



Who?

How, what?

Where, when?

So what?

Why?

Who cares?

# Negotiation-support toolkit for learning landscapes

## EDITORS

MEINE VAN NOORDWIJK  
BETHA LUSIANA  
BERIA LEIMONA  
SONYA DEWI  
DIAH WULANDARI

WORLD AGROFORESTRY CENTRE  
Southeast Asia Regional Program

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# 37 | Rapid land tenure assessment (RaTA): understanding land tenure conflicts

Gamma Galudra, Martua Sirait and Ujjwal Pradhan

**Rapid Land Tenure Assessment (RaTA)** delves deeply into the nature of competing claims over land-use rights and access among stakeholders who hold different rights and interests. RaTA clarifies the institutions and rules governing the management of natural resources and analyses the links between various claims and customary land laws and policies. RaTA seeks policy options and interventions to resolve land conflicts.

## ■ Introduction: land access: rights, conflicts and cooperation

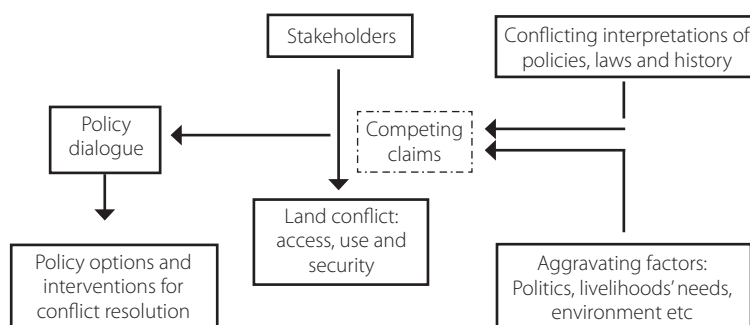
Deforestation, forest fire, illegal logging and land conflicts with indigenous people are often major problems in forest management. These problems are associated with land tenure, mostly stemming from a lack of clarity, legitimacy and legality of land tenure policies (Box 37.1), which leads to competing claims of access to, and use rights over, forests. 'Legality' refers to alignment with constitutional rights and principles while 'legitimacy' refers to the full involvement of stakeholders in discussions and legal reform. Land tenure conflicts often arise from the different understanding that people have about their rights over forestland and resources; these claims of rights often arise from the evolution of land tenure policies.

We have identified ten sources of competing claims over land tenure.

- 1 The historical transformation of governance from local communities to colonial rule, which mixed support for local rulers and external control of the economic and political interests of the state, to integration in a unified state with formal law, which has left a patchwork of claimants to rights over various part of the landscape.
- 2 The duality of tenure systems between formal state laws (incompletely understood and implemented) versus informal or customary claims, which are largely unresolved.
- 3 Lack of recognition of customary and informal rights in government development projects.
- 4 Unclear land registry records leading to multiple possession of titles for the same land.
- 5 Land border disputes owing to unclear ownership or management status or different understandings of land ownership.
- 6 Overlapping rights of different parties over the same land owing to differing objectives, interests and jurisdictions of various government departments or under different legal regimes.
- 7 Increased commercial agricultural and extensive land use leading to competition over land access.
- 8 Inequality in land access, associated with extreme poverty and vanishing opportunities, causing fierce competition for land.

- 9 Migration to areas with established communities and land tenure systems, leading to conflict and misunderstanding over the rules of access to land and exposure to local entrepreneurs who sell non-legitimate claims to land.
- 10 Displacement and return of populations caused by conflicts, war or forced resettlement by governments.

RaTA engages with a range of such issues.



**Figure 37.1.** Analytical framework for RaTA

## ■ Objectives

RaTA aims to reveal the competing historical and legal land tenure claims among stakeholders holding different rights and interests. Five actions are required to resolve land tenure conflicts: 1) exploring the reasons for the conflict; 2) stakeholder analysis; 3) addressing various forms of perceived historical and legal claims; 4) linking these claims to policy and (customary) land laws; and 5) adopting mechanisms for conflict resolution (see Table 37.1).

