

# Land and Property Rights

Junior Farmer Field and Life School – Facilitator's guide



The designations employed and the presentation of material in this information product do not imply the expression of any opinion whatsoever on the part of the Food and Agriculture Organization of the United Nations concerning the legal or development status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. The mention of specific companies or products of manufacturers, whether or not these have been patented, does not imply that these have been endorsed or recommended by the Food and Agriculture Organization of the United Nations in preference to others of a similar nature that are not mentioned.

ISBN 978-92-5-106706-2

All rights reserved. Reproduction and dissemination of material in this information product for educational or other non-commercial purposes are authorized without any prior written permission from the copyright holders provided the source is fully acknowledged. Reproduction of material in this information product for resale or other commercial purposes is prohibited without written permission of the copyright holders. Applications for such permission should be addressed to:

Chief

Electronic Publishing Policy and Support Branch

Communication Division

FAO

Viale delle Terme di Caracalla, 00153 Rome, Italy

or by e-mail to:

[copyright@fao.org](mailto:copyright@fao.org)

Photos: © FAO/G.izzarri

© FAO 2010

# **Land and Property Rights**

Junior Farmer Field and Life School, facilitator's guide





## Table of contents

<b>Foreword</b>	<b>iv</b>
<b>Acknowledgments</b>	<b>v</b>
<b>Important information for JFFLS national coordinators</b>	<b>1</b>
<b>Important information for facilitators</b>	<b>2</b>
<b>Points to consider when teaching this Module</b>	<b>4</b>
<b>Overview of the exercises</b>	<b>6</b>
<b>Getting started</b>	<b>7</b>
EXERCISE 1 – listing our property	8
FACILITATORS’ NOTES 1: defining property and property rights	10
EXERCISE 2 - playing a “mango” battle	12
FACILITATORS’ NOTES 2: dispute resolution mechanisms	14
EXERCISE 3 - playing “farmers and investors”	16
FACILITATORS’ NOTES 3: many sources of property rights	18
EXERCISE 4 - how do property rights contribute to better land use and improved livelihoods?	20
FACILITATORS’ NOTES 4: property rights, agricultural production and livelihoods	23
EXERCISE 5 - this is our land!	25
FACILITATORS’ NOTES 5: customary and statutory rules	28
EXERCISE 6 - identifying property within the community	29
FACILITATORS’ NOTES 6: who holds land and property rights?	33
EXERCISE 7 - human beings = human rights	36
FACILITATORS’ NOTES 7: land, property and human rights	38
<b>Annex I</b>	<b>41</b>
Warm-ups/starters	42
Energizers	43
Ending session activities	44
Cultural activities	45
<b>References and further readings</b>	<b>47</b>
<b>APPENDIX 1: Main international treaties and status of ratifications for selected African countries</b>	<b>50</b>

## Acknowledgments

Under the supervision of Carol Djeddah, Gender, Equity and Rural Employment Division (ESW) this Module was drafted by Dubravka Bojic Bultrini. Lidija Knuth and Syprose Achieng were responsible for the field testing and finalization of the module. Comments and feedback were provided by Francesca DallaValle, International Consultant, ESW and Paolo Groppo, Land Tenure Systems Analysis Officer from the Land and Water Division (NRL) and Eliane Najros (ESW).

The Module has been reviewed by Christopher Tanner, Project Coordinator, FAO Mozambique and Margret Vidar, Legal Officer, Development Law Service.

Thanks are due to all who were involved in the testing workshops; their support was key to improving the output. The efforts of the following individuals, who participated in the testing workshop and discussions about the Land and Property Rights Module in Mombasa Kenya from 5–9 November 2009 are gratefully acknowledged: Godrick Khisa, Samson Shida, George Kombe, Francis Ngonyo Hinzano, Michael Kitt Nyale, Rehema M. Mzaro, Susan Dzombo Nyale, Janet Z. Karisa, Elisabeth Mwajinje, William M. Kubo, Mwangome M. Bingo, Jawar Julius, Erastus M. Charo, Robert Katana, Rehema Ngowa and Kadzo Robert Katana.

