



Land Governance in an Interconnected World

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LAND GOVERNANCE IN HIGHER EDUCATION: MISSING LINK BETWEEN RESEARCH, POLICY, AND STAKEHOLDERS' NEEDS IN AFRICAN SOCIETIES

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Abstract

Land problems in Africa generate new challenges for governments, private sector and civil society to develop instruments to address them. “Land governance” has become a guiding paradigm for holistic concepts combining land economics, administration, management and their contributions to SDGs. How to integrate land governance into African postgraduate training? The paper discusses, with an economic focus, objectives, outcomes, and content of a master course concept in land governance. It identifies economic theories to address complex governance issues; it highlights dynamics and their impact on land governance. It considers links to other policies in a rural and urban context. Contributions to environmental goals become clear. Not only the role of the state is at issue, the same is true for functions of private business and stakeholders in civil society. In future multi-layer governance is required for; more complex models be applied. Experiences to measure impact will be discussed as well.

Key Words:

Africa, land governance, master course

1 Why ‘Economics of Land Governance’ as a master course?

Land-related problems have become more virulent in African countries during the last decades, generating new challenges for governments and other actors in society to develop policies and instruments to successfully address them. Until now, such initiatives on land management or development have often been driven by sectoral interests, favoring disciplinary thinking, largely ignoring inherent trade-offs or complementarities. Implementation remains strongly centralized while being at the same time highly departmentalized and uncoordinated and thus limited in overall impact. The roles of private sector and civil society are inadequately addressed.

With this unsatisfactory background, “land governance” has become a guiding paradigm to address land-related problems and conflicts and, even more, an orientation to develop stronger, holistic concepts addressing land economics, land administration, land management and thus more effectively contributing to sustainable development and the achievement of the SDGs. The normative concept of “good land governance” has been accepted by many states and development agencies as a yardstick on how to improve the management of land and land-related resources. To fulfill these requirements, a much clearer understanding of land governance is required for policy making and as an instrument box. It should encourage more socially acceptable (foreign) investment in land, address conflicts in urbanization or debates on regulation of land sale or tenancy markets. Land governance should allow reactions on the threat of land conversion with a loss of forests, pasture or agricultural lands in peri-urban areas. It should address as well as the future of customary tenure and the commons, and the protection of land rights of the poor. Furthermore it should guide ecosystem service delivery and the protection of (global) public good characteristics of land.

Meanwhile, it has been accepted that the economics of land governance are strongly interlinked with other sectoral or cross-cutting areas of governance. Effective land governance has a direct positive impact on socio-economic development, such as sectoral transformation and diversification of a modernized agricultural sector; it influences income and wealth generation and poverty alleviation. At the same time land governance addresses societal challenges arising from inequality in assets, e.g. through distributive land reforms, or a strengthening of land rental markets. Furthermore, the contribution of effective land governance to overcome environmental problems cannot be underestimated: sustainable land use patterns, robust incentives for long-term investment in land and land-improvements (reforestation, irrigation systems), delivery of ecosystem services (ESS), thus contributing to global environmental goods.

Land governance is a holistic concept asking for multi- or interdisciplinary approaches and broad expertise from a wide range of professions, including law, social-anthropology, political science as

well as natural sciences (biology, botany, zoology, soil science, etc.). However, this master course will concentrate on economic aspects of land governance. Knowledge from Neoclassical Economics, New Institutional and Behavioral Economics with a focus on property rights, agency theory is identified to be, in particular, beneficial for a critical analysis of governance as is public policy analysis, public choice questions or environmental economics and natural resource management.

2 Course Objectives, Learning Outcomes, Admission Requirements, Assessment

It is the goal of the master course to integrate land governance into higher education programs of applied development and agricultural economics African universities

The objectives are to build capacities in the field of land governance by understanding principles, processes, impacts and instruments of land governance and of their application in policy formulation and implementation. This is only possible by understanding the critical role of land governance for effective land management and its contribution to sustainable socio-economic development within the frame of the SDGs. Students will be sensitized on the complexity of land governance, in particular, on the roles of government, the private sector and civil society organizations in governing land and related resources and on multi-layer governance. This will enable them to conduct land governance and policy research on their own by having critically analyzed existing land governance problems and being equipped with skills to identify options for improving land governance at different levels and to give policy advice based on the normative concept of “good land governance”. This will only be successfully by giving space to the significant regional differences in African master course curricula.

Learning outcomes: At the end of the course students will demonstrate, based on an economic focus, a deepened knowledge on land governance problems in rural and urban areas and their dynamics. They will apply economic theories and concepts on land-related problems in order to improve land governance. They will have acquired (multi-disciplinary) knowledge on the complexity of land governance issues and generated openness to multi- to interdisciplinary approaches and instrument mix. It allows them to relate land governance knowledge to other policy areas

Admission prerequisites: Students are expected to start the course with a first degree in agricultural economics, agribusiness or related programs, such as in (development) economics and other fields of social sciences. They should already have completed courses at master level in microeconomics and institutional and behavioral economics. Advantageous are courses in environmental and natural resource management and/or natural resource economics and management.

Role of course in master programs: The master course on economics of land governance is an

elective; it is worth 3 ECTS credits. The course is planned to be offered during the 2nd or 3rd semester of a master program in agricultural economics.

Mode of delivery: A mixed model is planned to deliver the course containing lectures, reading assignments and take home assignments which can result resulting in term papers, a joint case study analysis in class and finally (group) presentations in class. Assessment methods are a continuous assessment of oral contribution (including presentation) (20%), the term paper (30%) and a final written exam (50%).

Topics	Contact hours				Independent Study hours	Total houses
	Lectures	Seminar	Practical/ Tutorial	Sub- Total		
1: Contextualizing land governance in socio-economic development	5	1		6	15	21
2. Revisiting economic theories relevant for land governance	6	2	2	10	30	40
3. Land Governance: State, market and civil society	4	2	2	8	20	28
4. Dynamics, future challenges and integrated land governance models	6	2		8	20	28
5. Multi-layer, polycentric land governance	4	2		6	20	26
6. Measuring and assessing good land governance	4		3	7	30	37
Total	29	9	7	45	135	180

Source: own compilation

3 Detailed description of course content

3.1 Contextualizing land governance in socio-economic development

Why is “land governance” the theoretical and conceptual backbone of this course? Worldwide, land relations and land management are based on “[...] the rules of the game” on how access to, use of and transfer of land are being negotiated and changing in society. They are guided by formal and informal institutions (North, 1990), in particular, property rights. In this context, (land) governance focuses on the processes by which authority on land-related issues is conferred on different decision makers, such as parliaments, administration at different regional levels, family heads, village elders, elected community leaders, private enterprises or investors and even global international regimes (e.g. WTO, UNCBD) and organizations managing them (FAO, World Bank, etc.) (GIZ 2016).

From an economic perspective land governance covers and aligns the following thematic issues and disciplines: Neoclassic-inspired land economics (functioning of land sale, rental markets and land taxation), New Institutional Economics with land relevant property rights, transaction cost and agency theories but as well collective action and public choice approaches. Complementarily, MINT science inspired land administration, land management and development concepts. Further guiding are theoretical foundations of land, agricultural, environmental and rural development policies and the economic dimension in fighting poverty and addressing inequality issues.

Defining governance, land governance, good land governance: In positive science, governance has become prominent in political science and economics. In practical applications, specifications into public governance, corporate governance, land or resource governance, global governance, regulatory or participatory governance are developed. As a normative concept “good governance” has become a yardstick in international development cooperation. Governance refers to “[...] all processes of governing, whether undertaken by a government, market or network, whether over a family, tribe, formal or informal organization or territory and whether through laws, norms, power or language” (Bevir 2013). The World Bank, focusing on a macro perspective, sees governance as the way power is exercised through a country’s economic, political, and social institutions (World Bank 1991, Palmer et al. 2009:1).

