

YEMEN

FOOD SECURITY AND LAND GOVERNANCE FACTSHEET

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ABSTRACT

In Yemen, food security is interrelated with to access to land, water and tenure security. Few women own land and rights that they do obtain are transferred to male relatives. Most productive land is concentrated in the hands of a few; an increasing number of migrants further increases the competition over natural resources. Tensions around land and ground water governance affect rural development and stability. In rural areas, land governance is articulated around traditional leaders (sheikhs) who wield considerable power and occasionally violate their fiduciary role by selling off communal land or transferring land for their personal use. The integration of sheiks in formal decentralization frameworks has de facto affected accountability mechanisms. Tensions over land are exacerbated by inadequate legislation and formal institutions (based on Islamic law) to which Yemenite people barely turn. The lack of capacity, administrative support, poorly trained staff and judges translates into a dysfunctional system and widespread corruption. Despite this problematic situation, the revision of land policy or legislation are not envisaged.





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About IS Academy on Land Governance for Equitable and Sustainable Development

LANDac, the IS Academy on Land Governance for Equitable and Sustainable Development, aims at bringing together researchers, policy makers and practitioners in the field of land governance and development. It is a partnership between several Dutch organisations and their Southern partners involved in development-related research, policy and practice. LANDac is one of the IS Academies for International Cooperation sponsored by the Netherlands Ministry of Foreign Affairs.

About KIT

The Royal Tropical Institute (KIT) in Amsterdam is an independent centre of knowledge and expertise in the areas of international and intercultural cooperation, operating at the interface between theory and practice and between policy and implementation. The Institute contributes to sustainable development, poverty alleviation and cultural preservation and exchange.

1 POLICY AND LEGISLATION

1.1 Regulatory land governance framework

In 2002, the Government of Yemen adopted a poverty reduction strategy that recognizes the need to support the agricultural sector and improve women's access to agricultural land. However the PSRP does not include any programs or initiatives to address land access and land tenure security, also not for women (ROY 2002a). Although Land and Water governance in Yemen is increasingly the subject of conflict, revision of land policy or legislation are not envisaged.

The 1995 Law of Land and Real Estate is mainly applied in urban areas. Land governance in rural areas is determined mainly by customary and Islamic law under the leadership of *sheikhs*. The Department of Tribal Affairs formalized the position of *sheikhs* by including them in the decentralization framework (USAID, 2010).

Law	Content
Constitution of the Republic of Yemen (1994)	All legislation is based on principles of Islamic law Private property is respected and protected
Law of Land and Real Estate No. 21 of 1995	Provides for the classification of land (public, private, communal) and terms of use
The Waqf Law No. 23 of 1992	Governing land donated to religious organizations, dictates the terms for leasing <i>waqf</i> land

(ROY 1994; MPWH 2010; World Bank 2009b)

1.2 Land tenure forms

Tenure forms	Description
Private land (<i>milk khas</i> or <i>mulk</i>)	Covers about 85% of land; 82% of agricultural land is owner-cultivated. This land is administered under customary law and almost always documented by a written deed or contract.
State land (<i>aradi al dawla</i> or <i>miri</i>)	Most of the State-owned land was confiscated after the 1962 revolution. It represents 2-3% of the area, mostly communal land (Law 21 of 1995 states that communal land is owned by the state)
Religious endowment land (<i>aradi waqf</i>)	Donated by people for the enhancement of religious institutions; covers 10–15% of the land

Islamic law regulates land rights in Yemen. Communal land: communities exercise use and management rights but the State claims ultimate ownership. In practice, most communal land holdings are governed by the customary law (*urf*). Grazing and range land is used and managed by communities, under the administration of their traditional leaders, *sheikhs*.

Leaseholds: Private, state, *waqf*, and communal land can be leased to individuals and entities on a cash basis. Leases tend to be for lengthy periods of time (10-50 years) and are common on high-value irrigated agricultural land. Leases can generally be transferred, with permission of the landowner. Tenancy agreements (*waraqat eyjar*) often document leaseholds.

Sharecropping: Sharecropping is permitted on private, state, and *waqf* land, and is common on both irrigated and rainfed land and covers around 10% of the land. Sharecroppers have use rights for a contracted period and can bequeath their rights to their heirs. Shares paid to the landowner range from one-fourth to one-half of production, based on the community and

on who has responsibility for inputs. Close relatives of the person who donated *waqf* land have priority for sharecropping (ROY MPWH 2010; Aw-Hassan et al. 2000; Alabsi 2001).

Inheritance: for the economically disadvantaged, Islamic inheritance is an important way to obtain land (USAID, 2010).

1.3 Institutional land governance framework

Most rural landowners have documented rights to their (private) land that are enforceable under **customary law** in traditional and formal tribunals. Leaseholds and sharecropping agreements tend to be lengthy (10–50 years) and documented. Short-term agreements for use of land for a single season exist also, usually for rainfed agricultural land. Traditional leaders, usually the *sheikh* or *amin*, prepare these land title documents (*basira*) and also issue land inheritance certificates (*fasl*). The documentation usually includes a description of the land, boundaries, and history of ownership (World Bank 2007; Aw-Hassan et al. 2000; Ecolex 2009).

