ilda Figueiredo, Zita Gurmai, Teresa Jiménez-Becerril Barrio, Nicole Kiil-Nielsen, Astrid Lulling, Barbara Matera, Angelika Niebler, Siiri Oviir, Antonyia Parvanova, Nicole Sinclair, Joanna Katarzyna Skrzydlewska, Eva-Britt Svensson, Britta Thomsen, Marina Yannakoudakis, Anna Záborská
<b>Substitute(s) present for the final vote</b>	Izaskun Bilbao Barandica, Vilija Blinkevičiūtė, Christa Klauß, Mojca Kleva, Mariya Nedelcheva, Norica Nicolai, Chrysoula Paliadeli, Antigoni Papadopoulou, Sirpa Pietikäinen
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Jacek Włosowicz

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	11.2.2014
<b>Result of final vote</b>	+ : 15 - : 4 0 : 5
<b>Members present for the final vote</b>	Thijs Berman, Ricardo Cortés Lastra, Véronique De Keyser, Nirj Deva, Leonidas Donskis, Charles Goerens, Catherine Grèze, Mikael Gustafsson, Bill Newton Dunn, Jean Roatta, Birgit Schnieber-Jastram, Michèle Striffler, Keith Taylor, Anna Záborská, Iva Zanicchi
<b>Substitute(s) present for the final vote</b>	Philippe Boulland, Emer Costello, Edvard Kožušník, Csaba Óry, Cristian Dan Preda, Judith Sargentini
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Josefa Andrés Barea, Małgorzata Handzlik, Tadeusz Ross