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# LAND POLICY STATE CONSULTATION – WAU, WESTERN BAHR EL GHAZAL WORKSHOP REPORT, JUNE 2009



**JUNE 2009**

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## **DISCLAIMER**

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# ACRONYMS AND ABBREVIATIONS

CLA	County Land Authority
COP	Chief of Party
CPA	Comprehensive Peace Agreement
GOSS	Government of Southern Sudan
HIV/AIDS	Human Immune Virus/Acquired Immune Deficiency Syndrome
ICSS	Interim Constitution of Southern Sudan
IDPs	Internally Displaced Persons
LTPR	Land Tenure and Property Rights
NGO	Non-governmental Organizations
PP	PowerPoint
SPLM	Sudan People's Liberation Movement
SPRP	Sudan Property Rights Program
SSLC	Southern Sudan Land Commission (GOSS)
USAID	United States Agency for International Development
WBGS	Western Bhar el Ghazal State
WES	Western Equatoria State



# EXECUTIVE SUMMARY

Recognition and respect for the land rights of all southern Sudanese is a key principle underlying the 2005 Comprehensive Peace Agreement. In January 2009, USAID established the Sudan Property Rights Program (SPRP), implemented by ARD, Inc., to assist the Southern Sudan Land Commission (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.

This report summarizes the findings from the second of 10 land policy state consultations. A team of five members from both the USAID|SPRP and the SSLC conducted a consultation with 19 participants from Western Bahr el Ghazal State (WBGs), including representatives of state government, traditional authorities, women and youth groups, and professors from Bahr el Ghazal University. Each county was represented by at least one traditional authority. Participants discussed their concerns and ideas regarding land tenure and property rights (LTPR) over the course of two and a half days.

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

A number of key concerns and principles emerged from participants’ comments including:

- Access and rights to land are a fundamental need of southern Sudanese people; however, claims and rights of a number of vulnerable groups, such as IDPs and youth, are restricted and/or ignored;
- Chiefs and government administer land but their jurisdiction over the allocation and adjudication of rights is unclear;
- Chiefs should not interfere in urban land management; this should be the jurisdiction of state and local government officials;
- Southern Sudanese who relocate into an area who do not belong to that area’s dominant tribe or clan are considered “outsiders.” They do not belong to that “community” and have no right to claim land and settle in an area customarily claimed by that “community;” however, the chief can allocate land to “outsiders” on a temporary basis, subject to the conditions placed by the host “community;”
- People want to know what their rights are to land and whether or not the government is prepared to compensate them for accepting resettled people on their lands;
- The practice and methods to formalize land claims and rights must be systemized and improved;
- Women’s right to access, inherit, and own land must be recognized;
- There is a lack of communication between state, county, and traditional authority regarding land issues;
- There is a need to upgrade slums and informal settlements in urban areas, the existence of which is related to plot classification (see the next point);
- There is a need to revise the municipal tenure system, a holdover from British rule, wherein plots are allocated by class, and based upon plot size and use;

- The legal right of adults to inherit land from their parents or other relatives should be recognized; however, they should have no right to sell it outside the family;
- Better mechanisms are needed for conflict resolution;
- Investors granted leases by communities to develop and use land must respect the local customs and norms; and
- Investors should have clean records and fulfill government conditions for running businesses; Communities would like to have a monitoring role to ensure their rights are respected and, if not, have a right to terminate the investment contract.

As in the first consultation held in Yambio, Western Equatoria State (WES), participants continued to emphasize that land is owned by “communities,” a reference to groups of people that share similar customs, language, or ancestry in a particular locality. The implicit consequence of this view is that land access for anyone perceived as an “outsider,” including other southern Sudanese, is a privilege rather than a right, sanctioned and subject to sanction by the “community.”

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.

# I.0 INTRODUCTION

The workshop in Wau, WBGs is the second of ten planned and conducted in coordination with the SSLC to consult with stakeholders on the development of a land policy for the Government of Southern Sudan (GOSS) 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 tenure and property rights (LTPR).

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.

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.



## 2.0 PURPOSE OF THE CONSULTATIVE WORKSHOP

The SSLC is working to define a land policy that codifies the regulation and management of land tenure and delineates the roles and functions of GOSS, state, and local government institutions as well as traditional authorities to address a range of land-related issues affecting southern Sudan. Some of these issues include: overlapping or unclear political authority for land administration and land management; absence of a well defined institutional framework to deliver land administration services within a clarified political authority 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; clarification of what rights are attached to the different forms of land ownership, and the need to define, recognize, and protect the rights of women and other vulnerable groups to own and/or access land.