Traditional leaders often double as local government offices. They have a role both in maintaining the official (GALSUP) registry of land records and in the *basira* or informal documentation of land transactions (covering eighty to ninety percent of all land transactions). The role of the traditional leaders is once confirmed by the Ministry of Local Administration which requests that the *amin* keep records of all land transactions at the sub-district level and recommends that the court endorse title deeds to ensure their validity (ROY MPWH 2010; World Bank 2007; World Bank 2009b; Aw-Hassan et al. 2000; Ecolex 2009).

The General Authority of Lands, Survey and Urban Planning (GALSUP) is in charge of: (1) urban and rural land inspections and surveys, layouts, and planning; (2) management of state, private, and *wakf* land; (3) administration and registration of land, including maintaining land records; (4) valuation of land; and (5) oversight of land expropriation. The Department of Public Domain (Ministry of Finance) and the Ministry of Public Works and Highways control urban land. (MPWH 2010; World Bank 2009b; Aw-Hassan 2000 et al.).

The Republican Resolution on Law No. 39 of 1991 requires registration of land rights. Only a small percentage of Yemen's land, estimated at 10–20%, is registered officially (ROY MPWH 2010; World Bank 2009b; Aw-Hassan 2000 et al.). However, only some privately owned urban land appears to be registered pursuant to the formal law. State land is recorded in the Land Registry Department at the Ministry of Finance (World Bank 2007; Aw-Hassan et al. 2000; Ecolex 2009).

In the northern governorates, the government has not generally intervened in agricultural land markets, except in the case of public irrigation projects. By contrast, in the southern governorates, the government nationalized large tracts of land in 1957 after independence and in 1970 by a further round of nationalizations. Since unification of both the Southern and Northern parts of the country, the government has taken the decision to return the land confiscated in the 1970s back to its former owners.

1.4 Gender

Under formal law, women have a legal right to own, buy, and sell land. According to Islamic law, daughters inherit half the share of property received by sons under Islamic law, and women a one-eighth share of their husbands' property and one-sixteenth of their sons' property (in case the sons predecease the mothers). However, few women have ownership rights to land. They commonly relinquish inherited land rights to male family members. When receiving land through inheritance or marriage, many women prefer to transfer any land rights they receive in exchange for economic support from their male relatives, such as rights to a

house in the event of widowhood (World Bank 2007; Manea 2010). In some regions, women must obtain the permission of their husbands to transact land, regardless of ownership.

1.5 Foreign direct investment

Foreigners can own land in Yemen and can execute land-based projects in Yemen. One law permits foreigners to hold 100% ownership interest in land while another limits foreign ownership to 49%. The government is reportedly reviewing the laws as an initial step toward resolving the inconsistency.

2 INTEGRATED WATER RESOURCE MANAGEMENT

2.1 Regulatory framework Integrated Water Resource Management

Yemen has low levels of rainfall and no permanent rivers. The country is experiencing severe **water scarcity** and per capita availability of freshwater is only 10 percent of the regional average. Ninety percent of water withdrawal is for agriculture. Access to water requires upstream control of surface water flows or a well dug on private land, with its obvious effects on agricultural output, is increasingly the source of conflict (SAS, 2010).

According to the Yemeni Constitution surface and groundwater resources are communal property. Yemen's Water Law No. 33 (ratified in 2002) promotes the sustainable use of water, protects water resources from overexploitation, and balances the water needs of the various communities and sectors. However the formal Water Law is apparently unenforced (ROY 1994; FAO 2008; ARD 2004).

In practice, as also for land governance, Islamic and customary principles of water management are most relevant. These principles hold that: (1) water is an ownerless resource that can be appropriated by those who develop the resource (e.g., sinking a well); (2) upstream riparians have priority; (3) water cannot be alienated from the land; (4) wells must be spaced a certain distance; and (5) no one can deny drinking water to another person (World Bank 2007; ROY 2002a).

Forests constitute only 1% of Yemen's total land area, but are important in combating erosion, protecting water sources and storing rainwater. Trees are a critical resource, providing 70% of the country's energy needs and over half the fodder for livestock. The ambiguity of forest ownership in Yemen means disputes are frequent. Yemen does not have a national forest policy or legislation governing forest land. The last draft law was produced in the 1990's. (Herzog 1998; FAO 2010; Ma 2008).

