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# LAND POLICY STATE CONSULTATION – YAMBIO, WESTERN EQUITORIA

WORKSHOP REPORT, JUNE 2009



JUNE 2009

This publication was produced for review by the United States Agency for International Development by ARD.

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**Prepared for:** The Southern Sudan Land Commission under USAID Task Order No. 02;  
Contract No. EPP-I-00-06-00008-00

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# ACRONYMS AND ABBREVIATIONS

CAR	Central African Republic
CLA	County Land Authority
CLTS	Customary Land Tenure System
COP	Chief of Party
CPA	Comprehensive Peace Agreement
CSO	Civil Society Organization
ICSS	Interim Constitution of Southern Sudan
IDP	Internally Displaced People
MHPPE	Ministry of Housing, Physical Planning, and the Environment
GIS	Geographic Information System
GOSS	Government of Southern Sudan
LTPR	Land Tenure and Property Rights
PP	PowerPoint
SPLM	Sudan Peoples' Liberation Movement
SPRP	Sudan Property Rights Program
SSLC	Southern Sudan Land Commission
USAID	United States Agency for International Development
WES	Western Equatoria State



# EXECUTIVE SUMMARY

The State consultations are the first in a series intended to collect views from stakeholders. The following report presents the views, opinions, perspectives, and concerns from stakeholders concerned about land tenure and property rights issues in Sudan. Though participants included representatives from civil society, women's organizations, and traditional authorities, the largest number of participants has been drawn from government institutions at the State, county, and payam levels and these results should be considered accordingly.

A team of five members from the USAID | Sudan Property Rights Program (SPRP) and the Southern Sudan Land Commission (SSLC) conducted a consultation with 55 participants from throughout Western Equatoria State (WES) including representatives of state and local government, traditional authorities, women and youth groups, and civil society organizations (CSOs). Participants discussed their concerns and ideas regarding land tenure and property rights (LTPR) over the course of two and a half days. Because civil society organizations, women, and key stakeholder groups such as pastoralists, internally displaced people and other vulnerable groups were not always well represented in these State-level consultations, State consultation results will be presented in a summary analysis paper and used as the basis for further consultations with under-represented groups.

Small group exercises and brief presentations on LTPR concepts and principles were used to stimulate discussion among participants and elicit their views and ideas regarding issues related to processes and practices for accessing land, urban land management, land and property rights, women and vulnerable groups (pastoralists, demobilized-soldiers, refugees, internally displaced peoples (IDPs), youth), and land conflicts.

The information contained in this and other consultation reports does not constitute a statement of principles, recommendations, or policy objectives and should not be used as such. These consultations are intended to identify the broad range of land tenure issues and challenges found throughout Sudan's ten States and challenges facing GOSS officials and other levels of government in the future implementation of a land policy. With the exception of a few exercises, the results are neither quantitative nor statistically representative. Thus, no conclusion should be drawn regarding the extent to which the views expressed reflect the will of a plurality or majority of stakeholders. However, these qualitative results do demonstrate the existence of important issues and deeply-held views that are sufficiently widespread and compelling to warrant careful consideration when formulating a land policy.

Participants identified a number of key ideas, principles, and issues around which there was consensus:

- Land should belong to people or communities.
- Women's access to land is a significant issue throughout WES.
- Access to land for IDPs, youth, and other vulnerable groups is restricted and their claims or needs are widely ignored. IDPs should be provided land if they respect the customary rules and practices in the area where they settle.
- Government and military should not forcibly acquire land; where this has occurred, the legitimate claimant(s) should be compensated or their land returned.
- The respective roles of government and traditional authorities in the administration and adjudication of land tenure and rights is unclear.
- Traditional authority and customary practice should play a significant role and should be the primary means by which rural land rights are administered, adjudicated, and mediated.

- Government and statutory law should be the primary means for administering, adjudicating, and mediating land tenure in urban areas.
- However, Government cannot take land at the peri-urban boundary for urban expansion without a process of negotiation and consultation with the appropriate traditional authorities, and must provide compensation (cash or in-kind services) for any land taken.
- The right of inheritance for children to land owned by their parents should be guaranteed.
- People should be able to sell land for self-sustenance but information is lacking on who has the right to sell land and how land market transactions are conducted.
- Conflicts over access to water and grazing land are widespread and common in WES and occur between pastoralists groups and between pastoralists and farmers.
- Investors granted leases by communities to develop and use land must respect their customs and norms; failure to do so could result in revoking rights to the land allocated.
- The respective roles of the Government of Southern Sudan (GOSS), state, local government, and traditional authority must be clarified with regard to monitoring investor operations to ensure they comply with the terms of the lease agreement, and with environmental and operational guidelines.

Certain issues and contradictions were apparent between public views and mandates of the Interim Constitution including:

- Whether land access is reserved for those native to the rural area or whether southern Sudanese citizens moving in from other areas should also have rights.
- The extent and pace to which women's rights to land are expanded under customary rules.
- Should IDPs be forced to return to their areas of origin or ancestral lands?

A number of the views and beliefs expressed by the participants contradict principles embodied in the Comprehensive Peace Agreement, the Interim Constitution of Southern Sudan or other nascent GOSS policies and law. The expectation that all IDPs will be returned to their areas of origin (by force if necessary) contradicts the Freedom of Movement and Residence in the Constitution. Traditional leaders are reluctant to extend to women the full suite of rights currently held by men. Compulsory acquisition of land in the public interest is a common tool of government worldwide; however, participants' comments suggest people are resistant to the idea of vesting this power in either the GOSS or State governments, for fear of abuse or the marginalization of traditional leaders. Government officials responsible for drafting and debating land policy may require further technical support and assistance in order to strike a balance among these and other competing policy principles, objectives, and stakeholder needs.

Lessons learned from the presentations and exercises in Yambio will be used to further improve discussions and the quality of information gathered in subsequent consultations: notably, the need to include pastoralists as a vulnerable group, expanding the availability of interpreters and translators, shortening and simplifying the presentation of concepts, and expanding the time for discussion and debate.

# I.0 INTRODUCTION

The workshop in Yambio, Western Equatoria State (WES) is the first of ten being conducted in each state of southern Sudan. The State consultations are the first in a series intended to collect views from stakeholders. The following report presents the views, opinions, perspectives, and concerns from stakeholders concerned about land tenure and property rights issues in Sudan. Though participants included representatives from civil society, women's organizations, and traditional authorities, the largest number of participants has been drawn from government institutions at the State, county, and payam levels and these results should be considered accordingly. Because civil society organizations, women, and key stakeholder groups such as pastoralists, internally displaced people and other vulnerable groups were not always well represented in these State-level consultations, State consultation results will be presented in a summary analysis paper and used as the basis for further consultations with under-represented groups.

These workshops are an opportunity to present the rationale for a land policy and solicit the views of various stakeholders from state and county levels on prevailing issues of land and property rights in their locale. The State workshops are the first step in an iterative process of further consultation and information gathering designed to identify the scope of land issues throughout southern Sudan. The intent of this process is to ensure that the contents and direction of the resulting Government of Southern Sudan (GOSS) land policy is comprehensive, inclusive, transparent, and legitimate.



## 2.0 PURPOSE OF THE CONSULTATIVE WORKSHOP

This workshop is the first of 10 (one for each state) that are planned in coordination with the Southern Sudan Land Commission (SSLC) with support of the United States Agency for International Development (USAID) funded Sudan Property Rights Program (SPRP) to consult with stakeholders on the development of southern Sudan land policy.

The SSLC is working to define a land policy that will guide the development of the legal framework for land in southern Sudan, and further define the jurisdictions, roles and functions of GOSS, state, local government and traditional authorities in the management of land and property rights. Some key issues anticipated at the outset include:

- Overlapping or unclear political authority for land administration and land management.
- Absence of a well defined institutional framework to deliver land administration services with a clear authority and mandate.
- Overlapping and/or contested land claims.
- Unregulated urban expansion onto claimed customary land.
- Land-grabbing by powerful or politically well-connected groups and individuals.
- Lack of clarity on rights associated with different forms of tenure and land ownership.
- Need to define, recognize, and protect the rights of women and other vulnerable groups to land and related natural resources.



# 3.0 WORKSHOP PREPARATION AND ATTENDANCE

Prior to the workshop, the SPRP Chief of Party (COP), Mr. David Scribner; the assistant program manager, Mr. James Voya; and Butros Apollo, Coordinator, SSLC, travelled to Yambio in late May to introduce the consultations and request government assistance to identify and mobilize participants. They visited the Governor's office, State Ministries of Physical Infrastructure, Local Government, and other line ministries at the state level to explain the purpose of the Consultative Workshop, the way it would be conducted, and the desired mix of participants.

The workshop held June 4-6, 2009 in Yambio, WES attracted 67 representatives from state administration, county commissioners, traditional authorities, elders, and civil-society organizations (CSOs). Of these only 55 participants attended all of the sessions (a list of participants is included in Annex 2). CSO representatives were drawn from women and youth groups, and faith-based and other civil organizations to address issues of gender, IDPs, and other vulnerable groups. Accommodation, transport, and food were provided for all invited participants.

The consultation team consisting of eight people from the SPRP, USAID, and the Land Commission organized logistics and venue, handled the administration, and facilitated the workshop. An Arabic-speaking translator was hired to translate presentations and discussions during the activity. During the breakout exercises, participants themselves arranged for interpretation when needed from their peers.