The authors also gratefully acknowledge the contributions of the participants in the testing workshop in Chimoio, Mozambique, from 13–18 November 2009: Irene Almeida, Edson da Conceição Tomas, Simba Jossias, Zaida Jose Manivete, Cremildo Cuna, Manuel Zeca, Mariano Bitone, Elias Alberto Manuel, Jemusse David, Domingos Jorge Ferreira, Ercilio Jordao Inluma, Matias Fureque Juga and Leonor Quinto.

This work and publication has been supported by UNAIDS through its United Nations System-wide Work Programme on Scaling-up HIV and AIDS Services for Populations of Humanitarian Concern and the “Legal Empowerment of the Poor” project, funded under the partnership programme between FAO, Norway and the Netherlands (FMPP).

## Foreword

In rural areas, land is the basis for agricultural production and the source for securing natural resources through fishing, hunting, pasturing or other activities. Land is used by many people for different purposes (e.g. for agricultural production, housing, industry, services and government). Land also has social, cultural and political functions related to each country's history.

Because land is used for so many purposes, land and property rights have broad impact on people's lives and livelihoods. These rights refer to the rules that specify who can do what with which resources and assets, for how long and under what conditions. Collecting plants in a forest, cultivating a plot of land, getting the produce harvested, accessing and extracting natural resources and deciding who should or should not be allowed to collect plants or cultivate a plot of land are all expressions of the exercise of property rights.

Certain groups of people, such as women, indigenous people and urban slum dwellers, frequently and systematically lack access to land and property rights in many countries. Yet, land and property rights are key for a life with dignity; they are the basis for entitlements which can ensure an adequate standard of living and economic independence and thus, personal freedom.<sup>1</sup> Land and property rights also have major implications for human rights such as the right to food, health, housing, work and education.

Women and orphans face difficulties with respect to ownership, control, transfer and disposal of land, houses, plots and business premises. Women frequently work the land plots of inferior quality – and may lose access to that land when widowed or separated. Men often control the proceeds from the farm. This is essentially true for most rural communities where customary laws do not allow a woman (married or single) to own land or to inherit it (either from her parents or from her husband); these laws further recognize men as the sole decision-makers when it comes to property issues.

Limited and insecure rights in, access to and control over land and property make women and orphans vulnerable to “property grabbing”; this is a situation in which orphans, widows or women who are separated from their husbands are often stripped of their belongings by family members. They lose their land – the main source of their livelihoods and welfare – and their house, shelter and other belongings. The goods taken are rarely recovered.

Social and economic factors, including the large number of orphans, have caused a breakdown in family support structures which traditionally provided a safety net. Widows rarely inherit land under customary norms, and they are often deprived of access to their husband's land if they have no children. Also, orphans may be too young to inherit. Land is therefore vested in trusteeship with uncles and other male relatives, and inherited by children when they become of age. However, there are reports of uncles cheating orphans out of their inheritance, sometimes exploiting the stigma attached to HIV. Moreover, HIV may lead to loss of land from distress sales, as poorer households are forced to sell their land to pay for medical care and funerals.

This Module on land and property rights will help raise awareness about these issues. It also will inform children and women about the possibility of seeking help and advice if they feel unfairly treated, have general questions or are affected by property grabbing.

Secure property rights are central to any effort to address inequality, poverty, vulnerability to food insecurity and sustainable development in general. In the past decade, FAO has been extensively involved in research and programmes on property rights, particularly for women and children. The JFFLS programme, especially its life skills component, is an excellent channel for introducing the

---

<sup>1</sup> **Eide, A.**, 2006. *Promoting economic, social and cultural rights: Obligations of states and accountability of non-state actors*, p.5. (available at: [http://www.hdr.undp.org/docs/events/global\\_forum/2000/eide.pdf](http://www.hdr.undp.org/docs/events/global_forum/2000/eide.pdf))

topic of land and property rights to young people. Learning about this topic will help students understand the impact that gender inequality in land and property rights can have on people's livelihoods and food security, and the role that these rights can play in building and strengthening livelihoods and in reducing poverty.