The workshops are the first step in an iterative process of further consultation and research designed to identify the scope of land issues throughout the southern states. The consultative 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 a range of land issues. The goal is ensure that the principles, objectives, and content of a GOSS land policy are comprehensive, inclusive, transparent, and legitimate.



# 3.0 WORKSHOP PREPARATION AND ATTENDANCE

An advance team traveled to WBGs to meet with state officials and request their assistance in mobilizing participants. The consultation team consisted of five people from the SPRP, the United States Agency for International Development (USAID), and the Government of Southern Sudan Land Commission who organized logistics, handled administrative issues, and facilitated and recorded the results of consultation exercises. The introduction team included SPRP staff and an appointed Commissioner of the SSLC, Honorable Deng Dau Deng, who is from WBGs. The advance team met with officials from the Governor’s office, State Ministries of Physical Infrastructure and local government, other line ministries, country government coordinators, and Bahr el Ghazal University. The Governor endorsed the workshop and delegated people to assist with mobilizing participants.

The workshop was held in Wau, June 17-19, 2009. The attendance for the workshop was low and inadequately representative. Nineteen participants (Appendix 2) attended from among state offices,



Land Policy Consultative Workshop Participants, Wau, Western Bhar El Ghazal State, June 17-19, 2009.

traditional authorities, and civil society organizations, including youth and women representatives from the Wau County Women’s League. The State Ministry of Physical Infrastructure’s Directors attended and participated throughout the workshop. Though invited, there were no representatives of other vulnerable groups, such as IDPs.

The low participation rate can be attributed to numerous factors. The inception of this workshop coincided with the end of

other multi-week meetings; participants in those other meetings likely did not want to attend another. The schedule of the consultation also conflicted with other state activities and was hampered by poor communication between state officials and traditional authorities. The workshop was opened and closed by state officials (Appendix 3).

An Arabic-speaking translator was hired to translate presentations and discussions during plenary. Participants in the small groups were responsible for interpreting, as needed, among their peers.



# 4.0 WORKSHOP METHODOLOGY

Small-group exercises and brief presentations on LTPR concepts and principles were used to stimulate discussions among participants and draw out 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 Appendix 1.)

## 4.1 PRESENTATIONS:

The workshop was structured into six sessions utilizing participatory methods. Each session contains one or more PowerPoint (PP) presentations on key concepts and issues to provide a basis for discussion and establish a common understanding of terms and ideas. These presentations are followed by a Group Exercise and questions, answers, and clarifications to capture participant's opinions, judgments, and thoughts in a structured format.

- **Session 1:** Registration. Opening remarks. PP on "*Why a Land Policy*".
- **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*" followed by Exercise 3.
- **Session 5:** Specific Cases—Vulnerable Groups. PP on "*IDPs, Refugees, Demobilized Soldiers, Women and other vulnerable groups*", followed by Exercise 4.
- **Session 6.** Summary of Day 2 followed by Exercise 5.

## 4.2 EXERCISES:

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

**Exercise 1 (1.5 hrs) Eliciting Land Issues and Concerns:** Each participant was given postcards on which he/she wrote the three most important issues or constraints they thought the policy should address under each of the following headings: Land policy and law, women and youth, vulnerable groups (e.g. IDPs, demobilized soldiers, disabled, Human Immune Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS)), land markets, land rights and tenure, access to land, urban land management, land administration, dispute resolution. Participants discussed amongst themselves as part of this process.

**Exercise 2 (2.5 hrs): The Jurisdiction of Traditional Authority and Government:** Participants were divided into three representative groups (state government officials, county-level commissioners, chiefs and civil servants, and a mixed group of women and youth) to discuss the respective power and roles of government and traditional authorities. Each group reviewed and discussed a list of illustrative issues related to land rights, rural land ownership and use, natural resources and environment, and dispute resolution.

Participants discussed and identified who should be responsible for managing, enforcing, or exercising land rights; and which tenure classes the government should recognize and their feasibility and sufficiency.