In their definition Deininger et al. (2012) concentrate on public sector activities with public institutions and acquiring and exercising the authority to shape public policy and provide public goods and services. It determines how property rights are defined, public oversight over land use, management and taxation type of state land owned, the management of state land, land information systems, and land dispute resolution. UNDP’s conceptualization of governance is only partly about how governments and other social organizations interact. For them it is rather a process whereby societies or organizations make their decisions, determine whom they involve in the process and how they render account (Graham et al. 2003). From a land management perspective land governance is

about policies, processes and institutions by which land, property and natural resources are managed (World Bank 2010:10). Enemark (2012) highlights four functions of land governance: land tenure, land value, land use, and land development.

Who exercises governance? New Institutional Economics has reminded us (Furubotn & Richter 2005, North 1990) that land rental or sale markets are only *one* institution to allocate and manage land efficiently. Normally favorable frame conditions are necessary for them to work efficiently. If these preconditions do exist in most African countries has to be analyzed during this course. Market failures, erratic political changes (redistributive land reform) strengthen the role of the state, in other cases hierarchical institutions like families, village councils or even firms take part in land governance. More and more, hybrids such as cooperatives, civil society organizations or foundations gain importance.

As land/resource governance is on complex systems with inputs from different disciplines, it is helpful to work with concepts which address this complexity. Social-ecological systems (SES) research may help to better comprehend the diverse dimensions of governance. In the Ostrom-SES model (Ostrom 2009) a number of second tier variables define governance systems. They cover government and non-government organizations, networks, property-rights systems, operational, collective choice, constitutional rules as well as monitoring and sanctioning rules (Mc Ginnes & Ostrom 2012). They concentrate on property rights types ([un-]registered private property, commons, state land) and unfold rule-making organizations into public sector ones, private sector profit-oriented and non-profit organizations which can be community-based, hybrids or network structures.

Looking for criteria to assess the quality of governance is leading to the normative concept of “good governance”. Definitions by UNDP and the World Bank Institute (Birner 2007) identify six dimensions: political stability, the absence of violence, rule of law, voice and accountability, regulatory quality, government effectiveness and control of corruption, and environmental governance (GIZ 2016).

Importance of land governance for sustainable development: In the 21st century Africa stands for strong land use change dynamics due to economic development, fast urbanization and investment in lands, continuing population growth and increasing food demand. All of them have a heavy impact of climate change. A yet unknown interest in land as an economic good emerges in Africa: privatization of land at large scale takes place with (foreign) direct investment, urban sprawl leads to rising land values. This together with high food demand creates new shortages in agricultural land, leading to land conversion and a loss of forests or pastures and the alienation of former commonly governed lands (Deininger et al 2014:76). This radical revalorization of land in the recent past (Sikor et al. 2013) has led to intensified competition and a struggle on land. High quality land governance is required to overcome a dramatic yield gap in African agriculture compared to other regions of the world

(Deininger et al. 2014). As inequality in access to, ownership and use of land is aggravated by increasing land values, governance implications for more inclusiveness of autochthonous land users and for poverty alleviation become highly relevant.

How to link objectives and instruments of land governance to sustainable development? A new requirement arises from environmental challenges (climate change, preservation of biodiversity, combatting desertification, and protecting rainforests). Contrary to the Millennium Development Goals, “life on land” has been identified as an independent Sustainable Development Goal (no 15). Furthermore, other SDGs (no poverty, zero hunger, gender equality, reduced inequality, sustainable cities, climate action and peace, justice and strong institutions) are closely related to land governance.

Some definitions stress the role of rules, processes and structures for the use and control over land which are implemented and enforced not only by statutory but as well as by customary and religious institutions (Palmer et al. 2009:1). Instruments and implementation therefore differ for governance layers and within country contexts. How to balance state intervention versus self-governance of user communities and private activities? What are drivers to change such balance?

What are related policies to land governance in our context? Land governance is strongly influenced by a bundle of – partly complementary – policies. A land policy is part of the national policy agenda on promoting economic development, social justice, and political stability. Land policy is the rules governing access to and the distribution of one of the economy’s main assets (Deininger 2003). Administration systems surrounding these rules and regulations facilitate the implementation of land policy. In well-organized systems, they deliver sensible land management, good governance, and sustainability (Williamson et. al., 2010; Enemark 2017). Land policy is directly interlinked with other policy arenas such as agriculture and environment, urban development policies and in case of land reform to re-distributional and social policies.

What are leading economic institutions and regulatory frameworks? From an economic perspective land governance concentrates on property rights and markets as focal institutions: the right to use land (directly), to manage land (while others use it), to receive income (rent), to exclude others, to transfer it (permanently or temporarily) and to receive compensation. Different African countries and sectors are characterized by different shapes of this institution. This refers, for example, to the strength of statutory law. Complementary, the influence of customary regulations, based on norms and values deeply rooted in society and handed over between generations, is present, in particular, in principles guiding African land governance.

Land markets are interlinked with credit markets as land assets serve as security and collateral but also with labor markets when tenancy contracts depend on the delivery labor input (Debraj 1998, Hayami & Otsuka 1993). Families, land managing communities, firms or contract farming arrangements shape the picture of land governance as *non-market institutions*: peasant agriculture with family farms and

individual ownership or use rights, management of the commons by village communities, plantation style agriculture, contract farming or cooperative organizations. At a transboundary level international regimes complement national land governance, such as the three *environmental conventions*, WTO or EU regulations.

Increasing equity concerns highlight the limitations of land sale and rental markets as a feasible instrument for poverty alleviation and do address inequality issues. How can land regulation facilitate the transformation of informal settlements into secured rights of possession or ownership? How can cost-effective mechanisms be implemented to secure informal rights of sitting? What are innovative concepts to continue with redistributive land reforms if private lands are concerned?

Diversity of actors/stakeholders involved: In a modern economy with a strong division of labor, specialization, international integration and digitalization an increasing number of actors and stakeholders is shaping land governance. In rural areas there are direct land users (peasants, farmers, pastoralists, casual and permanent laborers, rural residents but also traditional local authorities, like village heads, land priests or civil servants. New actors arise as foreign or domestic investors, emerging medium-sized (family) farmers and farm contractors, private corporations like supermarket chains which are directly engaged in food production or professional land developers. Donors and international regimes become interested in transboundary projects like national parks. In an urban context, major actors are households, families and private businesses owning or renting urban plots and flats in real estate, civil servants of municipality government, tax agents, surveyors, land valuers or real estate agents. For all sectors governance is executed at different administrative levels, from a local to international one (Palmer & Wehrmann 2009). At higher levels bureaucrats in land administration and tax offices, as well as ministerial staff. They formulate policy implementation tools, often guided by their own vested interests in land governance.

Again the SES framework (Ostrom 2009) can help to identify attributes of actors such as their number and coordination problems, socioeconomic characteristics (education, income, wealth, status, power), history of involvement and experiences with land governance, their location (acting at place or managing via agents), pattern of leadership in the past (transnational firms, domestic family enterprises, SME), information on norms and values applied (trust, reciprocity, social capital), guiding mental models or the importance the resource has for them.

How do the roles of state, market and civil society change? More and more requests are addressed to government to secure the provision of public goods related to land: revising the legal and institutional framework by considering local participation, individual versus group rights or the IT revolution in land information, handling conflicts (statutory versus customary law e.g. in Namibia, Ghana, Zambia), overcoming traditional administrative boundaries between urban and rural land planning in cases of rapid urban sprawl, establishing a solid land tax base or better to align national legislation with

international environmental regimes. Many of these new demands have not been realized by government action yet in African countries. This has increased tenure insecurity, eviction from lands, or information biases towards the rich (titling, land conflicts). Public budget constraints, lacking incentives for qualified staff to work for government, missing training opportunities for land experts and wide-spread corruption all contribute to (partial) state failure in some African.