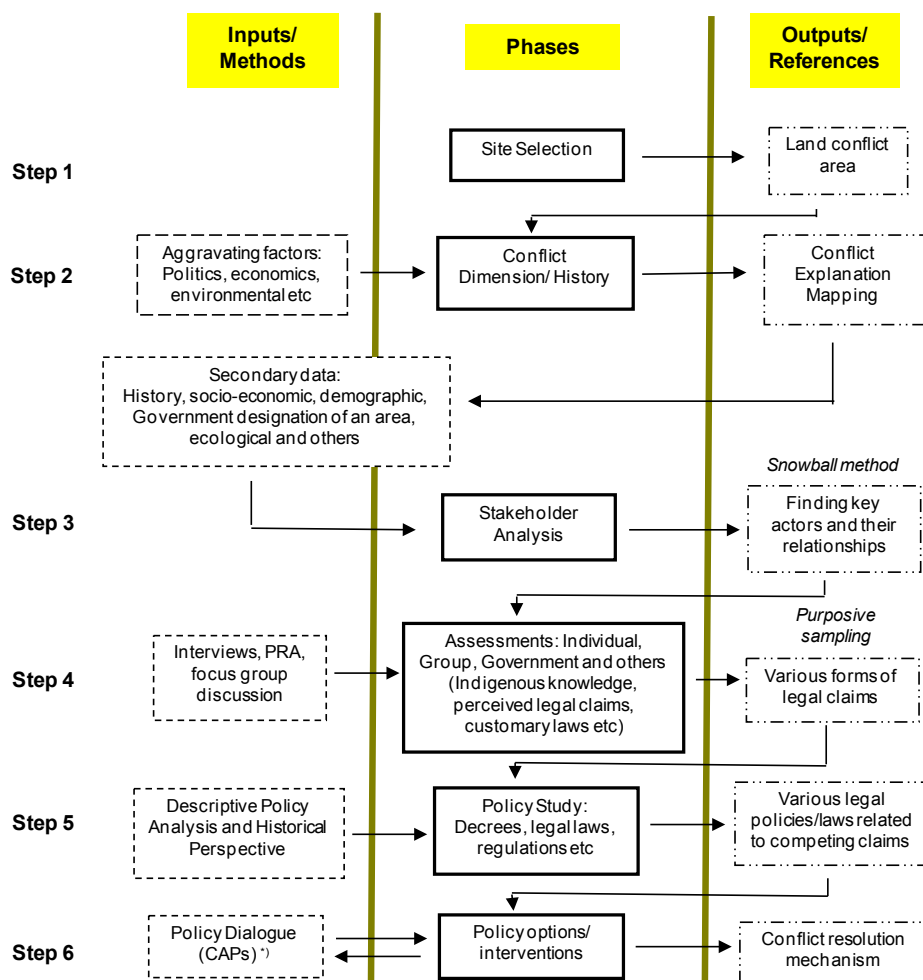
**Table 37.1** Aims and questions in the various steps of RaTA

	Aims	Questions
<b>Step 1</b>	Explore the reasons for the land conflict and their links to the political, economic and environmental context.	Where are the main conflicts? When did these conflicts begin? How did they begin? What are the driving factors that led to the conflicts?
<b>Step 2</b>	Identify and analyse stakeholders.	Which actors are directly involved or have influence in this conflict? How do these stakeholders interact and relate to each other? What are the land tenure conflicts genuinely about?
<b>Step 3</b>	Identify perceived historical and legal claims by stakeholders.	What types of evidence do stakeholders use or are considered acceptable to prove their claims? Do they believe their land interests and rights are enforceable? Do they know of any legal organizations that are protecting their interests?
<b>Step 4</b>	Identify the institutions and rules governing the management of natural resources and analyse the links between various claims and customary land laws and policies.	What are the customary laws and policies governing land and property matters? Do rights holders have the support of existing policies? Are there any contradictory policies and legislation?

	Aims	Questions
<b>Step 5</b>	Determine policy options and interventions for conflict resolution.	Are there any existing policies governing the management or resolution of land disputes? What types of conflict need to be addressed? What level of intervention is required?