# 4.0 WORKSHOP METHODOLOGY

Small-group exercises and brief presentations on LTPR concepts and principles were used to stimulate discussion among participants and elicit their views and ideas regarding issues related to land and property rights, land access, urban land management, land administration, land conflict, and women, youth and other vulnerable groups (pastoralists, demobilized-soldiers, refugees, IDPs, youth) (see agenda of Consultative Workshop in Annex 1.)

## 4.1 PRESENTATIONS:

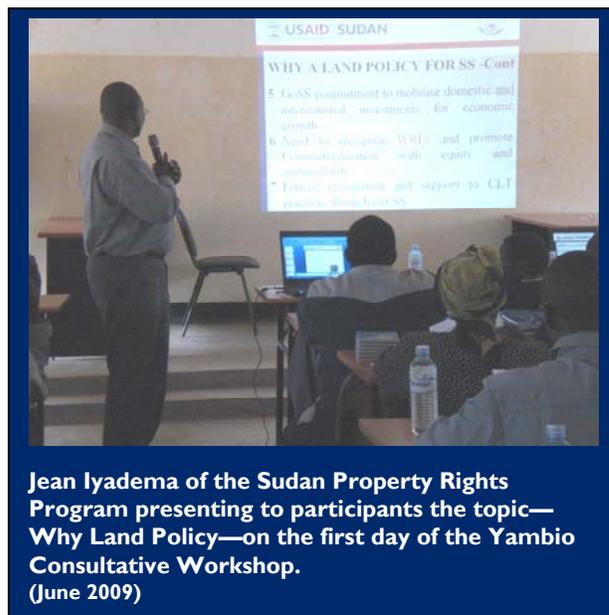
The workshop was structured into **six** sessions utilizing participatory methods. Each typically contained one or more PowerPoint (PP) presentations on key concepts and issues by the SPRP Senior Land Advisor to provide a basis for discussion and establish a common understanding of terms and ideas. These were followed by a Group Exercise and questions, answers and clarifications (Q&A) to capture participant's opinions, judgments, and thoughts in a structured format.

- **Session 1:** Registration. Opening remarks. PP on *Why a Land Policy*. See Annex 3 for speeches and opening and closing remarks.
- **Session 2:** Formation of Working Groups. Exercise 1. PP on *Land Rights*.
- **Session 3:** PP on *Land Tenure Systems*. Exercise 2. Day One Closing Remarks
- **Session 4:** Day One summary and highlights. PP on *Land Administration*. PP on *Urban Land Management*. Exercise 3
- **Session 5:** Specific Cases—Vulnerable Groups. PP on *IDPs, Refugees, Demobilized Soldiers, Women, and other Vulnerable groups*. Exercise 4 by Working Groups. Closing Remarks.
- **Session 6.** Day Two summary and highlights. Exercise 5. Closing remarks.

The main focus of the consultative workshop is to capture inputs to policy through participation and facilitation. The majority of the time was devoted to breakout groups, Q&A, report-backs, and plenary discussions to help participants formulate clear opinions and viewpoints which the team then captured.

## 4.2 EXERCISES:

Five exercises were designed as tools to elicit participant views and perspectives in a structured format:



**Exercise 1 (1.5 hrs) – Land Policy Issues of Concern to Participants.** Each participant was provided with postcards on which he/she wrote the three most important issues or constraints they thought the policy should address. Each was then asked to post the question under one of the following headings: land policy and law, land rights and tenure, access to land, land markets, urban land management, land administration, dispute resolution, women and youth, and other vulnerable groups (e.g. IDPs, demobilized soldiers, disabled, HIV/AIDS). One participant was then selected to read a subset of questions under each category. Participants in plenary were then asked to voice their opinion on whether to move the question to another category if it made sense to do so and with consensus. This exercise helped people to understand terms and concepts, and to relate their questions on land related issues to common themes typically addressed in a land policy. This exercise worked very well and stimulated considerable discussion, agreements, and disagreements. See Annex 4 for priority issues posted and categorized.



**Participant presenting findings of Exercise 1 on the first day of the Yambio Consultative Workshop. (June 2009)**

**Exercise 2 (2.5 hrs) – The Jurisdiction of Traditional Authority and Government.** Participants were divided into five focus groups representing the roles of: Group 1) state government; Group 2) county commissioners and civil servants at county level; Group 3) chiefs and religious leaders; Group 4) women and vulnerable groups; and Group 5) youth representatives. Each group received a questionnaire highlighting illustrative issues often associated with the following topics: land rights, rural land, natural resources and environment, and dispute resolution. After review, participants were then asked to discuss and share their views on which institution should be responsible for managing, enforcing or exercising those rights, what forms of tenure should government recognize, and whether those tenure categories would be workable or sufficient (see Annex 5 for results). Groups 1 and 2 were quite conversant, having dealt with these issues frequently in their daily workplace. Groups 4 and 5 required considerable facilitation that to a large extent reflected capacity constraints and their marginalization in political and economic realms.

**Exercise 3 (1.5 hrs) – Opinions on Policy Options for Land Administration and Dispute Resolution.** Participants were subdivided into five mixed groups sorted by a showing of hands to discuss and share opinions on nine proposed policy options. The groups focused on a hypothetical institutional framework for land administration, planning, and management proposed in the Comprehensive Peace Agreement (CPA) (see Annex 6). Participants discussed the various options and noted their preferences on a flip chart under headings presented in a tabular form. Groups were also asked to indicate the number of members who were mostly in *agreement* or *disagreement* with their fellow peers, and to suggest modifications to the policy statement as appropriate. Each group then shared the results of their discussion in plenary, followed by questions and discussion.

**Exercise 4 (2 hrs) – Priority Vulnerable Groups and Key Issues they Face.** A list of vulnerable groups was recorded on a flip chart in the following order and placed in the front of the room: 1) Demobilized soldiers; 2) Women; 3) Refugees/Returnees; 4) Youth; 5) IDPs; and 6) Pastoralists. Participants were then asked to raise their hands for the group they felt was the most vulnerable in terms of prevalence and severity of issues. After the first round, the category with the most hands raised (representing the highest rank) was eliminated, and the process repeated for a second round among the categories remaining, continuing through five successive rounds. The outcome was a ranking of vulnerable groups from highest to lowest in terms of vulnerability. Participants were then subdivided into five focus groups (the sixth was eliminated to avoid diluting the number of participants per group) based on showing hands and counting off to randomize participants across groups. They were then asked to work with their

group in breakout sessions to discuss prevailing problems faced by their group, and identify up to the 10 most crucial issues. Each group then shared their results in plenary, followed by discussion (see Annex 7 for group rankings and priority issues reported by focal groups).

**Exercise 5 (2.5 hours) – Land allocation to Commercial Investors.** Commercial investment was raised repeatedly throughout the workshop, at times from the perspective of creating opportunity and needing to stimulate investment in the state (e.g. see Annex 3—the Governor’s closing Speech). At other times, investment was more contentious, stemming from problems of land takings without consultation or compensation (see Annex 4). The same groups were used from Exercise 4. Each group was then asked to discuss and share opinions on: 1) benefits and costs (challenges) perceived by communities from investment by outside investors (Part A in Annex 8); 2) rights that ought to be afforded to communities to capture benefits and protect them, and rights to the investor to ensure their security of tenure (Part B); land policy mechanisms to manage, or provisions to be built into, contracts between investors and communities (Part C); and which parties should be responsible for administering and enforcing contracts (Part D). The number tallies in Annex 8 are based on recorded responses. Not all groups made equal progress and there was an overall decline in number counts from Part A to Part D, reflecting time constraints. Nevertheless, this exercise stimulated robust discussion.



# 5.0 RESULTS OF THE CONSULTATION

The information contained in this and other consultation reports does not constitute a statement of principles, recommendations, or policy objectives and should not be used as such. These consultations are intended to identify the broad range of land tenure issues and challenges found throughout Sudan's ten States and challenges facing GOSS officials and other levels of government in the future implementation of a land policy. With the exception of a few exercises, the results are neither quantitative nor statistically representative. Thus, no conclusion should be drawn regarding the extent to which the views expressed reflect the will of a plurality or majority of stakeholders. However, these qualitative results do demonstrate the existence of important issues and deeply-held views that are sufficiently widespread and compelling to warrant careful consideration when formulating a land policy.

## 5.1 EXERCISE 1 – LAND POLICY ISSUES OF CONCERN TO PARTICIPANTS

Detailed results are presented in Annex 4. The following were the key issues provided under each of the LTPR headings:

### **Land Policy and Law:**

1. Land should belong to the people or communities, and both should be involved in determining the land policy and law.
2. Land owners should have the right to do what they wish on the land without government interference.
3. Land policy should guide land use and take into account community diversity.
4. Policy and law are important in defining and clarifying how land should be accessed, how it should be demarcated in rural and urban areas, who owns the land, and what is the role of the chiefs.
5. Implementation of policy and law should be expedited by authorities at all levels.
6. Policy should address issues of the 1956 borders.
7. Absence of law and policy makes it difficult for people to access land; the policy should provide guidelines for easy access.
8. Land should not be taken by force from owners.
9. It's important to clarify:
  - Access to land for rural and urban areas and for different categories of land users (guidelines for easy access required).
  - How nationals can access land in communities to which they do not belong.
  - Mandates of institutions to administer and manage land, covering Government and traditional authorities.
  - Issues of compensation related to land taken and occupied for the public interest.

## **Land Rights and Tenure:**

1. People should only have the right to own land in their counties of origin.
2. Women and the youth should have fair and equal rights.
3. Land rights are not known at the county level; the phenomenon is new.
4. Communities should adjudicate who holds what rights and where.
5. Children should have rights on land belonging to their parents.
6. There is need to clarify:
  - Whether people from other counties should have rights to land in new areas they settle anywhere in southern Sudan.
  - What rights should investors and Sudanese from northern areas have to acquire land in the south for investment.
  - How should the jurisdiction be set between community and government for purposes of community development?