**Exercise 3 (1.5 hrs) Opinions on Policy Options for Land Administration and Dispute Resolution:**

Participants broke into five mixed groups. Each group reviewed nine proposed options regarding a hypothetical institutional framework for land administration planning, and management based upon the Comprehensive Peace Agreement (CPA). Participants discussed and indicated their agreement or disagreement with the proposed options; participants were asked to suggest modifications to the policy statements as appropriate. Each group then shared the results of their discussion in plenary, followed by questions and discussion.

**Exercise 4 (2 hrs) Priority land-related issues faced by women and other vulnerable groups:**

Participants discussed the land issues of specific stakeholder groups, including women, refugees/returnees (from outside Sudan), demobilized soldiers, youth, IDPs, the disabled, and pastoralists. Participants were asked to rank by show of hands (in successive rounds) the groups according to their “vulnerability.”

Participants then counted off and were randomly assigned one of several groups, based upon one of the designated vulnerable groups. Each group identified and discussed up to 10 land-related issues or constraints facing a particular vulnerable group. Each group then shared their results in plenary, followed by discussion (Appendix 7).

**Exercise 5 (2.5 hours) Land allocation for commercial investment:** Participants discussed the potential benefits and costs of investment in relation to negotiated rights and responsibilities of investors when leasing communal land. Groups (same groups convened in Exercise 4) discussed the costs and benefits accruing to communities from investment activities, the terms required by investors to ensure the security of their investment, the rights and responsibilities of investors as conditions of their tenure, and the administration of contracts between investors and communities. Each group also indicated under whom and which land it would be most appropriate to register. Results are tabulated in Appendix 8.

# 5.0 EXERCISE RESULTS

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

Issues raised by participants were similar to those raised in the Yambio consultation and reflect concerns related to unclear or conflicting authority, access to land by IDPs, women, and other vulnerable people, and respect for customary laws and practices (Appendix 4):

### Land Rights and Land Access:

1. There is a need for fair land distribution;
2. Land authorities should not allot more than three plots for one person;
3. Chiefs and government should determine who shall have access to land;
4. Land should be approved by a Director or Director General of Lands but not by a politician; and
5. Refugees should have the right to access land.



Participants discuss and identify their various land-rights issues and concerns.

### Women and Youth:

1. Women and youth should have rights to own land; recognize children's' land rights of inheritance;
2. The land rights of widows and divorced women should be recognized and upheld; and
3. The legal right of adults to inherit land from their parents or other relatives should be recognized; however, they should have no right to sell it outside the family.

### Land Markets:

1. Selling and buying of land should be approved by land management institutions, but the function of land transactions should be improved.

### Vulnerable Groups:

1. Vulnerable people like the disabled should be protected to enjoy their land rights; and
2. They should not be isolated but treated with the common laws everyone enjoys.

### Urban Land Management:

1. Towns and roads should be surveyed;

2. Land owners should have land leases;
3. There should be strategic urban management plans;
4. People should know the value of land in urban areas to help them;
5. Revenues from urban areas should be shared between counties and land departments;
6. Urban land administration is needed for land acquisition, allocation;
7. Chiefs should not interfere in urban land management;
8. Up-grade shanty slums in urban areas;
9. Urban land should be zoned for residences, schools, sports and games, industries, security and government institutions; and
10. There should be changes in plot sizes – 1st, 2nd and 3rd classes.

### **Dispute Resolution:**

1. Land officers should be trained about land laws and given judiciary powers;
2. The responsibility for land dispute resolution should be well-defined either under chiefs or lands offices;
3. Land disputes resolution should clarify time and period for land tenure, the survey or area of disputed land and property on that land; and
4. Address root causes of urban land disputes.

### **Implications for Land Policy**

Participants were concerned about the continued lack of clear mandate for different levels of land administration and management institutions, the need of transparency in land acquisition and allocation and the lack of established land dispute mechanisms clarifying the roles and powers of various institutions and the root causes of the land conflicts. Participants repeatedly stressed that the limits of statutory law are the urban boundary; beyond that, customary tenure should prevail.

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

Participants were asked to rank the following land rights in order of priority and suggest any additional rights not reflected in the list:

- a) Occupy, enjoy, and use-possession and full enjoyment subject to legal provisions on land use.
- b) Transfer of rights by sale, gift, exchange, inheritance, and bequeath or any other lawful means.
- c) Hypothecate or Burden the land with servitudes.
- d) Let all or a piece of the land.
- e) The right to renew a lease.
- f) Restrict or exclude others.
- g) Fair and prompt compensation where requisitioned in public interest.