As an analytical framework (see Figure 37.1), RaTA offers guidance on the important things that policy-makers/mediators need to consider when developing conflict-resolution mechanisms. RaTA consists of six steps (see Figure 37.2). Different techniques, participatory rural appraisal, stakeholder analysis and the establishment of legal policies and laws are among the methods that have been taken account of in the different phases of RaTA.

## Steps



\*) CAPs: Collaborative Analytical, Problem-Solving Process or Approach

## ■ Case study: RaTA in the misty mountain of Halimun Salak: a confusion of legal rights from multiple historic claims

An area covering 113 357 hectares on Mount Halimun-Salak in Indonesia was declared a national park in 2003 owing to the richness of its forest ecosystems and hydrological functions. Signposts for the national park were placed near its boundaries, which caused much concern among the people who claimed to have traditional access rights to the land. The dispute was not only between the national park authorities and the local communities but also with the district government of Lebak, which claimed about 15 000 hectares of national park land for mining operations, estate-crop plantations and infrastructure development.

According to interviews, legal documents and policy analyses, the claims by the national park authority were based on gazettal and delineation processes during the Dutch colonial period and the 1950s, 1970s and 1980s. Only 11 000 hectares of 128 000 hectares of designated land had not yet been gazetted and delineated; the rest was legally protected.

Nevertheless, local people had claims to the land based on history, livelihoods and traditional legality. Starting in the 1920s, the designated land was used by local people for shifting cultivation until the Dutch colonial government declared it state land. Since that time, the government had rejected local claims over the land.

In addition to historical claims, some people also had land ownership certificates, which were issued by the National Land Agency in the 1960s as part of national land reform. Others viewed their dependence on the land for livelihoods as proof of their legal claim. To understand the conflicting claims, RaTA used participatory rural appraisal tools in four villages in the national park area. It found that a very large proportion (70%) of the livelihoods of local people depended upon their access to the national park, a reason why they defended their claims so strongly.

The district government of Lebak also had claims to the area based on historic and legal interpretations. The area had been controlled by a state mining company since 1958 under Government Regulation no. 91 of 1961. This law did not mention a state forest zone and, therefore, it was considered that the land was under the control of the state but not as a state forest zone. Based on RaTA's findings, it seemed clear that unless these differences in both claims and policy interpretation were resolved and the needs and interests of all stakeholders were accommodated, conflicts were likely that would jeopardize the rich biodiversity in the park.

## ■ Key reference

Galudra G, Sirait MT, Pasya G, Fay CC, Suyanto S, van Noordwijk M, Pradhan U. 2010. *RaTA: a rapid land tenure assessment manual for identifying the nature of land tenure conflicts*. Bogor, Indonesia: World Agroforestry Centre (ICRAF) Southeast Asia Regional Program.





The landscape scale is a meeting point for bottom–up local initiatives to secure and improve livelihoods from agriculture, agroforestry and forest management, and top–down concerns and incentives related to planetary boundaries to human resource use.

Sustainable development goals require a substantial change of direction from the past when economic growth was usually accompanied by environmental degradation, with the increase of atmospheric greenhouse gasses as a symptom, but also as an issue that needs to be managed as such.

In landscapes around the world, active learning takes place with experiments that involve changes in technology, farming systems, value chains, livelihoods' strategies and institutions. An overarching hypothesis that is being tested is:

Investment in institutionalising rewards for the environmental services that are provided by multifunctional landscapes with trees is a cost-effective and fair way to reduce vulnerability of rural livelihoods to climate change and to avoid larger costs of specific 'adaptation' while enhancing carbon stocks in the landscape.

Such changes can't come overnight. A complex process of negotiations among stakeholders is usually needed. The divergence of knowledge and claims to knowledge is a major hurdle in the negotiation process.

The collection of tools—methods, approaches and computer models—presented here was shaped by over a decade of involvement in supporting such negotiations in landscapes where a lot is at stake. The tools are meant to support further learning and effectively sharing experience towards smarter landscape management.