## **Access to Land:**

1. Laws governing access to land should be fair; land should be allocated without discrimination.
2. Everyone should have access to land, but in a rightful way (mechanisms need to be established).
3. Women have been discriminated against and this has to be resolved.
4. There should be a mechanism for facilitating Sudanese from the north to access land in the south.
5. Some participants are of the view that land should only be accessed by members of that particular community where the land is located while others are for land access for everyone.
6. Mechanisms should be established to allow all southern Sudanese access to land anywhere in southern Sudan, bearing in mind the need to consult local communities.
7. Allocation of plots in urban areas must be fair and transparent.
8. The policy should give attention to easing access and ensuring proper utilization of land.
9. Land should not be acquired by force. Government needs to recognize and consult people who are the rightful owners.

## **Land Markets:**

1. Both communities and government should benefit from land transactions.
2. A citizen should have the right to sell his late father's land for income to sustain him or herself and for other developments.
3. Any selling of land should be through the approval of chiefs.
4. There is lack of information on who has the right to sell land and how land market transactions should be conducted.

## **Urban Land Management:**

1. There is need for urban land management policy and regulation.

2. Acquisition of urban land is based on favoritism.
3. Acquisition of urban land should be made easy and transparent.
4. Government has the right to own urban land for development purposes and to push the idle settlers to rural areas for agriculture.
5. The poor cannot meet urban development requirements.
6. Chiefs/local communities should be consulted for any rural land acquisition for urban expansion.
7. Urban land management must take into consideration the needs and capacities of the poor.
8. Development should also focus on rural areas.
9. Traditional leaders should be responsible for rural land (customary land tenure system (CLTS)) while Government should be responsible for urban land (statutory land tenure).

### **Land Administration:**

1. There is not a proper land administration in place; Government divides the land inequitably. A just land administration system is missing and needed.
2. Adjudication and demarcation of land must involve local leaders and everyone should cooperate.
3. Administration should be based at the county level with participation and collaboration of chiefs, local communities, and local Governments.
4. Land should be managed by the community in line with customary law.
5. Community and elders should determine boundaries.
6. Land administration should be under local Government, and be managed by government officials.
7. Land administration should be delegated to county authorities.

### **Dispute Resolution:**

1. Disputes result from people coming from other states and the administration.
2. There are major problems of inter-state and inter-county land grabbing.
3. There are a lot of inter-tribal conflicts over grazing and agricultural land.
4. Mechanisms must be established for dispute resolution.
5. Land conflicts should be resolved by traditional institutions and local communities.
6. There is lack of good working relations between the chiefs and government.
7. Recommendations by traditional authorities on conflict resolution are not honored by government.
8. A mechanism for implementing resolutions from the Bentiu conference of chiefs needs to be developed.
9. Inter-county conflicts and those caused by insecurity should be addressed by government.
10. Land commission should have sub-offices in counties and payams.
11. There should be established land arbitration institutions.
12. Disputes are common and should be resolved by chiefs and administrators.

### **Women and the Youth:**

1. Women should have the right to own land. They should have equal land rights with men.
2. Women and youth should be included in development of the land policy.
3. Affirmative action should be taken to empower women so they can assert themselves in gaining rights to land. Actions are needed that positively influence the evolution of tradition and culture to give women more participation in decision making and to organize women in income generating associations.
4. Chiefs/communities should facilitate women's access to land and protect those rights.
5. The principle of equity should be exercised in urban and rural areas alike.
6. Women and youth should have equal access to land so they can plan their development independently.
7. Youth need land but the government has not given it to them.
8. Youth and women have the right to hold land but through the chiefs and community.
9. People are grabbing land from our parents and we do not know what to do.

### **Other Vulnerable Groups:**

1. Control cattle herders.
2. How can we help the refugees?
3. Government and traditional authorities should help vulnerable groups in gaining access to land, either temporarily or permanently.
4. Demobilized soldiers and Government have forcefully taken community land. Mechanisms to revert land to the original owners need to be designed.
5. Mechanisms need to be designed to return land taken by force to the original owners.

### **Implications for Land Policy**

The issues raised with respect to each of the cases can be summarised into:

- Effective law and policy do not exist.
- There is no clear jurisdiction of different administrative levels as to who controls what in land allocation and land use management (municipal, government, or traditional authority).
- Conflicts result from lack of clear definition of mandates—government taking land without due process, without compensation, and with excessive force.
- Women and the youth are clearly denied rights of access to land.
- Customary land tenure systems restrict evolution of markets.
- Lack of human respect for vulnerable groups (IDPs, Demobilised Soldiers) denies them access to land.

## **5.2 EXERCISE 2 – THE JURISDICTION OF TRADITIONAL AUTHORITY AND GOVERNMENT**

Five groups were formed, namely: Group 1) state government; Group 2) county commissioners and civil servants at county level; Group 3) chiefs and religious leaders; Group 4) women and vulnerable groups;

and Group 5) youth representatives. Participants were asked to discuss and share their views on which institution should be responsible for managing, enforcing or exercising rights, what forms of tenure should government recognize, and whether those tenure categories would be workable or sufficient (see Annex 5 for results). Participants were not able to completely understand all elements of this exercise, and could not finish. Perhaps as a result, there was very little variability in responses across groups.

### **Most Important Land Rights Listed in Order of Priorities:**

- Occupy and use-possession and full enjoyment of rights.
- Transfer of rights by sale, gift, exchange, inheritance, and bequeath or any other lawful means.
- Fair and prompt compensation where land was requisitioned in public interest.
- In case of a lease, the right to renewal should be considered.

### **Other Land Rights Proposed:**

- Land holders should be entitled to lease all or a piece of the land.
- Restrict or exclude others.
- Use as collateral or set terms and conditions for use (easements, rights of way).
- All land rights should be recognized for WES indigenous communities.

In summary, the participants recommended the right of use and full enjoyment, disposition, fair and prompt compensation, and right to renewal of lease. They however would restrict these rights to indigenous communities, and exclude any other groups even if they are southern Sudanese.

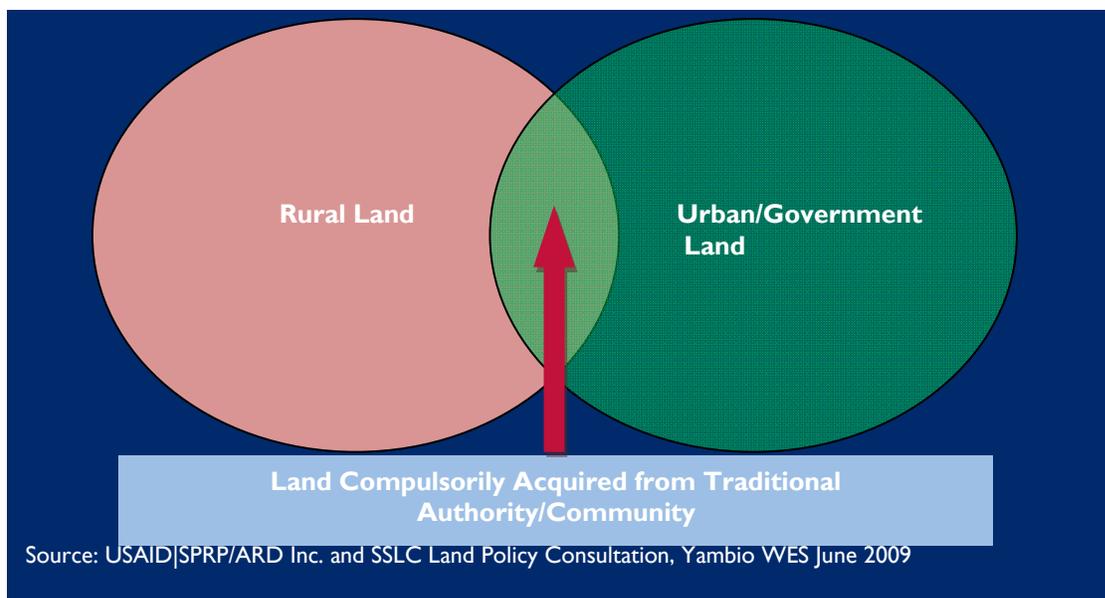
### **Responsible Entity for Administering Laws and Contracts:**

- Local community together with government.
- Individuals or people who stay in one area and/or share common values and cultures.
- All people in a given area.
- Chiefs and community members.

The above responses illustrate a lack of basic knowledge on land administration and how it differs from land management.

### **Jurisdictional Boundaries – At What Level Should Rights be Exercised?:**

Four of the five groups voiced the opinion that land rights should be exercised at the traditional authority's level. However, Group 2 opted for a two way system where land rights are exercised by traditional authorities for rural land and government institutions for urban land. The figure below illustrates group three's opinion on the appropriate exercise of land rights between government and local community. Municipal expansion resulting from population growth, urban development and outside investment requires the outward growth of urban boundaries into rural areas. Mechanisms are needed that allow for incorporating land for the public good in the public interest, but with due process, consultation and fair compensation by the state.



### 5.3 EXERCISE 3 – PARTICIPANTS OPINIONS ON POLICY OPTIONS FOR LAND ADMINISTRATION AND DISPUTE RESOLUTION

Participants were subdivided into five mixed groups to share opinions on the following nine policy options. For each policy option, groups were asked to indicate the number of members who were mostly in *agreement* or *disagreement* with their fellow peers, and as a group to proposed amendments to the policy options. (See Annex 6 for further details.)