All three groups choose occupancy, possession, use rights, and full enjoyment subject to legal provisions in land use as the most important issue in their state (Appendix 5) followed by the right to transfer land by any means as the second most important. As a concept, the right to hypothecate or burden the land with servitudes continues to confuse some participants; further explanation of this right and its possible consequences is needed to ensure participants are ranking it based on a proper understanding. The other two issues that were selected from the list include the right to renew a lease, and fair and prompt compensation when land is compulsorily acquired by government from an individual or community.

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

1. Alienation or transfer of rights;
2. Possession and full enjoyment subject to legal provisions;
3. Fair and prompt compensation;
4. Mortgage or burden the land with servitudes; and
5. Rental of all or a piece of the land.

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

1. Restriction or exclusion of others; and
2. The right to renew a lease

The rights to mortgage/or burden the land with servitudes and rental of all or a piece of the land had the same ranking.

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

1. State government in urban areas and county administration in rural areas; and
2. Individuals for urban areas and county or traditional authority for rural areas.

Most participants were influenced by the current practices in urban areas and thus the general feeling was that rights should be administered by the state government.

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

Each group identified the level at which the priority rights should be exercised and responded as follows:

1. The right to possession and full enjoyment to be exercised at community level;
2. Right to alienate or transfer to be at the household or individual level;
3. Right to alienate or transfer to be exercised at community or clan level;
4. Right to let all or piece of the land to be at household or individual level; and
5. Right to fair and prompt compensation to be exercised by state government.

The groups did not separate the level at which the rights are to be exercised in urban areas as opposed to rural areas. In some instances they provided more than one level which reflects the different categorization of land ownership between urban and rural land.

### **Implications for Land Policy**

As in WES, WBGS participants echoed the view that rights to land in rural areas are strictly held by the indigenous communities, represented by the clan structure. While “community” is often used as a spatial

reference in the US, pertaining to a discrete settled area, as used by participants in the WES and WBSG consultations, “community” is often used as an ethnic reference denoting a group of people who share customs, language, and kinship.

The implication, reinforced by participant’s comments, is that anyone living among a “community” but not recognized as part of has no inalienable right to land claimed by the community. This is reflected in the repeated view that, while IDPs can settle on “community” land on a temporary basis, it is widely expected that, as “outsiders,” they must eventually return to their areas of origin.

It suggests the a widespread view on the rights of “outsiders” to land under customary control is at odds with the tenets of the Interim Constitution, which recognizes the freedom of movement and residence under which every southern Sudanese person is at “liberty to choose his or her residence in Southern Sudan except for reasons of public health and safety as shall be regulated by law.” (Article 31.) An outstanding question is whether or not this freedom of movement and residence extends to a right of access and possession of land. If so, there may be a significant contradiction between the Interim Constitution and public sentiment on this issue, particularly as it relates to the resettlement of IDPs outside their areas of origin

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

Most groups agreed with the policy options as suggested (Appendix 6). One group stated that the word “compulsory” should be substituted with consultative in reference to government land acquisition. Another groups suggested that the current civil staff at the Ministry of Physical Infrastructure be trained instead of bringing in a new staff to lead a state land board.

Exercise 3 Participant Responses to Policy Options						
No.	Option	Mostly Agree		Mostly Disagree		Total
1	Compulsory Land Acquisition	19	100%	0	0%	19
2	Decentralized Land Administration	19	100%	0	0%	19
3	Creation of an Autonomous Land Administrative and Management Authority	19	100%	0	0%	19
4	Establishment of a Semi-Autonomous GOSS Land Administration and Management Board	19	100%	0	0%	19
5	Establishment of a State Land Board	19	100%	0	0%	19
6	Establishment of a Autonomous State Land Authority	13	68%	6	32%	19
7	Establishment of a County Land Authority	19	100%	0	0%	19
8	Establishment of a County Land Office Under the County Land Authority	19	100%	0	0%	19
9	Establishment of a GOSS Land Dispute Resolution System	19	100%	0	0%	19

**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 (ICSS, 2005) and the Land Act 2009 for Southern Sudan.

**Policy options No. 1-5, 7-9** were overwhelmingly approved by all 19 participants (100%). The participants expressed satisfaction and support for the details of the policy options.