State failure and beyond: market and civil society in land governance. The private good dimension of land governance focuses on a further development of land sale and rental markets in Africa. While in the cities a lively real estate market is developing after liberalization and partial improvement of land administration, are rural areas characterized by privatizing common lands (conversion of forest and pastures into cropping areas) and by the rise of tenancy contracts. These are mostly sharecropping arrangements within customary structures or land consolidation processes which lead to large estates managed in plantation-style. Land investment results in concessions, contract farming, tenancy arrangements and outgrower schemes (Gobien & Vãth 2015)

Market-driven land governance is accused to facilitate land speculation as it encourages information asymmetries or powerful groups' use of information advantages. Together with support from bureaucrats they get access to strategic lands with high revenue potential. This often goes hand in hand with distress selling of land by indebted former owners in crises when credit rationing acts to the disadvantage of the poor, making them landless. Weaknesses in public land administration lead to wide-spread private encroachment on public state or communal lands (Deininger et al. 2014).

The successful governance of common pool resources has been pushed on the one hand by CBNRM models, REDD+ programs together with decentralization and the strengthening of local communities' decision power. On the other hand a creeping process of expropriating the commons and converting them into private, individual ownership or state land continues at an alarming rate. "Governing the commons" (Ostrom 1990) is revisited, principles for sustainable common pool resource governance are at issue in local contexts.

Africa-specific perspectives on land governance: What makes African countries different in land governance? Historically, African (rural) land governance is characterized by strong decentralized and diverse autochthonous systems which nevertheless show common characteristics: flat hierarchies on land issues, oral traditions in handing over rules, high flexibility in case of accommodating "foreigners" and allocating land to them (Kirk 1999). A clear differentiation existed between arable land, pastures and trees, generating separate property rights, no tradition of individual, private inheritable ownership of land, often different quality of rights between men and women and many forms of common pool resource management.

Actually, African rural and peri-urban lands have become host to large-scale investments. More than in any other region in the world a fast diffusion of a wide range of land management models has been

installed, from revisiting plantation systems with hired labor and principle-agent problems up to outgrower schemes based on contract farming with peasant structures remaining in place; however losing their independence in residual reclaiming. In rarer cases existing smallholder structures become aligned into cooperative structures.

Common property governance: Under the pressure of land privatization some major questions remain unanswered: Under which conditions do the commons have a future? To what degree is sustainable common property governance dependent on resource and user group size, on homogeneity or heterogeneity of users with regard to income, wealth, social capital? How are responsibilities divided between local user associations versus government administration?

3.2 Revisiting economic theories relevant for land governance

At the end of this learning unit, students should understand issues in land governance which have not been addressed by neoclassical economics and demonstrate in-depth knowledge of institution-related problems facing rural and urban land governance. This should be possible by acquiring knowledge on the usefulness of modern economic theoretical frameworks to guide sustainable land governance, in particular New Institutional Economics (NIE), Game Theory, Behavioral and Experimental Economics (BE), agricultural economics theories and theories of rural development. In the end they should be able to apply theoretical concepts for their own future (empirical) research and policy formulation

Relevance of economic theories for land governance: *Historically*, economic theories on property rights systems in land, the role of land rent, the diversity of rental contracts, the interface of factor markets for land and capital have strongly influenced socio-economic development. This can be traced back to feudal systems and their change in Europe, with differences between England, France and Prussia, for example. The findings of Adam Smith, David Ricardo and Karl Marx have to be mentioned. New ideas came from enlightenment and the rise of individual freedom, highlighting private ownership in land of free-born citizens, as in the United States. In an African context, the influence of colonial powers cannot be understated (Kirk 1999). The tension with indigenous systems in colonies and the lessons learnt (or not learnt) for dealing with land issues in de-colonization.

Evolutionary theories of property rights changes in land try to explain different pathways land governance was following: Turning into hierarchical, (post-) feudal systems, e.g. in Latin America, The Philippines or in Ethiopia until 1974; maintaining regulated common pool resource management and CBNRM as in parts of Africa and Asia or developing into fast privatization and individualization of property rights in parts of Asia. Main drivers are population growth (Boserup 1965), per capita income, international food demand (high quality food, livestock products, vegetables, fruits, and above

all bio fuel) and urbanization. This evolutionary development of land governance models plays as an important role as external interventions do, such as the imposition of concepts of freehold and individual, private land ownership in former colonies or state-led land reforms often driven by forced redistribution of landed assets.

Relevance of NIE for land governance: To work with NIE a critical reflection of our *understanding of institutions* is helpful: What are the dimensions behind the rather handy definition of institutions being "...the rules of the game" (North 1990). What does it mean in a land context? What are relevant concepts to understand the evolution of land governance, such as an evolutionary theory of land tenure (Binswanger et al. 1995), induced institutional changes in land use (Boserup 1965) or the theory of induced institutional innovations (Hayami & Ruttan 1986). To answer these questions, major branches of NIE are tested on their function to contribute to the crafting of land governance.

It should be emphasized that *property rights* establish and define social relations between two actors; the holder of a specified property right and second to respect these rights. Property rights evolve and develop only in case they are secured by a third instance; may it be a local community represented by a land priest or by the judicial system of a state. Special importance for land governance arises from the analysis of *land tenure systems* and their impact on actors: how do they influence income status, wealth and contribution to socio-economic development? In an African context, the *commons*, their potentials, limitations and externalities are an issue. Key concepts are the Prisoner's Dilemma model, Hardin's "Tragedy of the Commons" (Hardin 1968) and its implications for land governance (mixing up regulated common pool resources and open access) or the implications of the Coase theorem (Coase 1960) for land problems. Here, direct links to transaction economics become apparent (see below).

"*Governing the commons*" remains a challenge for African lands. To address it, *theories of collective action* in natural resource management will be analyzed, starting with the Ostrom-principles for successful co-management (Ostrom 1990). Its critics needs consideration as well as do further advances into the Institutional Analysis and Development Framework (IAD) (de Gregorio et al. 2012) and the Social-Ecological Systems approach (SES) (Ostrom 2009). Direct links are evident to *social capital theory* (Coleman 1988).

Transaction cost theory is relevant as costs of information, handling and contract enforcement costs are high for land transfers. High TAC may lead to an urban bias with regard to the coverage of well formalized land rights and a smooth implementation of other functions of land administration. To decentralize land registers and make them accessible is costly and overburdens many countries' fiscal capacities. In an urban context, a bias emerges towards old established, formalized residential and commercial quarters, as formalizing informal settlements is costly.

Agency theory helps to improve land governance. Land contracts appear in manifold shapes; often land sale and tenancy markets are “thin” or in an infant stage. To mention major applications: characteristics of principals and agents in land tenure in Africa, economic implications of “grey” land markets in case of unauthorized land certificates within a weak judicial system, the spreading of sharecropping in rural areas, screening mechanisms to select (poor) tenants and decision of fixed rent versus sharecropping, adverse selection and supervision problems for a principal in African agriculture or major strategies and mechanism of agents to exercise moral hazard.

With large scale investments in land the *inverse land size productivity relationship* (Binswanger et al. 1995) is back on the agenda and needs critical assessment for land governance. Do rapidly changing market conditions, technical progress (GMO, precision farming), innovative value added chains and new farm management models still support the hypothesis that small to medium (family) farms show significant transaction and agency cost advantages compared to large farm units based on the plantation model with hired labor? As (rural) factor markets are differentiating in African agriculture the *interlinkage between land rental and credit markets* needs consideration for land governance (Hayami & Otsuka 1993): under which institutional settings do tenure arrangements remain a substitute for missing credit markets (renting out land together with a credit against labor input)?

For the *coordination of land use via markets, hierarchy or as hybrids* NIE helps to define criteria for sustainable land governance. Asset specificity, frequency and uncertainty of transactions have a strong influence on governance models applied. Horizontal coordination related to land management may dominate in cases when product and factor markets are solidly established, property rights acknowledged and physical infrastructure working well. Alternative institutions and coordination mechanisms, based on a firm solution or vertical coordination become important when pure market coordination is failing.