Exercise 3 Participant Responses to Policy Options (Participants=55)					
No.	Option	Agreed		Disagreed	
1	Compulsory Land Acquisition	36	65%	19	35%
2	Decentralized Land Administration	55	100%	0	0%
3	Creation of an Autonomous Land Administrative and Management Authority	42	76%	13	24%
4	Establishment of a Semi-Autonomous GOSS Land Administration and Management Board	38	69%	17	31%
5	Establishment of a State Land Board	51	93%	4	7%
6	Establishment of a Autonomous State Land Authority	51	93%	4	7%
7	Establishment of a County Land Authorities	55	100%	0	0%
8	Establishment of a County Land Office Under the County Land Authority	55	100%	0	0%
9	Establishment of a GOSS Land Dispute Resolution System	55	100%	0	0%

**Policy Option No. 1: The power of compulsory acquisition shall be vested in the GOSS and in State Governments, and shall be exercised in accordance with international standards, the Interim Constitution of Southern Sudan and the Land Act.**

Reactions were mostly positive. Out of 55 participants, 36 (65%) people mostly agreed and 19 (35%) mostly disagreed with the notion of *Compulsory Takings*. Proponents felt that the powers of compulsory

acquisition should be vested in the State Government in coordination with GOSS. Those who disagreed wanted communities consulted before any takings occur. Concerns surrounding this argument were based on suspicion that compulsory land acquisition would be abused in the name of public interest. Further, opponents felt that the use of the word *compulsory* should be substituted with *consultative*.

**Policy Option No. 2: The GOSS, in close consultation with state governments and communal leadership, shall establish a system of land administration from the GOSS at the national level to the lowest levels of state administration.**

Reactions to the policy were strongly positive and in support of nationwide coverage from national to local levels. All 55 (100%) participants mostly agreed. Group 2 felt that State Government should be responsible for land registration and titling. Group 4 felt that State Ministries and Counties should have jurisdictional responsibility as well. Group 5 added that the land policy should take into account the norms and practice of customary land tenure systems and governance structures.

**Policy Option No. 3: The GOSS Ministry of Housing, Physical Planning and the Environment (MHPPE) shall establish an autonomous Land Administration and Management Authority.**

Reactions were quite positive. Of the 55 participants responding, 42 (76%) mostly agreed and 13 (24%) mostly disagreed. Group 1 indicated the need to have state governments represented on the MHPPE.

**Policy Option No. 4: Establishment of a Semi-Autonomous GOSS Land Administration and Management Board under the MHPPE.**

Reactions were mostly positive. Of the 55 participants responding, 38 (69%) mostly agreed and 17 (31%) mostly disagreed. Those disagreeing or wanting modification tended to feel that land registration and titling should be done by the State Government, and not GOSS. Others, in addition, felt that members of counties ought to be included as well. Finally, Group 5 felt that the management board should include members from the local community and county administration, and include Paramount Chiefs from each state. Underlying these comments is the preference for decentralization, which is captured in Policy Options 5 to 9 below.

**Policy Option No. 5: Each State Government shall establish an autonomous State Land Board under the supervision of the state minister responsible for land.**

Participants were strongly supportive. Of the 55 participants responding, 51 (93%) strongly agreed and four (7%) strongly disagreed. Only Group 5 commented that the land board should include representatives from all counties in addition to staff drawn from the state line ministries.

**Policy Option No. 6: The State Land Authority shall be established under the State Land Board.**

Participants were also strongly supportive, and responses mirror those of Policy Option 5 above. Of the 55 participants responding, 51 (93%) mostly agreed and 4 (7%) mostly disagreed. However, Group 4 argued for the need to improve the technical capacity and skills through hiring. Group 5 indicated the need to establish standards and criteria for selecting board members.

**Policy Option No. 7: Establishment of a County Land Authority (CLA) in each County in Southern Sudan.**

All (100%) participants responding mostly agreed indicating a consensus toward policy that is decentralized and includes Local Government and Traditional Authority in decision making. Only Group 2 commented that State Government should be responsible for land administration.

**Policy Option No. 8: Establishment of a County Land Office under the CLA.**

That response is the same as that provided for Policy Option 7; all (100%) participants responding mostly agreed. Only Group 3 added that State Government should be responsible for land administration.

**Policy Option No. 9: The GOSS shall establish a system of land dispute resolution that is transparent, decentralized and informed by customary norms of dispute resolution.**

The response was unanimous in favor of this policy. No group provided additional comments.

Following the discussion of policy options, participants discussed specific aspects of land administration and conflict resolution, including issues of urban expansion, compulsory acquisition, and pastoralist land use:

***What happens when urban areas expand into rural areas?***

- Rural communities are sometimes displaced and forced to retreat.
- Rural areas are absorbed into urban lands, creating conflict. For example, the royal land in Yambio where the tomb of King Budue of the Azande people is situated is now under the statutory administration as part of an urban area.
- Local communities should be compensated for lands taken for urban use.

***Should government compensate local communities for building physical and social infrastructure when providing basic social services for the good of the community?***

- For land that is taken for international investors, local communities want economic benefits in return and compensation.
- Local communities do not request compensation if the services are meant to help them. For example, in the case of government building health centers, schools, or community water points compensation for land taking is not requested by local communities.
- There is need to consult local communities before development begins to minimize or avoid mistrust and suspicion.

***Comments on IDPs, demobilized soldiers, and cattle herders?***

- Some IDPs have voluntarily reintegrated into communities. Conflicts emerge only when they move and settle in mass clusters without following norms and practices of Customary Land Tenure systems for acquiring land.
- Some demobilized soldiers illegally occupy public property (land and houses) even long after having been demobilized. There are also examples of military personnel and demobilized soldiers who illegally occupy private property.
- Cattle herders pose a significant threat to public security because they are heavily armed with automatic machine guns; cattle herders from the western Bahr el Ghazal State, and the Ambororos from Central African Republic (CAR) and Chad are a case in point.

## **Implications for Land Policy:**

Generally, participants do not accept the idea of *compulsory* as they currently understand it and believe that government should not be able to take any land without consulting the affected communities. In the case of land registration, participants were generally supportive of the idea that the states register land, but only with local representation and consultation. The management and reconciliation of disputes should occur primarily through local-level negotiation, and the statutory system should recognize decisions made at the community level.

The consensus is that land should be administered under a statutory land tenure system with the support of local governments overseeing implementation. However, urban authorities, when taking land in the public good, must provide fair and prompt compensation to the community or the communities being dispossessed. A community is willing to provide land to government for investments provided that they

are beneficial to the community and that the government and investor do not change the terms of the project or the type of use for which the land is leased.

The access and use of land for IDPs and pastoralist movement for pasture and water are two major issues of conflict in the WES. Seizure and occupation of land and houses by demobilized soldiers is also a common problem.

#### **5.4 EXERCISE 4 – PRIORITY VULNERABLE GROUPS AND KEY ISSUES THEY FACE**

Following the methodology explained in Section 4, participants were asked to rank specific vulnerable groups in terms of the prevalence and severity of issues they face within the state. Once this ranking was completed, participants were then organized in focal groups to discuss prevailing problems and identify up to the 10 most crucial issues faced:

##### **First – Most Vulnerable Group in Terms of Importance: Women**

This group covers girls, widows, and unmarried and married women.

- Women should have equal rights to land as men.
- Widows should have the right to inherit their late husbands' land and property.
- Women/daughters should have the right to own land with their parents.
- Women should have access to commercial/urban land.
- Women should be members of land committees and be involved in decisions on land.

##### **Second – Most Vulnerable Group in Terms of Importance: Pastoralists**

- Forcefully occupy and own land.
- Conflicts between pastoral communities and agrarian communities are over pasture and water especially during the dry season.
- Pastoralists should not be allowed to forcefully occupy the land of other communities.
- They should raise their cattle on their own range land and within their assigned borders. They should cross the border only for commercial purposes.
- There should be inter-state dialogue whenever disputes occur.
- Penalties should be imposed in the event of destruction of crops and hives, and in the event of land degradation. Pastoral groups should be restricted to their ancestral land and penalized for violations.

##### **Third – Most Vulnerable Group in Terms of Importance: Demobilized Soldiers**

- Demobilized soldiers should access their land through their ancestral and host communities. They must go through the recognized channels of acquiring the land.
- They should not grab land and have no right on what has been grabbed.
- They should be lawfully evicted from land they grabbed.
- They create conflict with agrarian communities over pasture and water and sometimes cause land degradation.

#### **Fourth – Most Vulnerable Group in Terms of Importance: Youth**

- Youth should be involved in land policy development process.
- Youth (both girls and boys) should have equal right to inheritance and involvement in decision making.
- The state Ministry of Social Development should train youth on land use and the importance of land.
- Youth should organize themselves into associations to acquire land for commercial activities and ensure sustainable development.
- The Ministry of Social Development at the state level should be proactive in mobilizing youth into associations and mobilizing financial resources so they can engage in commercial and other economic activities.

#### **Fifth – Most Vulnerable Group in Terms of Importance: IDPs**

- They cause conflict with local communities over use of the land.
- Some come for refuge with their traditional cattle herds, owned for social and not economic purposes, and cause insecurity with local communities.
- They have not been involved in land administration.
- They are given land on temporal basis.
- Solution: Local Governments and TAs should give full right of access to land to IDPs but on a temporal basis. In the long term the IDPs must be resettled in their communities of origin.