The Module contributes to the JFFLS approach by helping the students acquire the knowledge, skills and values they need to be able to build their future, knowing and protecting their rights and the rights of others. In this way, JFFLS participants can contribute to building a culture of rights in their environments.

Considering the complexity of the issue and the great diversity of property laws and systems, facilitators should be well-prepared before delivering this Module in order to achieve success with these activities. A list of further readings and references is therefore provided at the end of this Module.

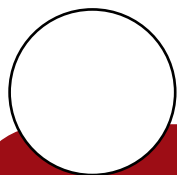
**Carol Djeddah**

Senior Officer

JFFLS coordinator

Gender, Equity and Rural Employment Division





# Introduction for the facilitators



## ↘ Important information for JFFLS national coordinators

### **Preparation is required before you can integrate land and property rights in your JFFLS programme!**

This Module has been written in a general way; however, the JFFLS coordinator (or the person in charge of the national facilitator's guide and/or the training of facilitators) will have to ensure that this Module is adapted to each country's specific situation. This requires collecting information on national laws and policies about land and property rights. A list of crucial information to collect is provided below.

This country-specific information on laws and policies should be included in the national facilitator's guide and discussed during the training of facilitators. Involve colleague(s) from the land administration office and the children's department; they can provide the needed information and also may assist in training facilitators as resource people on land and property rights.

A legal advisor or consultant should add the following information into the Module:

- basic principles of inheritance and family law (e.g. provisions in the constitution and law, principles of inheritance law when there is a will and when there is no will, identification of eligible heirs, a deceased's assets/estates and the guardianship concept including the appointment of guardians and their rights and obligations);
- basic rights of orphaned children and basic principles that apply to children (e.g. what can be done when the guardian does not meet his/her obligations, revocation of guardianship, children without a guardian, what do in case of misuse of a ward's assets, whether a land certificate should be issued in the name of an orphan or guardian);
- basic inheritance rights of women (e.g. Can women "own" land? If so, can they receive land certificates in their own names? When a woman is married, whose name should appear on the land certificate? When the husband dies or the wife's parents die, what rights does the woman have over the land and assets? When she is a widow, is she entitled to a new house?);
- why it is necessary to have a will and how to prepare one.

This can be obtained this information by contacting the relevant authorities (e.g. legislatures, governmental institutions that deal with land rights issues). Throughout this Module, insert this country-specific information in place of the special boxes indicated in the facilitators' notes. Alternatively, some of this information can be included as an annex to the Module if it does not fit into the exercises.

## ➤ Important information for facilitators

### **Preparation is required before you can integrate land and property rights in your JFFLS programme!**

- **Consider the low level of awareness about land and property rights.**

In general, awareness among the JFFLS students, the JFFLS facilitators and the rural population about women's and children's land and property rights is rather low, because most communities consider that land belongs to men or to local authorities. In this kind of situation, there is a clear need for civic education and legal support for communities and ordinary citizens so that they can exercise and defend basic rights over land and resources.

The JFFLS Module addresses the most vulnerable children, particularly orphans, for whom some basic knowledge about land and properties is essential to ensure their livelihoods and build their futures. However, it is not sufficient to train facilitators and raise the awareness of the JFFLS participants; activities must be focused also on changing the attitudes and thinking of community elders, parents, guardians and those in positions of responsibility because they often do not know much about the very laws they are trying to implement.

- **Contact paralegals or non-governmental organization (NGO) representatives with a special expertise on land issues.**

Find out whether there are paralegals or NGO representatives with expertise on land issues in your area who can assist in teaching the exercises. A land lawyer, land administrator or judge can add additional value to the exercises. Give the expert(s) the exercises in advance and explain the role that you want him or her to play in the teaching. Check the exercises in advance to determine which ones require the assistance of a specialist or expert. Emphasize that the resource persons should target their teaching to the level of the JFFLS students.

- **Get additional information about customary and statutory law in your country.**

Because land has played a central role in the history of most societies, rules and norms that regulate relationships among people, land and property are diverse, complex and country-specific. They reflect each country's unique historic experience, political regimes, social institutions and religious practices. This is true for formal or statutory law as well as informal or "customary" laws that regulate the rights of people over land and other natural assets.