The *state* remains a key actor in enabling investment in agriculture by delivering public goods. Thus, elements of *public economy and public choice theories* are relevant to understand the shaping of land governance. Large scale investment, the industrialization of agriculture or urban land development offer rent seeking options of stakeholders, corruption and misuse of bureaucratic procedures. Therefore, analyzing the political economy of land development and land policies has to focus on multi-layer, polycentric land governance.

Behavioral Economics, Game Theory, and Experimental Economics: How do farmers, investors, land priests or civil servants decide on common land issues? Do they initiate rational thought processes which alone lead to optimized decision making as orthodox neoclassical theory was supposing? Meanwhile we know that rational thinking is only a small component of more complex processes in our brains. Most thoughts, ideas and plans are a result of automatic thought processes and not at all the result of conscious reasoning.

Behavioral economics is studying effects of psychological, social, cognitive, and emotional factors on economic decisions of individuals and institutions and consequences, besides others, for land access. Behavioral economics reminds us to the bounds of rationality of economic agents. Their models combine insights from psychology, neuroscience, and microeconomic theory. Under bounded rationality decisions in land acquisition, development or the management of common pool resources need a more critical assessment (Cardenas & Carpenter 2008)

Economic experiments in laboratories or in the field have become an important branch of behavioral economics to empirically test hypotheses of human behavior under controlled conditions. Their advantage over alternative approaches is control and replicability. For *governance of common pool resources*, the propensity to cooperate in social dilemma situations is of interest. Social dilemma experiments are, for example, Prisoner Dilemma games (PD), Public Good games (VCM = voluntary contribution mechanism), or Common-pool resource games (CPR).

Another application is research on trust and reciprocity, thus the role of *social capital*. With regards to land it tries to answer if group management of land resources is preferable to state intervention by measuring the strength of norms of trust. Trust games (TG) and dictator games (DG) are applied. A third branch of experiments is on *norms of fairness and altruism*, the identification of distributional norms, and on mechanisms on the settlement of conflicts. How generously must a person treat another one if this has little/no power to control outcomes or if she has power to retaliate against perceived injustice? Games applied are the dictator game (DG) or the ultimatum game (UG).

Agricultural economics, agricultural policy analysis and land governance: Agricultural economics helps to analyze land governance problems in the agricultural sector and rural areas: through applications of land economics to the farm, in particular, for agricultural land sale and rental markets, economics of farming systems, the impact of product and factor price changes on land use and management, etc. How does agricultural policy contribute to or react on increasing land and food prices, more animal and bio-fuel production and what does it mean for land governance? Which farming model does agricultural policy favor (family based small farms, with or without incentives for cooperation, large-scale industrialized farming)? Is agricultural policy suitable to fight rural poverty, e.g. by supporting leasehold contracts with landless people, non-redistributive land management reforms, input subsidies (Sikor et al. 2013)? Furthermore, *investment policies* in farm models may favor the emergence of *new value added chains*. The EU common agricultural policy (CAP) may serve as an example. It is characterized by its “greening” as many instruments have been introduced to protect the natural environment (set aside programs, extensification, biodiversity) as do regulations for animal health and use of biocides in agriculture. Here again, an impact on land governance is expected.

Concepts from land administration and land management: Land administration, land management, land policy and land governance are closely related technical terms which are defined by different disciplines in different ways. From a surveyor's perspective, the land management paradigm states as follows (Enemark, 2005; Williamson et al., 2010, 117): Within a country context, land management activities are a broad category. They may be characterized by three components: land policies, land information infrastructures and land administration functions that support sustainable development. Others see land management as the overarching term, identical to land governance. This means as well as that land administration is dealt with as an operational sub-component of land governance (Mitchell et al. 2015). *Land administration* systems provide an infrastructure for implementing land policies and land management strategies for sustainable development.

Out of these land administration functions, concepts on the basics of responsible land valuation need in-depth research on methods to determine land and real estate values, or having a critical view on market prices in cases of speculation and “bubbles”. As for taxation, economic principles of taxation have to be applied to “land” as a factor of production: determining the tax base, deciding on progressive or proportional tax rates, or to differentiate tax rates between built versus open plots, and on tax exemptions (for the poor). As for land use and land development, public choice problems arise: who plans and controls over land use or assessing to what degree political decisions on spatial or urban planning are biased and diverted by lobby groups.

One challenge for land governance remains the handling of state land. In general, state-owned land is badly managed throughout the world (FAO, 2007, 24). So-called “land grabbing” may easily occur where the state is stripped of its assets, i.e. by transfer of land into private hands through questionable or illegal means and the help of corrupted civil servants (FAO 2007, Enemark 2017).

3.3 Land Governance: State, market and civil society

With this unit students should be able to identify and delimit the contribution of state intervention, the market mechanism and civil society action in land governance. They should critically assess relative benefits and costs of delivery of private (and public) land related goods based on the three principles. At the same time they should find a position towards state land management versus devolution of decision making and identify pathways and sequencing dynamics in the contribution of state, market and civil society.

State, market, civil society: a comprehensive view on land governance: Why is the interplay between state action in land issues, market-driven incentives and civil society engagement crucial for sustainable land governance? In many African countries, past dominant state-led land governance has much been criticized for its arbitrariness, inefficiency, lacking effectiveness and bias against the poor. Alternatively, land governance trying to rely mainly on the market mechanism has been perceived to be too limited in its reach, ignoring the public good function of land governance, lacking inclusiveness

and accessibility to all. As a complementarity, the work of civil society associations to manage land or to advocate for the rights of the poor has cured only some problems. A more inclusive view on the functions of all three pillars is needed which benefits from complementarities, allows for substitution in case of changing frame conditions, facilitates the co-option of new actors and holds for flexibility in case of new dynamics.

In concrete terms, the *limits of the state* in land governance can be summarized as follows: weakness in the definition and enforcement of property rights, aggravated by insufficient maintenance of land records (Burns et al. 2010:3). Furthermore, FDI activities in land are not yet well managed in host countries, contributing to a “race to the bottom” with regard to protecting indigenous land owners. Often land is arbitrary expropriated in case of public interest, ignoring standards and application of the rule of law and.

Thus, the delivery of public good functions is stagnant, often quality is even weakening. Without such an institutional support the future functioning of land sale and rental markets is endangered. During the last decades, initiatives have started in African countries to *devolve* power and decision making from state to the private land sector (land information, surveying, valuation, land development, public private partnerships).

New actors are emerging having a strong impact on land governance: influential foreign and domestic investors and on parallel terms those who defend the rights of indigenous land users being under the threat of losing their customary rights. Civil society takes over advocacy roles from a local, grass root level up to the international one within well-connected networks. Additional demands for civil society arise: the enforcement of international guidelines on responsible land tenure, such as the VGGT or to the assurance of transparency in land transactions at international levels accessible to all interested user. The Land Matrix is such a case (Land Matrix 2015).

Market, hierarchies and hybrid determining future land governance: What theoretical concepts can be applied to compare mechanisms delimiting the influence of state, market and hybrids on land governance? Oliver Williamson has developed a typology of governance of contractual relations. He highlights the key role of transaction costs economics to explain contractual variety due to underlying differences in the attributes of these transactions (Williamson 1985:68ff).

A progressively increase in duration and complexity of contracts results in a displacement of the neoclassical adjustment process giving way to contracts designed by adjustments of a much more case and transaction-specific, ongoing administrative kind (Williamson 1985:72). Land contracts are *mostly long-term contracts*: agricultural or forest leasehold, inheritable leasehold of urban plots or sale contracts. Taking into consideration results from agency theory a kind of efficient governance matrix is the result (Williamson 1985:72f) with asset specificity, uncertainty and frequency as differentiating criteria. Land transactions in African are characterized by *uncertainty*. As for *frequency*, three classes

are identified: one-time transaction, occasional, and recurrent. The same applies for asset specificity: non-specific, mixed and highly specific. As the one-time case is an exception; occasional and recurrent ones remain in the focus.