#### **Implications for land Policy**

The limited representation from people who would self-identify as pastoralists or IDPs presents a problem in that the solutions to the associated land issues tends to be ones that would further marginalize such groups. For instance, while participants recognized the need to allocate land to displaced people, they should receive it only on a temporary basis. Similarly, participants' suggestions to curtail the movement of pastoralists and their cattle would affect their livelihoods as well as seasonal access to water and pasture. Those responsible for drafting policy will need to consider a wider range of solutions and other stakeholder views to strike balanced policy principles and objectives.

### **5.5 EXERCISE 5 – LAND ALLOCATION TO COMMERCIAL INVESTORS (DETAILED RESULTS IN ANNEX 8)**

Many communities consider land investment schemes by both domestic and international groups a threat to community land grabbing. This exercise attempts to capture the participants' perception and deal with the issue of land grabbing. Government, both at GOSS and state levels is attempting to promote private investments with an aim to stimulate economic growth. The workshop exercise was designed to research this issue. The participants were divided into mixed groups (not pier groups). The individual groups hand wrote their perceived benefits and challenges, to investment in land, from both local and international investors. These comments are listed below in order of importance as measured by the number of groups that indicated the benefits and challenges (see Annex 8). There were a total of five (5) groups.

#### **Investment benefits:**

1. Employment opportunities—both local and international (5 out of 5)
2. Improvement in basic social services (5 out of 5)
3. Acquisition of technical skills/experiences (5 out of 5)

4. Improvement in technologies and innovations (4 out of 5)
5. Increases local incomes (revenue shares, compensations, sales) (4 out of 5)
6. Boosts rural and urban market systems for local produce (3 out of 5)
7. Promotes land market (1 out of 5)
8. Good international relationships (1 out of 5)
9. Positive change in the poor's livelihoods (1 out of 5)
10. Improvement of transport and communication systems (1 out of 5)

### **Investment challenges:**

1. Environmental pollution/degradation (5 out of 5)
2. Dishonoring development terms earlier agreed in contract/land leases, low benefit, politicking contracts (4 out of 5)
3. Displacement of community members (3 out of 5)
4. Increase in social problems e.g. prostitution/HIV/AIDS, school dropouts, cultural distortion, disrespect to local norms (2 out of 5)
5. Smuggling of natural resources/exploitation of natural resources which were not contracted (2 out of 5)
6. Market monopoly (1 out of 5)
7. Over-exploitation of local resources (1 out of 5)
8. Overpopulation—land disputes (1 out of 5)
9. Political insecurity/war (1 out of 5)

### **The Implications for Land Policy:**

The results reveal a strong desire for investments and the will to extend land to investors. Participants understood the importance of the investments in terms of supporting socio-economic advances to the beneficiary communities through raised incomes, skills, and markets.

There is, however, a concern that if not properly monitored, the investors will abuse the opportunities afforded by communities. Mainly the concern for abuse is made possible through the exploitation of cultural norms and the exploitation of other resources not envisaged or declared in their investment plans



## 6.0 LESSONS LEARNED AND EMERGING ISSUES

Though Yambio is the State Capital it is largely a small rural town surrounded by dense forests and small subsistence farms. Traditional authority is the basis for much of the tenure. Certain historical statutory systems present in WES (Zandi-land created during British colonization) are now partially within Yambio town. The current government is designing a program to reassign land allocations within the new urban area widened to an area 10 miles in circumference.

A number of participants expressed views and opinions potentially diverge from principles and mandates of the CPA, Interim Constitution, as well as GOSS and State laws. The power of compulsory acquisition is vested in GOSS as the result of the Constitution and is a standard tool of national governments. However, participants do not accept the idea of *compulsory* as they currently understand it and believe that government should not be able to take any land without consulting the affected communities. Regarding IDPs, they have the right to move and reside anywhere within Southern Sudan under the Interim Constitution. However, participants were very clear that IDPs be granted land only temporarily and that eventually, they should be resettled in their communities of origin (by force if necessary.) Finally, despite constitutional and legal provisions recognizing the rights of women, many participants were reluctant to discuss this issue and resistant to the idea of expanding women's land rights.

Investment planning is underway and anticipation is rising as citizens begin to wonder what future agricultural and urban development will bring to the State. The participants discussed issues about future jobs, and changes in quality of life—possible improvements and cultural changes to a largely customary way of life. Though political authority is yet to be determined, issues about state, county, and local jurisdiction were discussed at length.

A number of the views and beliefs expressed by the participants contradict principles embodied in the Comprehensive Peace Agreement, the Interim Constitution of Southern Sudan or other nascent GOSS policies and law. The expectation that all IDPs will be returned to their areas of origin (by force if necessary) contradicts the Freedom of Movement and Residence in the Constitution. Traditional leaders are reluctant to extend to women the full suite of rights currently held by men. Compulsory acquisition of land in the public interest is a common tool of government worldwide; however, participants' comments suggest people are resistant to the idea of vesting this power in either the GOSS or State governments, for fear of abuse or the marginalization of traditional leaders. Government official responsible for drafting and debating land policy may require further technical support and assistance in order to strike a balance among these and other competing policy principles, objectives, and stakeholder needs.

Participants highlighted issues along the northern boundary of WES and Lakes State to the north and described the current conflicts along this border. Historically, pastoralists invade the grass lands every year. Agriculturalists further highlighted problems with cattle within farming communities due to crop loss from unfenced open pastures. The land policy will need to address and balance the needs of both agriculturalists and pastoralists to land and water.

The participants invited to the initial consultative workshop included appointed and civil personnel from state line ministries and county government, as well as traditional authority. It was observed from time to time that discussions were hindered by conflicts or a lack of understanding between either government and/or traditional authority. Breakout groups were organized first along traditional lines and then groups were merged placing government with traditional authority together. The mixing of groups required some facilitation but was productive and should be continued. Both groups had strengths and weaknesses.

Government personnel had a greater understanding of the issues faced by statutory land tenure systems. Traditional leaders were successful at illustrating authority quickly and decisively. Topics covered should be

further defined to allow both groups to understand the issues further. Participants will be asked whether the topics offered for discussion sufficiently capture the range of land issues that they addressed in their daily life. If not, participants will be asked to talk about and share additional issues not anticipated by facilitators and add additional topics or subtopics to a policy outline.

Consultations are designed to solicit people's views on a range of land issues. The participants should have sufficient time to ask questions about basic land tenure concepts and the policy, as well as to discuss issues in groups and plenary. During the next workshop, additional time will be designed into the program to provide for short presentations on basic concepts, and participants will have 10 to 15 minutes to ask questions and discuss the content of the presentation.

Learning new ideas and discussing topics in one's mother-tongue is always more effective. There are 14 native languages in WES, though the most common languages are Arabic and English. Participants self-translated for each other as issues were discussed at length among groups in their local languages. Future consultations should include efforts to find translators so the participants can enhance their understanding and facilitators can capture more ideas and data. Additionally, efforts will be made to have the materials that are presented translated prior to initiating the activity.

The exercises require additional instruction prior to handing them out to the participant groups. Exercise 4 will be improved such that all groups will consider all five cases and ease comparison of the results. More time will be spent reviewing the objectives prior to initiating the activity.

# 7.0 CONCLUSION

Recognizing the rights of all southern Sudanese to land is a central tenant of the Comprehensive Peace Agreement. In January 2009, USAID established the SPRP, implemented by ARD, Inc., to assist the SSLC to develop a new land policy based on comprehensive, inclusive, and transparent consultations. The substantiation of land tenure and use through modern urban and rural customary policies and the concept of “possession” is complex in the southern Sudanese context.

A team of five members from the USAID | SPRP and the SSLC conducted a consultation with 55 participants from throughout WES including representatives of state and local government, traditional authorities, women and youth groups, and CSOs. Participants discussed their concerns and ideas regarding LTPR over the course of 2 1/2 days. Small-group exercises and brief presentations on LTPR concepts and principles stimulated discussion among participants to elicit their views and ideas regarding issues related to processes and practices for accessing land, urban land management, land and property rights, women and vulnerable groups, and land conflicts.

The five major topics covered in five sessions included presentations on: Why land tenure; land rights and tenure systems; urban management; IDPs, refugees, and demobilized soldiers; and women and other vulnerable groups. Four of the five exercises as designed focused on LTPR issues including the jurisdiction of traditional authority and government, opinions on policy options for land administration and dispute resolution, priority vulnerable groups, and land allocation and commercial investment.

## **Key Ideas, Principles, and Issues Identified by Participants:**

- Land should belong to people or communities.
- Women’s access to land and gendered equity is recognized and a significant issue.
- Land for internally displaced people, youth, and other vulnerable groups is restricted and claims/needs are widely ignored; they should be provided land but only if customary rules are respected.
- The government/military should not forcibly acquire land. Legitimate claimants should be compensated for takings or their land should be returned.
- Roles to administer land and mediate disputes are unclear. The jurisdiction of traditional authority and customary practice should be recognized and practiced in rural areas and those of modern government and statutory law should be recognized and practiced in urban areas.
- The government should not take land at the peri-urban boundary for urban expansion without consulting/negotiating with traditional authorities. Compensation must be provided for any land taken.
- Children’s right of inheritance to land held by their parents should be guaranteed.
- Land market transactions lack definition. Real property is not clearly defined, commoditized, or available for sale/lease.
- Conflicts occur along the “green lines” of available water and grazing land and are widespread. Not only are conflicts between pastoralist groups but also between pastoralists and farmers.
- Investors granted leases by communities must respect traditional customs and norms. The roles of the GOSS, state and local government, and traditional authorities need to be clarified to ensure that investor operations are monitored for compliance with lease agreements, including those that address environmental considerations.