It is therefore essential that you know as much as possible – in addition to what is in the facilitators' notes – about the relevant statutory law of your country (e.g. land law and regulations, succession and inheritance law, family law, marriage law, civil law) and the customary laws that apply in your area.

This Module provides some suggestions about how to identify this country-specific information. Further, the practical exercises in the Module contain questions that promote further discussions about the notion of rights and encourage more detailed explanations about land and property rights that exist within the community.

You should also be knowledgeable about the institutions responsible for implementing and enforcing land and property rights and about the relevant procedures (at the local, regional and, possibly, national levels). These include customary institutions and the more obvious Land Administration or Cadastral Service offices. Since this is quite a specific topic, find an expert in the area who can assist you in understanding and teaching these issues.

It would be useful also to identify the main issues and problems within the relevant community/village and to identify the most relevant stakeholders who could possibly be involved in the facilitation sessions.

- **Get information about key international human rights instruments that your country has ratified.**

Over the last decades of the twentieth century, most countries have come to agree that all people – men, women, girls and boys – are equal and have the same human rights simply because they are human beings. This principle is particularly significant because within countries, wealth, sex, social position and gender often determine the status and treatment of people in land and property rights matters.

Therefore, you should be aware of the main international human rights treaties ratified by your country, and in particular, those that deal with the rights of women and children. Appendix 1 lists the main international human rights instruments ratified by African countries which have implemented or started JFFLS programmes. These international instruments have influenced (and continue to influence) national legislation, including customary practices in many countries. In the last few decades, many African countries, in furtherance of developments at the international level, have initiated land law reforms to strengthen the land rights of individuals, local communities and women. Many of these reforms include recognizing claims to land and resources on the basis of existing customary rights. In some countries, such recognition may be subject to the condition of constitutionality; this means that the existing customary rights should not be contrary to constitutionally established principles such as the equality of men and women. Many countries have also made efforts to reform family and inheritance law and to recognize the rights of women to own, manage and administer land.

## ➤ Points to consider when teaching this Module

- **For whom is this Module conceived?**

This Module is for students who can write and read. Only Exercises 2 and 5 do not require students to read and write. Because of this and because of the complexity of the issue, this Module is generally conceived for older participants (i.e. over 12 years). However, the facilitator may adapt the exercises to a suitable level for the students and make them easier if necessary.

- **Adapt the Module if there is limited time.**

If it is necessary to reduce the number of exercises because of time constraints, it is recommended that you eliminate Exercises 2 and 7. Exercise 2 has very similar objectives as Exercise 3, and Exercise 7 is about human rights, which is a topic that is partly covered by the separate Module on children's rights (if your JFFLS curriculum includes that Module). The author believes that this Module's essential exercises are Exercises 1, 3, 5 and 6. However, country- and area-specific circumstances may influence the determination of which exercises are essential.

- **Raise awareness among both the community and the JFFLS students.**

Working closely with community leaders, teachers, parents and guardians will help make the JFFLS training successful. First, it will lead to greater acceptance of the JFFLS training about land and property rights by the people who may otherwise prevent the children from attending the JFFLS classes (e.g. the parents). Also, it will raise awareness in the students' communities about land and property rights. This will increase the understanding that property grabbing is wrong and will prepare the community to more readily accept children's claims of rights violations. On the other hand, such knowledge may decrease the number of disputes and conflicts over land and property rights because community members will be more likely to settle their disputes privately according to the law, without addressing the formal institutions. In sum, the proposed activities will empower JFFLS students to better protect and defend their land and property rights, which are essential for ensuring their livelihoods and for building a better future.