Following Williamson (1985:74ff) efficient (land) governance is then driven by the following: *Market governance* as pattern for non-specific transaction of both occasional and recurrent contracting. The specific identity of the parties is of negligible importance, substantive content is determined by reference to formal contract terms; legal rules apply. Market alternatives are mainly what protect each party against opportunism by the opposite. Major efforts to sustain the relation are not made; the relation itself is not of a separate value. Agricultural crop land contracts or urban flat rentals contracts in mature market economies fall under this category

Trilateral (hybrid) governance applies in case of occasional transactions with mixed or high asset specificity. Contracts are of longer duration, specialized investments have been put in place with low opportunity costs for alternative uses. For these idiosyncratic transactions the principals have a strong interest to maintain the special relation. Market is no alternative as set up costs cannot easily be recovered for occasional transactions. Instead of court-ordered litigation a third party assistance (arbitration) in resolving disputes employed. Customary tenure arrangements for rural lands in Africa backed by land priests or village elders come close to this arrangement. *Bilateral governance* works for recurrent transactions which are supported by investments with mixed or high asset specificity. These transactions are not standardized but continuity of the trading relation is appreciated. Two types emerge (see Figure 3.2 in Williamson 1985:79): bilateral structures where autonomy of the partners is maintained and unified structures where the transaction takes place outside the market, organized within a firm subject to an authority relation (= vertical integration).

Interpreted differently, transaction costs, principal-agent problems and public choice determine which of the governance principles dominates: based on market transactions (land transfer contracts, services), by hierarchy within a firm or a government administration such as state land management, or driven by hybrid solutions (relational contracts, starting from delivery contracts, via networks, contract farming (franchising), joint ventures or cooperatives).

Frame conditions for different principles to work for land governance: What is the institutional setting for state, market and civil society contributions to land governance? What characterizes the quality of the framework actually?

Looking at *rural land governance* and emerging land sale and rental markets in Africa the following challenges arise: to optimize synergies between still predominant small-scale peasant farming systems and emerging large-scale sub-sectors being part of agricultural value added chains (Deininer & Byerlee 2012). This means to revisit the inverse farm size productivity relationship in a globalizing agro-business. Innovative land management tools have to accommodate new contractual models.

Land governance has to enable larger permeability between the farm management models, e.g. to facilitate a transformation from outgrower schemes to cooperative models.

Governance decisions are closely related to recent technical and institutional innovations in agriculture, such as a *second Green Revolution* (GMO use, better irrigation systems, or other land saving technologies) or land-augmenting incentives from high food prices. New demands arise from rural industrialization and income diversification with new livelihoods or from rural-urban migration. Remittances are invested in land, housing or business: land governance has to deliver accessible and cost-effective land survey, registration and valuation systems.

Redistributive *land reforms* are implemented in several African countries. As for land restitution and land compensation institutional procedures are required, such as to acknowledge customary, ancestral rights. In these cases, state action has to go hand in hand with the integration of traditional authorities, being trustees of these rights. New governance mechanisms for restitution or compensation in case of expropriation have to be tested.

For urban real estate transactions land governance has to offer regulation in zoning of land, dealing with conflicts between private and public interests and generating tax revenues from different land. Private land development is important to offer housing for a rapidly increasing urban population. However, market activities may come into conflict with public interests in delimiting residential, business or recreational areas, finding cost sharing mechanisms between private and public investment for utilities, public transport or other services.

Other issues to be addressed in a course on land governance: Reforms of the regulatory framework for land and real estate issues lag behind private transactions being done. In many cities the needs of the urban population for clear-cut property rights assignment for condominium solutions does not correspond to governance systems offered by municipalities. Instruments to regulate overheated land markets to avoid real estate bubbles are a sensitive issue: How much should market forces be adhered to and when should government intervene? Another trade-off may emerge from interventions to subsidize credit based financing of real estate purchase: What are the rules for mortgage backed credits?

The successful application of governance principles is dependent on shortcomings and challenges in an African context such as existing hierarchical government structures with high levels of rent-seeking, elite capture and corruption at different administrative levels (Grover & Grover 2012:89). They impede reforms for more market-oriented transactions (private surveying, valuation, tenancy contracts) or a stronger civil society control of land development activities. To what degree can land-related services be privatized and where are the limits? A high potential to devolve state governance towards market activities lies in the management of land information or a stronger role of private

agents in surveying and land valuation. However, as experience in Asian countries has shown, market governance will only work without negative side effects for the poor if the work quality is controlled.

In the cities, another unresolved governance issue is the upgrading of informal settlements: is hybrid governance, e.g. through public private partnerships an option or should alternative contractual arrangements between state and private sector be chosen? Ethnic, racial discrimination, nationalism, religious or gender prejudices (Grover & Grover 2012: 90) do often impede equal access to the legal framework, cementing existing power of hierarchies.

Criteria to assess the efficiency of different principles: What are key indicators to evaluate the efficiency of governance systems? Highly relevant and rather easy to measure are direct economic criteria such as cost recovery and cost-effectiveness of services offered by the state, firms or civil society to secure property rights, facilitate land transfers and give incentives for best land use. This includes direct costs, e.g. surveying costs per ha, fees for land valuation, land transfer fees, costs per land unit for developing land.

Indirect spill-over effects often have a public good character and are difficult to quantify: improvement of rule of law, well-defined property rights in land, cost-reduction in land transfers or interest rates for credits due to higher market transparency, stronger liability with less cumbersome administrative procedures. Intergenerational effects arise from higher investment in human capital through children's education financed by higher revenues from land. Besides economic effects, the socio-political dimension needs consideration: better accessibility from decentralization to land services, higher participation of stakeholders in drafting legal measures. Here, the principle of subsidiary applies: devolving decision making and fiscal responsibility to the lowest level being able to handle new tasks but being open to retain responsibility. In particular, for successful governance of common property, the formation of bonding and bridging social capital becomes important.

3.4 Dynamics, future challenges and integrated land governance models

With this unit, students should be able to identify and assess challenges for African land governance in future and develop integrated and cohesive land governance patterns. Students will widen their perspective on overarching, cross cutting issues: gender and poverty alleviation. A more intensive link between land governance and other policy arenas will be offered including underlying multi-, inter- and transdisciplinary challenges.

Drivers, dynamics and new roles of state, market and civil society for land governance: What are actually major drivers to shape land policy? How will they change the relative importance of state, market and civil society organizations to develop land governance further? What policy interventions are feasible to initiate change? At which spatial levels will interventions work?

Land dynamics will change the contribution of the state and its agencies for land governance: For many African countries the 1990s were a period of state devolution, de-concentration of power to lower levels, decentralization of decision making and partly of deregulation of endless interventions of government agencies. As for land issues, this movement is actually challenged by large-scale direct investments in land calling again for more regulation to protect vulnerable groups, fight for national sovereignty in land affairs and avoid (local) elite capture. In some cases, lacking checks and balances give elites new power to sideline regulations and give land away to investors. In other cases control is lacking at a national level, when high ranking bureaucrats successfully practice rent-seeking.

FDI in land also sheds a new light on the fragile balance between statutory and customary land rights in rural Africa. Large scale investments act as a trigger for change of land governance institutions (Gobien & Vãth 2015:70). In some cases investors circumvent government agencies and settle land concession or leasehold directly with traditional authorities. In others the opposite happens, when investors act together with politicians at a national level to push investments through with statutory law stating that local land users have only restricted use rights and ownership being exclusively with the state. In general, FDI leads to re-gaining central state influence in land governance while weakening the role of village elders, users of the commons and secondary land rights (livestock keeper, forest users, or women).

An increasing demand to deliver services with a public good character related to land emerges from climate change, the loss of biodiversity, forest or desertification. Although the mandate to implement UN conventions (UNCCC, UNCDB, UNCCD) and derived programs (REDD+) is with national governments, ESS will not be delivered without crucial contributions from land users. Commitment to combat global 'bads' needs co-option and coordination with peasants, large-scale farmers, pastoralists, etc.