# ANNEX I: YAMBIO CONSULTATIVE WORKSHOP AGENDA



**USAID | SUDAN**  
FROM THE AMERICAN PEOPLE



**Southern Sudan National Land Policy State Consultation**

**Venue: Ministry of Education Lecture Hall**

**Yambio**

**4-6 June 2009**

## DAY ONE

Time/day	Activity	Person responsible
08:30-09:00 am	Registration	ARD/SSLC
09:00-9:15 am	Welcome Remarks and Training Objectives	ARD/SSLC
9:15-09:45 am	Official Opening	State Governor/Delegate
09:45-10:15 am	Presentation: Why a Land Policy?	SPRP/ARD
<b>10:15-10:45 am</b>	<b>Tea/Coffee Break</b>	
10:45- 11:00 am	Formation of Working Groups	ARD/SSLC
11:00-12:00 noon	Exercise (1), break out groups	Participants, facilitators
12:00-1:00 pm	Groups report back	Participants
<b>01:00-2:00 pm</b>	<b>Lunch</b>	
2:00-3:00 pm	Presentation: Land Rights	SPRP/ARD
	Presentation: Land Tenure Systems	SPRP/ARD
3:00- 5:00 pm	Exercise (2), break out groups	Participants, facilitators
	Groups report back	Participants
<b>5:00pm</b>	<b>Closing remarks</b>	ARD/SSLC

## DAY TWO

Time/day	Activity	Person responsible
08:30-9:30am	Wrap up—Day I Activities Feedback	ARD/SSLC & Participants
09:30-10:00am	Presentation: Land Administration	SPRP/ARD
10:00-10:30am	Presentation: Urban Land Management	SPRP/ARD

<b>Time/day</b>	<b>Activity</b>	<b>Person responsible</b>
<b>10:30-11:00am</b>	<b>Tea/Coffee Break</b>	
11:00-01:00 pm	Exercise (3), break out groups	Participants, facilitators
	Groups report back	Participants
<b>01:00-2:00pm</b>	<b>Lunch</b>	
02:00-03:00pm	Presentation: Specific Cases—IDPs, Refugees, Demobilized Soldiers, Women and other Vulnerable groups	SPRP/ARD
03:00-05:00pm	Exercise (4) by focus groups	Participants, facilitators
	Groups report back	Participants
5:00pm	Closing remarks	SPRP/ARD

## **DAY THREE**

<b>Time/day</b>	<b>Activity</b>	<b>Person Responsible</b>
8:30-09:30 am	Wrap up—Day 2 Activities Feedback	ARD/SSLC
09:30 - 10:00 am	Exercise 5, break out groups	Participants, facilitators
<b>10:00-10:30 am</b>	<b>Tea/Coffee Break</b>	
10:30-11:45 am	Exercise 5, continued	Participants, facilitators
11:45- 12:45 pm	Group report backs	Participants
12:45- 01:00 pm	Closing Remarks	ARD/SSLC & Participants
01:15 pm	Closing Remarks	Governor
<b>1:30 pm</b>	<b>Lunch</b>	

# ANNEX 2: LIST OF PARTICIPANTS

LIST OF ATTENDANTS					
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# ANNEX 3: SPEECHES

## **1. USAID REPRESENTATIVE – LEMI WANI LOKOSANG**

USAID is committed to partner with ARD Inc. and the GOSS Land Commission to develop a comprehensive land policy for southern Sudan.

The land policy consultation process is being brought to the grassroots so that people own it through the ideas they contribute.

The process of developing the land policy is only one of several USAID supported programs for southern Sudan. Among others are the Yambio-Tambura Road Project, and projects targeting support for food security/agricultural production, health, and education.

It is indeed historic that the Government of Southern Sudan is now making its own laws based on advances in land policy development.

Let me conclude by pledging USAID's support to the process of establishing a land policy and legal framework for its implementation.

## **2. SSLC REPRESENTATIVE – BUTROS APOLLO, COORDINATOR**

This activity is meant to attract people's views on what is needed for the southern Sudan land policy. Data collected will also be used to strengthen the Land Act of 2009 for southern Sudan.

Preparation of the southern Sudan land policy document will be an opportunity to resolve key land issues which had (and still) continue to pose serious conflict.

The land policy consultation process is intended to be carried out in all ten states to capture the broader views and perspectives of southern Sudan's diverse multicultural communities.

## **3. WES MINISTER OF LOCAL GOVERNMENT – COL. SAMUAL BATI**

Land has been a key issue throughout the ten counties of Western Equatoria State from most of the registered conflicts. It's being an opportunity for us all in the State to be part of the land policy development process for southern Sudan.

People should contribute positively so that local ideas which are cherished shall be assessed and used in the Land Policy document that will inform the land law.

## **4. CHIEF GUEST, DEPUTY GOVERNOR OF WES – COL. JOSEPH NGERE**

Developing a land policy for southern Sudan is a crucial activity that will seek to address many land related problems we are facing. The message that a land policy is being developed should reach the grassroots throughout the State as an end point where policy and laws will be implemented.

In the Bentiu Conference for Traditional Authorities on Peace and Reconciliation, contest over land was a crucial item debated.

In southern Sudan as a whole, insecure land rights and related land issues have been the root cause of resistance spanning two rebellions (1956-1972 and 1983-2004) against successive governments in Khartoum.

Although the CPA was signed to end the crisis which has ravaged our country, the current on- and-off conflicts require us to produce a policy that effectively supports our laws.

Such opportunities (policy development papers) were unwelcome by the northern governments because they did not conform to Sharia law especially after the 1972 Addis Ababa Peace Agreement. This is one reason why the Sudan Peoples' Liberation Movement (SPLM) united with the southern political parties to demand more autonomous policy, law, armed forces, and a government much closer to the people.

The southern Sudan land policy should help strengthen the Customary Land Tenure System (CLTS) to deter development expansion in both rural and town areas. What the CLTS clearly needs to address is the misinterpretation of the CPA that land belonging to the community should be used to justify land ownership, land rights, and development opportunities.

The process of land policy development should be viewed as a means for reconciling differences between local, government, and international development partners; and concluding much needed land policy guidelines.

The consultation should find the means to improve equity for men and women to inherit land, and own land in the event of a spouse's death, divorce, or separation.

In most WES societies, land is not for sale. Upon request, a portion of land can be allocated to people coming from the outside to use but not to sell. Even then this use right is only temporary.

Traditional land allocation was specifically targeted to areas reserved for settlements and aimed at easing access to land for farming while accommodating and protecting certain special interests—e.g. religious rituals, herbs, and wildlife. It's important that the land policy acknowledge environmental conservation and protect plant and animal habitat.

## **5. GOVERNOR'S CLOSING REMARKS – H.E JEMMA NUNU KUMBA**

Addressing participants at the closing session of the workshop, the Governor of Western Equatoria State, H.E. Jemma Nunu Kumba thanked them for their participation and for attending the workshop. According to the Governor, the land policy was overdue, and should have been initiated sometime back, however it is not too late she remarked. She told participants that land has been a problem, particularly in Juba, due to unclear land policy; however, land is not as much an issue in Western Equatoria as it is in some other states. She commended the Land Commission, USAID, and ARD for taking the initiative of wider consultations with communities. In conclusion, she urged the people of Western Equatoria not to be afraid of investors coming to their state for investment; rather, they should be welcoming and encouraging them to come and develop their state.

# ANNEX 4: EXERCISE I

PRESENTATION RESULTS (Individual comments from posted notes)	
ISSUE	Policy Constraints or Areas the Policy Should Give Priority
1. Land Law, Policy and Access	<p><b>Policy.</b> Land policy should guide land use and take into account community diversity. Policy and law should provide for equal rights in line with human rights. Policy and law should be expedited for implementation by authorities at all levels. It should recognize borders set in 1956. Absence of land law and policy makes it difficult for people to access land; the policy should provide guidelines for easy access.</p> <p><b>Land Rights and Ownership.</b> Policy and law are important in defining and clarifying how land is accessed, how it is to be demarcated for rural and urban areas, who own the land and the role of the chiefs. Land should belong to the people. The role of government should be clarified. Land owners should have the right to do what they wish on the land without government interference.</p> <p><b>Public Goods and Public Takings.</b> How is land to be accessed for hospitals and schools? Displacement of people while acquiring land for development projects should go with proper compensation. There is need for policy guiding roads. Land should not be taken by force from owners.</p> <p><b>Land Access.</b> How are Sudanese going to access land in communities they do not belong to?</p> <p><b>Community Rights.</b> Clarify community rights in land. Local communities should be involved in determining the land policy and law.</p>
2. Land Rights and Land Access	<p><b>Outsiders.</b> People who come from other counties have no land rights. No outsiders should have access to land. Consideration should be made for any southerner to access land anywhere in southern Sudan.</p> <p><b>Children.</b> Do children have rights to land? There should be rights for children.</p> <p><b>Private investors.</b> Do local private investors have rights to land? Our rich brothers in northern Sudan are longing to possess large pieces of land in the south. How can they be helped?</p> <p><b>General.</b> There are no land rights in my county; there are no land rights.</p> <p><b>Government takings for development.</b> Government needs to recognize and consult people who are the rightful owners. Confiscation of land should be done in a right way from the indigenous of the particular area rather than using force. Land rights should be shared by the community and government for the development of the village. Communities are not consulted on land for government use.</p> <p><b>Land Access.</b> Government should give a chance to other people who are not from here and help them access to land. Laws governing access to plots should be fair. Consultation is needed. Consider distribution of land without discrimination. State and county administration of land should be advocated. Policy should ensure everyone utilizes and has access to land without challenge.</p>
3. Land Markets	<p><b>Right of sale.</b> A citizen should have the right to sell his late father's land for income so as to sustain himself and for other developments. Any selling of land should be through the approval of chiefs. Why is land sold by governments and not by the citizen who is the owner? The problem of selling land very expensively should be regulated.</p> <p><b>Land takings.</b> There is a lack of government facilitation and consultation with communities in taking or allocating land.</p> <p><b>Lack of information.</b> There is a lack of information on how to sell; who is the right person to sell the land?</p> <p><b>Taking land by force.</b> Why and how do people own others' land by force and at the point of death? Why is there a lack of security and no investigation?</p>