2.2 Institutional framework around Integrated Water Resource Management

The Ministry of Water and Environment (MWE) was established in 2003 and is responsible for water resource planning and monitoring, drafting legislation, and building public awareness. In practice the Ministry's authority extends only to urban areas. Subsectors of the Ministry include the National Water Resources Authority (NWASA), General Rural Water Authority, and Environmental Protection Authority. The Ministry of Local Administration is responsible for water supply and sanitation in rural areas. The Ministry of Agriculture and Irrigation is responsible for policies on irrigation, crops, livestock, and forestry (FAO 2008; Al-Asbahi 2005). Plans for ensuring the sustainability of the country's water resources, increasing the productivity of irrigated agricultural land, and reducing governmental involvement and relying more on user groups to manage the resource are all part of Yemen's National Water Strategy (1999) and National Irrigation Strategy (2001) (FAO 2008). The General Directorate of Forestry and Desertification Control, which is within the Ministry of Agriculture and Irrigation, was established in 1984. The Directorate is responsible for forest supervision, formulation of

forest policies and strategies, implementation of forest campaigns, and desertification control. Financial constraints have reduced the Directorate's activities; many donor projects from the 1980s and 1990s ended (FAO 2008; Ma 2008).

3 REALITIES ON THE GROUND

Obscured by the ongoing and escalating political violence in Yemen much more structural and insidious **conflict** is taking place related to land and water (SAS, 2010). Eighty percent of disputes in Yemen are land-related (USAID, 2010).

The country does not have a system for authenticating title deeds and land documents (formal or customary), a condition that creates space for **fraud** and results in land disputes. Land conveyance is subject to **corrupt practices** and thus the land registry is not able to arbitrate conflicting claims and can end up formalizing conflicting claims rather than resolve them (Small Arms Survey, 2010, World Bank 2007; MPWH 2010).

Very few Yemenis seek the formal legal system for the resolution of land issues. The **lack of capacity, administrative support, poorly trained staff** and judges translates into a dysfunctional system and widespread corruption. The system is also dominated by men. Most land and water disputes are settled by *sheikhs*, in their role as **conflict mediators**, in the **traditional forum**. In such setting customary law (*urf* or *shar*) is applied in an approach centered on conciliatory dispute-resolution (World Bank 2007; ROY MPWH 2010; Manea 2010; ROY 2002a). It is therefore important to strengthen local and traditional conflict resolution bodies for alternative dispute resolution particularly on water access and use

There is increasing conflict over **water** resources (Small Arms Survey, 2010). **Communal lands** are increasingly at risk of appropriation. Land grabs need to be monitored and dealt with.

The multiple roles of *Sheikhs*, wielding considerable power, means there have been incidents of *sheikhs* violating their fiduciary role by selling off communal land or transferring land for their personal use. The formalization of the role of *sheikhs* has actually weakened the traditional dispute-resolution system because communities lost their right to remove a *sheikh* from office. Now that the *sheikhs* are within government residents are less likely to challenge their decisions. It also has meant that *sheikhs* have lost their presumed neutrality because they stand to benefit from government land allocations and transfers to third parties (World Bank 2007, MPWH 2010).

Thousands of **refugees** enter Yemen each year. The 155,000 mainly Somali, Iraqi, Ethiopian and Eritrean refugees are added to another 150,000 internally displaced people (IDPs) seeking refuge from tension between the northern and southern regions of the country (UNHCR 2010; Manea 2010). Such large groups compete for water, fuel wood and on occasion land.

4 RESOURCES AND OTHER INFORMATION

4.1 Related country profiles

- USAID: <http://usaidlandtenure.net/usaidltpproducts/country-profiles/yemen>
- FAO: <http://www.fao.org/countryprofiles/index.asp?lang=en&ISO3=YEM>
- FAO/Gender: <http://www.fao.org/gender/landrights/report/en/>
- IMF: <http://www.imf.org/external/country/YEM/index.htm>
- World Bank: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/YEMENEXTN/0,,menuPK:310170~pagePK:141159~piPK:141110~theSitePK:310165,00.html>

4.2 Laws, policy and regulations search engines

- FAO Lex (Land & NR search engine): <http://faolex.fao.org/faolex/index.htm>
- Water Lex (Water laws search engine): <http://faolex.fao.org/faolex/waterlex.htm>

4.3 Maps and databases

- Land and soils databases/information systems: <http://www.fao.org/nr/land/databasesinformation-systems/en/>
- Water database/information systems: http://www.fao.org/nr/water/infores_databases.html
- Land and water maps and graphs: <http://www.fao.org/nr/solaw/maps-and-graphs/en/>
http://www.fao.org/nr/water/infores_maps.html

4.4 Portals and other resources

- http://landportal.info/search/apachesolr_search/yemen

4.5 Donor support programs

- USAID assists the government of Yemen with the institutional development of local councils to support the electoral process and to mitigate tribal conflicts in rural areas and capacity-building for the judiciary.
- The World Bank, GTZ, USAID, UNDP, the Netherlands, and other donors have begun a US \$90 million five-year (2009–2014) grant project to support the government's implementation of the National Water Sector Strategy and Investment Program

4.6 Civil society organizations working on land governance

Members of International Land Coalition from Yemen:

- The international land coalition has no members based in Yemen.

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