Critics on current practices of crafting large-scale land rental contracts put pressure on host countries to make contracts more transparent, accountable and inclusive for stakeholders. Meanwhile, this goes beyond a national level, as the enforcement of internationally binding treaties and guidelines such as the VGGT (FAO 2012), has become an integral part of future governance structures.

More gender equality remains a striking challenge for land governance. Recent dynamics, such as land conversion from the commons to individualized private lands, new labor relations after FDI, longer agricultural value added chains; they all have an impact on women's access, use and ownership rights in land and related resources. Again, state led land governance has to ensure a strict enforcement of gender-equal legislation for land transfer. Civil society will play an ever important role in enabling advocacy for women with limited resources in case of land conflicts.

Complexity of future land governance solutions: The economies of African countries differentiate, sectoral transformation is speeding up, with agriculture losing its old role as subsistence base. The

economic contribution of urban based industrial and services sectors rapidly gain in importance. At the same time, agricultural and rural industrialization accelerate. These trends ask for more comprehensive land governance options: The potential for improvements in land productivity in Africa is high (Deininger, Hilhorst 2014). The same applies for demands from land investors for more investment security, law enforcement, conflict litigation. It can be extended to agricultural labor regulations, technical infrastructure and complementary services, such as rural training or health services for employees.

The pressure on the future of the commons remains: land conversion, privatization by enclosures, urban sprawl into rural areas, and resulting pressure on CBNRM models have become common features. New threats arise from de facto expropriation through (transboundary) national parks, all endangering the role of land as social security and safety net.

Gender equality and poverty alleviation as unresolved challenges: Good land governance means focusing to achieve gender equality and to implement instruments to better combat rural and urban poverty. Until now access to, use of land, land ownership and intergenerational transfer are biased against women and do not contribute significantly to poverty alleviation:

Customary land rights in Africa have in most cases disadvantaged women in their use or ownership to land compared to men. The sexes were often not equally treated in front of customary law. Although social anthropology and rural sociology have identified mechanisms to strengthen women's land rights in autochthonous systems (matri-local inheritance rules, men as trustees for women's land), their economic status in cases of widowhood or divorce is often fragile in modern economy. Women often have to concentrate on secondary resource rights (non-timber products, fruit trees, or grazing rights for small ruminants) which become contested by new statutory regulations denying these rights in crafting, forest, land, or water legislation.

In many countries, the regulatory framework has been reformed completely guaranteeing women equal rights to land: tenancy contracts, sale contracts, inheritance. While the legislation is known and applied in urban areas, its application in the countryside is still weak. Women have severe problems to enforce these rights. Legal support from NGOs is not in reach for them. Often landless or land-poor women represent a good part of the rural poor.

Land is not poverty-neutral as renting or buying land is costly; land is not as highly divisible as is fertilizer, labor or water. Historically land has been concentrated in the hands of a minority. In former settler colonies, a very high land concentration and the power of minorities remains a crucial societal concern as the recent development in South Africa underlines.

In general, the poor have rare chances only to protect their land rights or to get secured tenancy contracts. Land governance is only one element within a wider bundle of policies to facilitate land

access for the poor. Redistributive land reforms are complex policy packages which require more interventions than to distribute land parcels to beneficiaries and organize (at best) payment of compensation. They have to go hand in hand with land management reforms and massive support for beneficiaries (management, extension, credit, and marketing).

In an urban context, dealing with informal settlements has to address several sectoral policies: legalizing informal property rights (right of sitting), support in basic utilities (water, electricity, and garbage disposal), spatial planning etc. In all cases public finance is an issue where market solutions via private banks will not suffice. If the government is explicitly subsidizing credits via parastatals or if self-help organizations, like cooperatives will complement the little equity the poor can contribute is one governance question which goes beyond land issues alone.

Land investments in many cases have led to eviction of peasants formerly working on the land; the term “land grabbing” is valid in such circumstances. Modernizing agriculture can contribute to new rural poverty if plantation style business models are chosen; it can, however, combat poverty if outgrower schemes are favored opening several business options for successful contractors.

Options for more integrated land governance models: Higher technical complexity of land governance tools goes hand in hand with more demanding requirements on institutional complexity. The following issues have to be addressed from a science perspective: The documentation of statutory rights has to be aligned with the one of customary group and individual rights. To be successful, latest IT technology should be applied; mechanisms and protocols of spatial data sharing and inter-agency handling of data have to be established. A much stronger inter-ministerial coordination and cooperation is a precondition to be successful. To handle these processes efficiently, a new awareness of conflicts of interests of bureaucrats and communication flaws is needed.

Such institutional reforms together with new relations to the private sector and civil society will counteract to ongoing fragmentation of land administration and land management agencies: departmental egoism, fear of loss of power and information asymmetries cement the dispersion among agencies in agriculture, environment, urban planning, housing, mining, lands, rural development, etc. Multi-level and location-specific land tenure arrangements have to be streamlined within a national frame as a precondition for intended institutional coherence and coordination (Deininger, Selod & Burns 2009). Some researchers argue that upcoming complexity asks for paradigm shift: from ‘territorial’ to ‘flow centered’ land governance (Sikor et al. 2013). Old established wisdom dating back to Ricardo and Marx that land is fixed in supply, unmovable and resistant against destruction is questioned. In future, land will become more and more only a medium to contribute to value added chain processes; for investors, agricultural production in host countries it is off-shore production to feed the hungry at home. Land governance has to consider these virtual and exterritorial dimensions.

As a consequence, the design of future land governance cannot be inspired any more by land economics, geodesy and spatial sciences alone. Multidisciplinary approaches enable more integrated concepts for African countries which are lacking financial and human resources to build up true interdisciplinary processes to identify land governance related problems in society

There are several long-term impacts of high quality land governance on macro outcomes including public good provision, human capital formation and education, or, for example, financial sector development (Deininger et al 2014). Intergenerational effects on household savings and credit access to invest in children's education are yet neglected links. Feedback loops arise when better educated professional staff improves land governance in a next generation. MINT together with social sciences should learn to think jointly in categories of complex urban and rural systems. Urban land development, spatial planning, future zoning of industrial, residential and mixed areas, suitable infrastructure, public goods like life quality, leisure and recreation on growing cities: these all become challenges for a future land governance architecture to integrate.

A closer coordination between land valuation and land taxation is a precondition for future state revenues; the establishment of fiscal instruments becomes necessary to counteract bubbles in real estate prices and to give incentives for investment in land. The challenge remains to install functioning land taxation systems at lower administrative levels (municipality, district) and to exchange data between them. Land (transaction) taxes may become an important source of revenue at a municipal level. Equity and poverty concerns need to be considered, such as tax exemptions for land-poor and disadvantaged groups.

3.5 Multi-layer, polycentric land governance

At the end of this unit, students should be able to understand the complex interaction and interlinkages between land governance at different spatial and administrative levels and to work with the concepts of multi-layer and polycentric governance. They will realize the land component in concepts of global governance and in social-ecological systems. Practical examples on multi-layer land governance will be offered.

Interaction between different levels of land governance: Land governance in many African countries is characterized by an incoherent patchwork of instruments and procedures at different administrative levels. Their establishment was often driven by pressure from interest groups, such as private land investors to register leasehold contracts, regulate the control of complaints of indigenous land users or urban land developers with government support to deliver access to urban infrastructure, planning security by adapting urban land development plans and zoning. Other often neglected players are development projects, such as CBNRM or REDD+ initiatives, decentralization programs, transboundary national parks (e.g. KAZA), or initiatives to protect land rights of women and the poor

(landless, common pool resource users). Finally private professional associations claim for comprehensive privatization of land services (surveying, land valuation, real estate broking).