**PRESENTATION RESULTS** (Individual comments from posted notes)

ISSUE	Policy Constraints or Areas the Policy Should Give Priority
<p><b>4. Urban Land Management</b></p>	<p><b>Urban land policy.</b> There is need for urban land management policy and regulation.</p> <p><b>Urban land access.</b> Why is the administration not giving plots to applicants and yet they have made so many applications? Acquisition of urban land is based on favoritism. Why are only urban areas and not rural areas considered when focusing on development?</p> <p><b>Urban development.</b> GOSS should bring investors to show them the needs for urban development. The government has the right to own urban land for development purposes and push idle settlers to the rural areas for agriculture. How is urban land management going to help? The poor cannot meet urban development requirements? Land survey in urban areas is not done using the right systems.</p> <p><b>Traditional authorities.</b> Consult with us for land first because we can give land for building hospitals and schools. Consult chiefs around urban/town sites (peri- urban). Consult chiefs to acquire land for urban use. Policy should be that local leaders are responsible for rural land while the government is responsible for urban areas. Why do urban areas not respect traditional leaders when distributing land?</p>
<p><b>5. Land Administration</b></p>	<p><b>Equity.</b> There is no proper land administration by government to divide land equitably. A just land administration is missing and needed.</p> <p><b>Cooperation.</b> People should not refuse demarcation of their land during survey. Let us have cooperation with the community so that people may have land.</p> <p><b>General.</b> Land administration has been a problem to some people; why not develop a good land administration system? Both chiefs and the government should work together. The government, chiefs, and community should work together (2).</p> <p><b>Traditional authorities.</b> Land administration should be in the hands of the local authority in consultation with chiefs of the area. Land should be managed by the community along the lines of customary law. Community and elders should determine boundaries? The chiefs are responsible. Land administration should be under traditional leaders (3).</p> <p><b>Government.</b> Land administration should be under the local government. Land Administration should be managed by government officials. Land administration should be delegated to the county authorities. The county council land committee should be under county commissioners.</p> <p><b>Community.</b> Should start from the grass root community of the area.</p>
<p><b>6. Dispute Resolution</b></p>	<p><b>General.</b> Look forward to good recommendations from the workshop so I may explain them to my daughters and friends.</p> <p><b>Traditional authorities/customary law.</b> Land conflicts must be resolved under customary law. Recommendations by traditional authorities on conflict resolution are not honored by the government. There is lack of good working relations between chiefs and the government. Everyone should respect ownership and culture as well as the traditions of land lords.</p> <p><b>Disputes over land ownership.</b> What is the solution for land lords quarrelling over land ownership? Someone occupies land of another who was born there and refuses to move—what should be done to him or her? Disputes result from people coming from other states and the administration. Since everybody is entitled to land what is the cause of conflict?</p> <p><b>Disputes over tribal and interstate boundaries.</b> Having conflict over land with our neighboring county. There are border disputes in southern Sudan that were addressed through resolutions of the last chiefs conference in Bentiu (1956 borders); how can this be realized? Policy should solve problems caused by other states. One major problem is interstate related land grabbing. There are a lot of inter tribal conflicts over grazing and agricultural land.</p> <p><b>Lack of dispute resolution mechanisms.</b> Absence of a mechanism to solve land conflicts is a major issue for many people.</p> <p><b>Security.</b> Conflicts are due to insecurity and the government should look deeply into it.</p> <p><b>Mechanisms/administration.</b> Absence of land arbitration institutions. Land commission should have sub-offices in county and Payams. Disputes should be resolved by chiefs and administrators. Disputes have become too common and should be resolved by the chiefs and the government. With proper laws, county commissioners, and chiefs should resolve them.</p>

**PRESENTATION RESULTS** (Individual comments from posted notes)

ISSUE	Policy Constraints or Areas the Policy Should Give Priority
<p><b>7. Vulnerable Groups</b></p>	<p><b>Pastoralism.</b> Control cattle herders.</p> <p><b>Refugees.</b> How do we help the refugees? How can refugees be given land?</p> <p><b>Vulnerable Groups.</b> Government and traditional authorities should help vulnerable groups to access land for these groups either permanently or temporarily. The workshop should emphasize equal rights for women, youth, etc.</p> <p><b>Demobilized soldiers.</b> Demobilized soldiers cause problems to civilians and thus need to be taken care of.</p> <p><b>Women.</b> Women should have the right to own land. They should be involved in the development of the land policy as required by the CPA. They should have their 50% rights to lift their morale. Men and women should have equal rights to acquire land. Given that most women are not educated, affirmative action must be considered to bring them to the same level as men in demanding their rights. Do not discriminate against women. Government must look into the issue of women's access to land; can women own land given the customary laws that are obstacles? Women should access land without discrimination. Women are created by God as are men and so should have the right to own, inherit and access land like men. Women should be given land in urban areas on equal terms with men.</p> <p><b>Youth.</b> Women and youth should be given access to land so they can plan their development in their own right. Youth need land but government has not given it to them. Youth and women have a right to have land through the chiefs and community. Some people are trying to grab land from our parents and we do not know what to do. Youth should be included in land policy development.</p>



# ANNEX 5: EXERCISE 2 – LEVELS AT WHICH LAND RIGHTS SHALL BE EXERCISED

Group No.	Group ID	Opinion on Appropriate Institution Responsible for Managing, Enforcing or Exercising	Proposed land policy for government to adopt	Policies workable or sufficient?
1	State Government	Community leadership to enforce rights	Freehold. But where there is development, apply leasehold tenure	Yes
2	County Commissioners and Civil Servants at County Level	Traditional authority in rural areas and government institutions in urban areas	Leasehold terms	No Response
3	Chiefs and Religious Leaders	Chiefs and community members	Government demarcated areas should be under leasehold system; government should seek consent of the rural community whenever it wants to establish investment projects; government should compensate rural communities when establishing a project	Yes
4	Women and Vulnerable Groups	Clan	Fair and prompt compensation where requisition was done in public interest	Yes
5	Youth Representatives	Indigenous communities	Leasehold with a low fee in rural areas and lease hold with higher fee in urban areas	Yes



# ANNEX 6: EXERCISE 3 – PARTICIPANTS FEEDBACK ON LAND ADMINISTRATION INSTITUTIONS AND CONFLICT RESOLUTION

Participants were subdivided into five mixed groups to share opinion on the following nine policy options. For each policy option, groups were asked to indicate the number of members who were mostly in *agreement* or *disagreement* with their fellow peers, and as a group to proposed amendments to the policy options.

1. **Power of Compulsory Land Acquisition.** The power of compulsory acquisition shall be vested in the GOSS and in state governments, and shall be exercised in accordance with the Interim Constitution of Southern Sudan (ICSS) and the Land Act.
2. **Decentralized Land Administration.** The GOSS, in close consultation with state governments and communal leadership, shall establish a system of land administration from the GOSS at the national level to the lowest levels of state administration that will be responsible for technical delivery of land administration services, including land registration and titling, land information and mapping, and maintaining GIS, and land use planning/management.
3. **Creation of an Autonomous Land Administration and Management Authority.** The GOSS Ministry of Housing, Physical Planning, and the Environment shall establish an autonomous Land Administration and Management Authority with three technical departments: A) Land Use Planning and Management, B) Land Information, Surveying, and Management, and C) Land Administration.
4. **Establishment of a Semi-Autonomous GOSS Land Administration and Management Board** under the Ministry of Housing, Physical Planning, and Environment. The Board shall have powers to oversee, supervise, monitor, and evaluate functions of the Land Administration and Management Authority. The Board members shall be drawn from relevant GOSS ministries and Commissions.
5. **Establishment of a State Land Board.** Each state government shall establish an autonomous State Land Board under the supervision of the state minister responsible for land. The Board will provide advice and oversight on all land matters. Board members shall be drawn from relevant state ministries and be appointed by the State Council of Ministers on recommendation of the minister responsible for land.
6. **Establishment of an Autonomous State Land Authority.** The State Land Authority shall be established under the State Land Board and will be managed by civil servants hired by the state ministry on recommendation of the State Board. The State Land Authority will include land use planning and management and land administration departments.
7. **Establishment of a County Land Authority (CLA) in each County in southern Sudan.** The CLA shall be an oversight and advisory institution with members drawn from relevant county departments,

traditional authority, payam administration, women, and other groups as necessary. CLA members shall be appointed by the governor on recommendation by the County Commissioner.

8. **Establishment of a County Land Office under the CLA.** Such an Office will be managed by a professional civil servant whose composition shall depend on the level of activities to be determined. Its functions shall include receiving and processing applications for land survey (demarcation) and land registration; receiving and processing land disputes; and providing support to Payam land councils and traditional authorities to resolve them.
9. **GOSS Establishment of a Land Disputes Resolution System.** The GOSS shall establish a system of land disputes resolution that is transparent, decentralized, and informed by customary norms of dispute resolution.