- **Consider the emotional dimension of addressing the issue of rights with young people.**

Since you will be working with young people on a rather complex and delicate issue, you should consider their different educational levels and how much they know about land and property rights. You should know in advance whether there are particular issues or problems within the community regarding their status, property, inheritance or other related questions. It is also possible that many JFFLS students or their families may have suffered abuse of their rights, and their feelings may be sensitive and difficult to manage once released. Also be aware that conflicting feelings and values may arise between the participants when dealing with a topic like land and property rights, especially when engaging in exercises that touch upon issues of discrimination. Such conflict can also arise within an individual person, but this is not necessarily negative – skilful facilitation can turn it into a constructive experience. Indeed, learning to deal with conflict is one of the most important life skills young people can acquire and an essential one for developing a culture of rights in the world around them.

Before starting an activity, think about possible conflicts which the activity might create in the group or in an individual person. Is the topic, the rules or the terminology too sensitive for some or all of the people in your group? Allow sufficient time for debriefing and discussion after each activity so that everyone has a chance to express how they are feeling, both about the activity and about each other.

- **Adapt the Module locally as much as possible.**

The activities proposed in the exercises are intended to increase participants' understanding of property rights, but they should be directed to themes that are relevant or important for the group, the community or the country. The situations and scenarios in the exercises are proposed as examples; they should be adapted to the specific context of a community or country (e.g. by using local names or referring to typical and familiar objects).

- **How to include property rights issues in a learning session**

A typical learning session in JFFLS last about 3-4 hours and include the activities

**A typical JFFLS session (3-4 hours)**

1. Energizer and fun (30 min)
2. In the learning field (45 min)
3. Agricultural topic (45 min)
4. Property rights topic (30 min)
5. Cultural activities (art, drama, song on the property rights issue) (30 min)
6. Assessing progress
7. Closing energizer

- **How to organize learning sessions \***

Five practical steps are important to know when organizing learning sessions .

These are;

Steps of training	How this can be done in JFFLS
1. Prepare the pupils to be ready for the new lesson.	Introducing the new topic using practical examples and situation of interest to them to stimulate their attention and curiosity.
2. Present the new lesson.	Presenting new material in the form of actual experience and practical participatory tools.
3. Associate the new lesson with topics studied earlier.	Allowing comparison of the newly introduced topics with previous topics to find similarities and differences and thus allow critical thinking.
4. Use examples or visual aids to illustrate the lesson's major topics.	Using visual aids to start explaining a topic can be worth than a thousand of words.
5. Test participants to ensure they had understood the new lesson.	Allow self-assessment and participatory assessment.
* Adapted from Johann Friedrich Herbart work and the publication Universal Pedagogy (1906)	

## ➤ Overview of the exercises

**Exercise 1** is the most theoretical of all the exercises, but it is fundamental to understanding all the others. The students learn the basic concepts of property rights through objects that they use every day. This exercise will raise their understanding of the relationships between objects and people.

**Exercise 2** could be a real life scenario. Many children face conflicts, disputes or disagreements on an almost daily basis, whether in school or at home. They learn how to resolve conflicts without necessarily addressing the formal institutions. This exercise helps them become aware of institutions that can be approached to address their conflicts and disputes. This exercise is very important because learning to deal with conflicts is one of the most important life skills young people can acquire and is essential for developing a culture of rights in the world around them.

**Exercise 3** gives the students the opportunity to learn, through a role play, about negotiating, negotiating power and different sources of rules. The role play should also equip them with the ability to hear more about the basics of how to defend their rights.

**Exercise 4** uses role play to stimulate the students' understanding about the influence of insecure property rights on overexploitation of land and resources. Students will learn about how secure property rights ensure livelihoods and sustainable decision-making about land and the use of resources.

**Exercise 5** exposes the students to real life situation role plays, some of which the students may have experienced (e.g. denied inheritance rights, HIV and AIDS, land and property grabbing). The exercise focuses students on the differences between customary and statutory law, and allows them to reflect on gender inequality regarding land and other property and the interconnectedness between such inequality and livelihoods.

**Exercise 6** gives the students the opportunity to discuss property rights with their community members and to apply the more abstract knowledge they acquired in Exercise 1. This exercise will give them the opportunity to connect different users, uses and user rights to decision-making in the community. The students also will learn about unequal power relations within their community and how an individual's status in a society affects his or her land and property rights.

**Exercise 7** is an interactive exercise with a discussion where students are introduced to the topic of human rights.