As a result the following trends can be observed at a national level: the completion of the legal and regulatory framework for surveying, land valuation, land registers, land use planning, urban land management including the formalization of informal settlements, land taxation, enhanced environmental services of land and related resources, etc. Furthermore, initiatives have started to better align the different elements of such a framework, such as in Namibia in order to facilitate urban development, cope with encroachment of urban settlements into rural lands, formalizing informal settlements and linking to existing registration procedures. A special focus is on broadening the reach of land governance issues by linking to the regulation of environmental protection not only for private lands but as well as for the commons.

On parallel terms, practical instruments of land governance have already well been established at a *local level*. However, they have only partly been harmonized with nation-wide regulations, such as allocation of arable lands to village members and new settlers by traditional authorities, sanctions for to manage local commons or unwritten procedures to privatize such commons by fencing and registering 'ownership' rights. Linking national to regional or local level remains a challenge due to lacking professionalism at lower levels and non-functioning technical infrastructure and communication. While technical tools can be realized rather easily within a shorter period of time, professional training to operate the systems is more time consuming and risky.

Multi-layer and polycentric governance: implications for land: Definition and classification of multi-layer and polycentric governance depend on the perspective taken: multi-layer governance as a purely theoretical concept or polycentric governance beyond markets and state: governance of complex economic systems (Ostrom 2010).

For African land governance, a multi-level perspective of indented. Integrated land governance becomes an imperative due to new demands for land management, such as: Comprehensive land management and land use planning in embedded agro-ecological systems, starting from individual plots, to (communal) pastures, up to larger water catchment systems. Often a scaling-up beyond the national level is needed when establishing transboundary national parks. They are often pushed forward by donor consortia. However, they are not yet linked to local needs and emerging problems from changed land and natural resource management, such as transition corridors for pristine animals, compensation for damages from men-wildlife interaction, etc.

Payment for Ecosystem Services (ESS) programs becomes an issue within agro-ecological systems representing different scales (local forests to water catchments). For these programs to be successful, land governance has to go beyond a narrow focus on agricultural or urban lands, housing and recreation alone. Related governance models, in particular, water governance (small scale, village

based ones up to large irrigation perimeter along the Nile, Niger, Okavango or Zambezi), forest governance and pasture governance have to be integrated and interlinked.

Land issues in global governance regimes: Integrating land governance into “Global Governance” means concentrating on models which are systems of rules at all levels of human activity, from family or household to global organizations and regimes (Sikor et al. 2013). Indirectly, land use, land management and land development play a major role to achieve global environmental goals via climate, biodiversity, and anti-desertification conventions.

Until now it has been largely neglected how land and soil governance become part of national strategies to implement the SDGs in African countries (Weigelt et al. 2015). A wider view is needed which is not only focusing on direct benefits from land use but as well as on the different functions of land properties, such as soil properties for ecosystem functions and services as being structured in the Millennium Ecosystem Assessment (2005). This implies a shift from a more territorial perspective to flow centered global land governance. It covers production standards or forest certification.

Multilayer governance increases the number of actors involved: in addition to immediate land owners and users, traditional authorities, municipalities, the executive and jurisdictional systems at a national level, national governments, the private service, providers, the businesses sector, local NGOs, internationally acting social movements and NGOs come into the game as do international regimes. With the implementation of the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) (FAO 2012) these international actors gain in relevance for sustainable land governance.

Land governance in complex (social-ecological) systems: Advances in modelling social-ecological systems show multi-tier structures with more and more sets of variables. Governance has become a key variable in these systems. This allows us to shape these units into the direction of land governance needs. Examples are CBNRM initiatives: here, the importance of monitoring and enforcement of rules is underlined and should be understood as practiced land governance, mainly at a local level. The Institutional Analysis and Development Framework (IAD) is a much more general approach allowing applications for many land and resource related problems: Land governance is not only anchored in the context part, but also in the action arena in which actors and their resources available are a precondition to assess outcomes and feedback loops (di Gregorio et al. 2012).

Taking the SES approach of Ostrom and followers (Ostrom 2009) within the four first-tier variables governance systems are steering the management of resource systems, resource offtake, actors involved and resulting dynamics. Concentrating on governance a further differentiation into land-relevant categories is easily possible. Looking at advancements from McGinnes and Ostrom (2012), a differentiation into policy areas is possible: such as urban, rural land with different geographic scales (irrigation, watershed, transboundary), concentrating on specific subjects (smallholders, herders, external land investors, etc.), identifying different regime types ([un-]registered private property,

commons, combinations, state land) and rule-making organizations, such as public sector (government agencies, etc.), private sector (for-Profit), nongovernmental, non-profit, community-based and hybrid organizations (public private partnerships, cooperatives, or contract farming). Furthermore, rules-in-use are analyzed, including operational choice rules, collective choice rules, and constitutional choice rules.

Practical examples of multi-layer land governance: Empirical examples of multi-layer land governance are the following: EU agricultural and rural policy: creating the “second pillar” in linking economic, cultural and environmental dimensions of land governance and Global forest governance and REDD+

3.6 Measuring and assessing good land governance

At the end of this final unit, students should be able to identify economic criteria and indicators to measure the quality of land governance, work with the normative concept of good land governance and classify groups of indicators for good land governance. They will apply methods for measurement of good governance based on selected indicators and analyze case studies to measure good land governance.

Economic criteria and indicators to measure governance quality: Quality of land governance is a key to understand the functioning and shortcoming of land tenure systems under external pressure, their dynamics and cases of stress. It is difficult to create causal relationships between good land governance and sectoral performance, such as in agriculture or housing. What can then be proxy or practical solutions to identify economic criteria and valid indicators? Criteria can be costs and benefits of interventions (Deininger et al. 2014). As for all cost-benefit analysis directly imputable costs might be easier to quantify than indirect ones; direct benefits can be calculated, such as land value of adjacent plots one having a title and a second without. Indirect benefits are more difficult to quantify. Furthermore, one has to decide if the focus is more on process oriented indicators (World Bank) or outcome oriented ones (Un Habitat) (Grover & Grover 2012:91).

Good land governance: The criticism on FDI in land and debates on negative effects for the local population and inequality has contributed to attempts to define good governance (Deininger, Hilthorst 2014, Deininger et al 2014:78, Grover & Grover 2012, FAO 2007). Good land governance can be guidance for stronger incentives for investment in efficiency enhancing land transfers, improving gender equality or enhancing equality of opportunities in the access to land in general. Key elements are: Laws and institutions at different levels recognizing existing rights and allowing users to exercise them at low costs, a clear demarcation of state versus private individual or common lands, an efficient management (of the state) to provide public goods including expropriation as last resort and transparent state divestiture of land, accessible, comprehensive, and reliable public land information systems, land use planning and taxation being in place to avoid negative externalities, such as

speculation bubbles and rising asset inequalities, and institutions for conflict resolution with clear mandate and accessible to interested parties.

Instruments to measure and assess good land governance: The Land Governance Assessment Framework (LGAF) works as a toolbox of indicators to assess land governance quality. Relevant thematic areas are (Deininger et al. 2012) the legal and institutional framework: including the extent to which existing PRs are recognized, the level of documentation and enforcement and the existence of institutions with a clear mandate and transparent policy processes. In addition, clear regulations on land use planning, management and taxation, exemptions granted and justified, efficient land use planning and a transparent tax system which is efficiently collected. What is more, the responsible management of public land: are public landholdings justified in a national context and are they transparently inventoried? Does expropriation in public interest happen in a transparent way? Is the transfer of state land transparent and monitored? Finally, the public provision of land information: is information up to date on land ownership and land use rights given and is land administration accessible, affordable and sustainable?

Alternative or complementary instruments are corporate codes of conduct dealing with land issues, donor conditionality to secure minimum standards for land transactions, voluntary guidance on agricultural investment, land certification schemes (Fortin & Richardson 2013:142) or land governance monitoring instruments (Deininger et al. 2014).

Case studies to assess good land governance: Practical experiences have been collected in the following contexts: LGAF African country case studies and lessons learnt for future research and policy advice based on Non-African country cases (Mexico) (Deininger et al. 2014).