## EXERCISE THREE: PARTICIPANT RESPONSES REGARDING POLICY OPTIONS ON LAND ADMINISTRATION AND DISPUTE RESOLUTION

Group 1			Group 2			Group 3		
mostly agree	mostly disagree	proposed modification	mostly agree	mostly disagree	proposed modification	mostly agree	mostly disagree	proposed modification
Group size =13			Group size=13			Group size=13		
<b>Policy Option No. 1: Power of Compulsory Land Acquisition</b>								
0	13	Consultation with local community, use of the word “compulsory” is objectionable	13	0	Powers of compulsory acquisition should be vested in State Government in coordination with GOSS	10	3	Remove the word “compulsory” and replace with 'consultative' acquisition
<b>Policy Option No. 2: Decentralized Land Administration</b>								
13	0		13	0	State government should do land registration and titling	13	0	
<b>Policy Option No. 3: Creation of an Autonomous Land Administration and Management Authority</b>								
13	0	State governments should be represented in the MHPPE	0	13		13	0	
<b>Policy Option No. 4: Establishment of a Semi-Autonomous GOSS Land Administration and Management Board</b>								
13	0		0	13	Land registration and titling should be done by the state government	13	0	
<b>Policy Option No. 5: Establishment of a State Land Board</b>								
13	0		13	0	State should be represented at the GOSS land administration management board	13	0	
<b>Policy Option No. 6: Establishment of an Autonomous State Land Authority</b>								
13	0		13	0		13	0	
<b>Policy Option No. 7: Establishment of a County Land Authority (CLA) in each county in southern Sudan</b>								
13	0		13	0	State government should do land registration	13	0	
<b>Policy Option No. 8: Establishment of a County Land Office under the CLA.</b>								
13	0		13	0		13	0	State government should do land registration
<b>Policy Option No. 9: GOSS Establishment of a Land Disputes Resolution System</b>								
13	0		13	0		13	0	

## EXERCISE THREE: CONTINUED

Group 4			Group 5			Totals		
mostly agree	mostly disagree	Proposed modification	mostly agree	mostly disagree	proposed modification	Mostly agree	mostly disagree	Total
Group size=8			Group size=8					
<b>Policy Option No. 1: Power of Compulsory Land Acquisition</b>								
8	0	GOSS and state governments should consult affected communities	5	3		36	19	55
<b>Policy Option No. 2: Decentralized Land Administration</b>								
8	0	Add state ministries and counties	8	0	The land policy should consider customary land tenure system	55	0	55
<b>Policy Option No. 3: Creation of an Autonomous Land Administration and Management Authority</b>								
8	0		8	0		42	13	55
<b>Policy Option No. 4: Establishment of a Semi-Autonomous GOSS Land Administration and Management Board</b>								
Some=4	Some=4	Members from state ministries and counties should be added	8	0	Management board should include members from local community and county; include Paramount Chiefs from each state	38	17	55
<b>Policy Option No. 5: Establishment of a State Land Board</b>								
Some=4	Some=4		8	0	Land board should include community representatives from all counties of the state	51	4	55
<b>Policy Option No. 6: Establishment of an Autonomous State Land Authority</b>								
Some=4	Some=4	Technical person not hired; add a state ministry and counties	8	0	Establish standards and criteria for selection of board members	51	4	55
<b>Policy Option No. 7: Establishment of a County Land Authority (CLA) in each county in southern Sudan</b>								
8	0		8	0		55	0	55
<b>Policy Option No. 8: Establishment of a County Land Office under the CLA</b>								
8	0		8	0		55	0	55
<b>Policy Option No. 9: GOSS Establishment of a Land Disputes Resolution System</b>								
8	0		8	0		55	0	55

# ANNEX 7: EXERCISE 4 – PARTICIPANT RANKING OF MOST VULNERABLE GROUPS AND PRIORITY ISSUES FACED BY EACH

Six Hypothetical Vulnerable Groups and Special Cases for Considered Treatment under the Land Policy: Ranking from Highest (1) to Lowest (6) Participants.		
No. of Groups	CASES	RANKING
1	Demobilized Soldiers	3
2	Women	1
3	Refugees/ Returnees	
4	Youth	4
5	IDPs	5
6	Pastoralists	2

Priority Issues Under the Five Most Important Cases		
Rank	Case	Key Issues
1	<b>Women</b>	<ul style="list-style-type: none"> <li>• Women should have equal rights to land as men</li> <li>• Widows should have right to inherit their late husbands' land and property</li> <li>• Women/ daughters should have right to own land with their parents</li> <li>• Women should have access to commercial/urban land</li> <li>• Women should be members of land committees and be involved in decisions on land</li> </ul>
2	<b>Pastoralists</b>	<ul style="list-style-type: none"> <li>• Forcefully occupy and own land</li> <li>• Should raise their cattle in their own range land and within their state borders</li> <li>• Should cross the border only for commercial purposes</li> <li>• There should be inter-state dialogue whenever disputes occur</li> <li>• Penalties should be imposed over destruction of crops, hives, and land degradation</li> <li>• Should not graze on agricultural farmland</li> </ul>
3	<b>Demobilized Soldiers</b>	<ul style="list-style-type: none"> <li>• Should be allocated land in host communities</li> <li>• They should not grab land and have no right on what has been grabbed</li> <li>• They should be lawfully evicted from land they grabbed</li> <li>• They create conflict with agrarian communities over pasture and water and sometimes cause land degradation</li> </ul>

Priority Issues Under the Five Most Important Cases		
Rank	Case	Key Issues
4	Youth	<ul style="list-style-type: none"> <li>• Youth should be involved in land policy development process</li> <li>• Youth (both girls and boys) should have equal right to inheritance</li> <li>• The state Ministry of Social Development should train youth on land use and importance of land</li> <li>• Youth should organize themselves into associations to acquire land for commercial activities and ensure sustainable development</li> </ul>
	IDPs	<ul style="list-style-type: none"> <li>• They cause conflict with local communities over use of land</li> <li>• Some come with their cattle herds and cause insecurity with local communities</li> <li>• They have not been involved in land administration</li> <li>• They are given land on temporal basis</li> <li>• Solution: local governments and traditional authorities should give full right of access to land to IDPs</li> </ul>

# ANNEX 8: EXERCISE 5 – BENEFITS AND CHALLENGES FACING EXTERNAL INVESTMENT

## PART (A): INVESTMENT BENEFITS AND CHALLENGES

Investment benefits	Groups Indicating benefit	Investment challenges	Groups Indicating a problem
Enhance employment opportunities-local and international	5 out of 5	Environmental pollution/degradation	5 out of 5
Improve basic social services	5 out of 5	Dishonoring development terms earlier agreed in contract/land leases, low benefit, politicking contracts	4 out of 5
Acquire technical skills/experience	5 out of 5	Displacement of community members	3 out of 5
Increase local incomes (from revenue sharing, wages, compensation, sales)	4 out of 5	Increase in social problems e.g. prostitution/HIV/AIDS, school dropouts, cultural distortion, disrespect to local norms	2 out of 5
Improve access to technology and innovations	4 out of 5	Smuggling of natural resources/exploitation of subcontracted natural resources	2 out of 5
Boost rural and urban market systems	3 out of 5	Market monopoly	1 out of 5
Promote the land market	1 out of 5	Over exploitation of local resources	1 out of 5
Promote good international relations	1 out of 5	Over population-land disputes	1 out of 5
Positively change livelihoods of the poor	1 out of 5	Political insecurity/war	1 out of 5
Improve transport and communication systems	1 out of 5		

## PART (B). RIGHTS OF COMMUNITIES AND INVESTORS

Rights for Communities	Groups Indicating Right	Rights for investors	Groups Indicating Right
Employment	3 out of 5	Land tenure security, easy access to land on lease basis	3 out of 5
Lend all or piece of the land	2 out of 5	Occupy, enjoy, and use land	2 out of 5
Social/community development funds	2 out of 5	Hypothecate or burden the land with servitudes	1 out of 5
Compensation/benefit	2 out of 5	Restrict and exclude	1 out of 5
Share holding	1 out of 5	Acquire land based on agreement signed	1 out of 5
Right to renewal	1 out of 5		
Transfer of sale, gift, exchange, inherit	1 out of 5		

## PART (C): RECOMMENDED POLICY FOR DOMESTIC AND FOREIGN INVESTORS

Proposed Policy for Domestic Investors	Groups Indicating Policy	Proposed Policy for Foreign Investors	Groups Indicating Policy
Lease	2 out of 5	Lease	1 out of 5
Contracts/lease basis	1 out of 5	Contracts/lease basis	1 out of 5
Lease for 50 years maximum	1 out of 5	Encourage whole sale	1 out of 5
Create conducive environment	1 out of 5	Construct concrete buildings	1 out of 5
Work under guidance of local authority	1 out of 5	Complete assessment to verify investment capability e.g. finances, human resource	1 out of 5
Should be recommended by relevant government authority	1 out of 5	Lease for 30 years maximum	1 out of 5
		Contract basis	1 out of 5

## PART (D): LAND ADMINISTRATION RESPONSIBILITIES

For Administration of Contracts Between Community and Investor	Groups Indicating Responsibility	For Land Demarcation	Groups Indicating Responsibility
Through government to community transparently	1 out of 5	By state government	1 out of 5
Include local community share of 2%	1 out of 5	By clan	1 out of 5
By community leaders/local authority	1 out of 5	Urban/rural lands bases on application	1 out of 5
Involve all parties at relevant stages	1 out of 5	State and county authorities	1 out of 5
Register investors and write memorandum of understanding with local communities concerned	1 out of 5		





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