4. Concluding remarks

Offering a master course on land governance adds another piece of intensive work to the already dense and compact master programs in agricultural, development or resource economics for African students. It however, opens chances and options to bring the bits and pieces of the puzzle together, synthesize them and compose key learnings from diverse basic and applied courses. It prepares for practical multi-, inter- and even transdisciplinary practical work on one element or production factor which remains crucial for sustainable rural and urban development in Africa.

With new evaluation tools (LGAF) and the applications of SES future directions are shown for quantifying impact assessment based on the yardstick of good land governance and operating with interdisciplinary models uniting social and natural sciences as well as technical disciplines: with actors/users and governance being key variables, the frame is set for in-depth studies, even for indented, multi-layer governance systems.

References

- Bevir, Mark (2012), *Governance. A very short introduction*, Oxford University Press, Oxford, UK.
- Binswanger, Hans P.; Deininger, Klaus & Gershon Feder (1995), Power, distortions, revolt and reform in agricultural land relations, *Handbook Development Economics*, 3B:2659–2772.
- Boserup, Ester (1965), *The conditions of agricultural growth*, London.
- Cardenas, J. C., & J. Carpenter (2008). Behavioural development economics: Lessons from field labs in the developing world. *The Journal of Development Studies*, 44:311-338.
- Coase, Ronald (1960), The Problem of Social Cost. *Journal of Law and Economics*, 3:1 –44.
- Coleman, James S. (1988), Social Capital in the creation of human capital. *American Journal of Sociology*, 94:95-120.
- Deininger, Klaus (2003), *Land Policies for Growth and Poverty Reduction*. Washington, DC: World Bank and Oxford University Press.
- Deininger, Klaus & Derek Byerlee, (2011), *Rising Global Interest in Farmland: Can It Yield Sustainable and Equitable Benefits?* World Bank, Washington, DC.
- Deininger, Klaus; Hilhorst, Thea & Vera Songwe (2014), Identifying and addressing land governance constraints to support intensification and land market operation: Evidence from 10 African countries, *Food Policy* 48, 76–87.
- Deininger, Klaus; Selod, Harris & Anthony Burns (2012), *The Land Governance Assessment Framework*, World Bank Publication, Washington, DC.
- Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) (2016), *Land in German Development Cooperation: Guiding Principles, Challenges and Prospects for the Future*, (ed. by Jorge Espinoza, Christian Graefen, Michael Kirk, Antti Seelaf, Fabian Thiel & Willi Zimmermann), Eschborn
- Enemark, Stig (2005), *Understanding the Land Management Paradigm*, (paper presented at the IG COM 7 Symposium on innovative technologies for land administration, 19 – 25 June 2005, Madison, Wisconsin, USA.)
- Enemark, Stig (2012), *Sustainable Land Governance: Three Key Demands*, FIG Working Paper, FIG Working Week 2012, Rome.
- Enemark, Stig (2017), *Land Policy and Regulatory Framework, Curriculum on Responsible Land Administration, Module 6, GLTN, UN-Habitat*, (final draft, mimeo).
- Food and Agriculture Organization of the United Nations (FAO) (2007), *Good Governance in Land Tenure and Administration*, Rome.
- Fortin, Elizabeth & Ben Richardson (2013), Certification Schemes and the Governance of Land: Enforcing Standards or Enabling Scrutiny? *Globalizations*, 10, 141-159,
- Furubotn, Eirik & Rudolf Richter (2005), *Institutions and Economic Theory: The Contribution of the New Institutional Economics*, 2nd ed., Univ. of Michigan Press,
- Grover, Richard & Chris Grover (2012), Valuation and Land Governance, *Journal of Property Investment & Finance*, 30, 88-98.
- Graham, John; Amos, Bruce and Plumptre, Tim (2003), *Principles for Good Governance in the 21st Century*, Policy Brief 15, Institute on Governance, Ottawa.
- Hardin, Garrett (1968), The Tragedy of the Commons, *Science*, 162:3859, 1243-48.
- Hayami, Yujiro and Otsuka, Keijiro (1993), *The Economics of Contract Choice. An Agrarian Perspective*. Oxford.
- Kirk, Michael (1999), *Land Tenure, Technological Change and Resource Use: Transformation Processes in African Agrarian Systems*, Frankfurt a. M. etc., Peter Lang ed.
- Land Matrix Global Observatory (2015), *Land Matrix*. (online) Available at: <http://landmatrix.org/en/>
- Lawry, Stephen; Samiib, Cyrus; Hall, Ruth; Leopold, Aaron, Hornby, Donna & Farai Mtero (2016), The impact of land property rights interventions on investment and agricultural productivity in developing countries: a systematic review, *Journal of Development Effectiveness*, 9, 61–81.
- Mc Ginnis, Michael & Elinor Ostrom (2014), Social-ecological system framework: initial changes and continuing challenges, *Ecology and Society* 19:30.
- Millennium Ecosystem Assessment (MEA) (2005), *Ecosystems and Human Wellbeing: Synthesis*, Island Press, Washington, D.C.
- Mitchell, David; Enemark, Stig & Paul van der Molen (2015), Climate resilient urban development: Why responsible land governance is important, *Land Use Policy* 48, 190–198.

- Nolte, Kerstin & Susanne Johanna V ath (2015), Interplay of land governance and large-scale agricultural investment: evidence from Ghana and Kenya, *Journal of Modern African Studies*, 53:69-92.
- North, Douglas (1990), *Institutions, Institutional Change and Economic Performance*, Cambridge University Press, Cambridge, UK.
- Ostrom, Elinor (1990), *Governing the Commons. The Evolution of Institutions for Collective Action*. Cambridge University Press.
- Ostrom, Elinor (2009), A General Framework for Analyzing Sustainability of Social-Ecological Systems, *Science*, 325:419-422.
- Ostrom, Elinor (2010a), Beyond Markets and States: Polycentric Governance of Complex Economic Systems, *American Economic Review*, 100:641-672.
- Ostrom, Elinor (2010b), Polycentric systems for coping with collective action and global environmental change, *Global Environmental Change*, 20:4, 550-557.
- Palmer, David; Friccka, Szilard & Babette Wehrmann (2009), *Towards improved land governance*, FAO publication, Rome.
- Ray, Debraj (1998), *Development Economics*, Princeton Univ. Press, Princeton.
- Sikor, Thomas; Auld, Graeme; Bebbington, Anthony; Benjaminsen, Tor A., Gentry, Bradford S.; Hunsberger, Carol; Izac, Anne-Marie; Margulis, Matias E.; Plieninger, Tobias; Schroeder, Heike & Caroline Upton (2013), Global land governance: from territory to flow?, *Current Opinion in Environmental Sustainability*, 5:522–527
- Weigelt, Jes; M uller, Alexander, Janetschek, Hannah & Klaus T opfer (2015), Land and soil governance towards a transformational post-2015 Development Agenda: an overview, *Current Opinion in Environmental Sustainability*, 15:57–65.
- Williamson, Ian; Enemark, Stig; Wallace, Jude & Abbas Rajabifard (2010), *Land Administration for Sustainable Development*, Redland, Cal.
- Williamson, Oliver E. (1985), *The Economic Institutions of Capitalism*, New York, London.
- World Bank (1991), *Managing Development: The Governance Dimension*, Discussion Paper, Washington, D.C.
- World Bank (2015), Website of Land Governance Assessment Framework. (online) Available at: <http://go.worldbank.org/21M7S7AZO0>
- di Gregorio, Monica; Hagedorn, Konrad; Kirk, Michael; Korf, Benedikt; McCarthy, Nancy; Meinzen-Dick, Ruth & Brent Swallow (2012), Property Rights and Collective Action for Poverty Reduction: A Framework for Analysis, in: Mwangi, E. et al. (eds.), *Collective Action & Property Rights for Poverty Reduction*, Pennsylvania, Penn State Univ. Press, 328-356.