**Policy Option No. 6:** 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.

**Response:** Policy option six was seconded by the majority, 13 (68%) votes out of 19 agreed and 6 (32%) disagreed. Group One had a specific query from one member who suggested that the capacity of existing staff of the State Ministry of Physical Infrastructure should be enhanced, instead of hiring additional civil servants from the State Land Board. However, the member's argument was not substantiated enough to distinguish that the State Ministry and the State Land Authority shall be two entities which may collaborate, but not necessarily deserve the same staffing for the Ministry and the Authority.

Generally, the 19 participants in Wau agreed that overhauling the current land administration set up and developing a new institutional frame work for land administration is needed.

Following the discussion of policy options, participants discussed specific aspects of land administration and conflict resolution, including urban expansion, compulsory acquisition and vulnerable land rights and land use.

**Question: *What happens or should be done to affected rural communities when towns expand into rural areas?***

1. Rural communities should follow traditional communication methods.
2. Rural communities should be compensated for land obtained for private or public interests unless it is for public use.
3. Local traditional cultures must be protected.
4. Government should protect rural communities against illegal expansion that does not conform with rural and town development plans.
5. Rural people should not be displaced, but given the chance to co-exist with new urban developments.
6. Land allotment should be transparent.
7. New guidelines based should be developed for future land allotment. The Land Act 2009 for South Sudan is new and not widely known in WBGs, which continues primarily to implement and enforce the laws of the Republic of Sudan.

### **Reactions on urban land management:**

1. The participants support the idea that state government be responsible for urban land management and planning for residential areas, industrial areas, commercial/markets area, roads, streets, and bridges, airports, as well as infrastructure such as schools, health centers, cultural centers, sporting areas, cemeteries, agricultural schemes, and public institutions.
2. The traditional authority should have a role in land allocation in to protect indigenous people from being deprived of their right to exist in new areas under urban/statutory regulations.
3. The State Ministry of Physical Infrastructure should conduct a feasibility study to justify the demand for land in public interest and share this with the traditional authorities.
4. In the event government intends to take land displace people in order to develop it in the public interest or to expand urban development, government and/or project developers should:
  - Compensate the local communities through their respective traditional authorities and local government administration.

- Share development plans with those affected communities; e.g. if a village is predominantly agricultural and the new plan is for industrial establishments, the whole community should be sensitized to know how the incoming changes will influence their way of life.

### **Plenary reactions on land administration and dispute resolution:**

1. Land Officers should be trained to acquire competences in particular fields to perform their duties better; e.g. surveyors be trained in handling modern survey equipments as this will establish permanent boundary points and reduce land disputes.
2. Land Administrators should step up rural and urban development planning for settlements and other physical infrastructures, review cases of absentee landlords and absentee land/plot title holders.
3. Address the root causes of land disputes especially in urban areas; e.g. discrimination in plot allocations based on ethnic backgrounds and riches.
4. Legal procedures in land allocation should be developed and implemented to avoid unnecessary conflicts over land rights in urban areas.
5. The urban land management system should clarify period of tenure/lease.
6. Land leases should be applicable throughout the state to legalize land ownership in rural areas where traditional authorities are responsible for allocating land.
7. There is need to clarify further how the institutional framework for land administration shall work from the national to county and lower levels.

### **Implications for Land Policy**

Exercise 2 reveals the land rights that people of WBGS would like to receive and therefore the need for land policy to reflect this. It also clarifies those who should enjoy the rights for both urban and rural areas, emphasizing individuals/households in urban areas and clans in rural areas. Clearly, communal ownership of rural land is still very strong and preferred to individual land ownership. The complication here is how the right to alienation would be implemented under such tenure arrangements. Further research needs to be made on how the land market is to be operationalized under this tenure system given that participants strongly recommend the right to alienation.

Administration of land rights are recommended to be enforced by state governments with some participation of traditional authorities. It is important that the role of each of these players is clarified in the policy.

Exercise 3 reveals strong support for the proposed institutional framework for land administration. There is clear concern that land acquisition in public interest must be accompanied by fair and prompt compensation. Traditional authorities must be consulted for any land acquisition in public interest as well as land acquired to take care of urban expansion.

Capacity building for land dispute resolution institutions is stressed. This should cover setting up of procedures, training those to implement the process so as to enhance their skills and providing tools required at all levels.

The need for transparency in land administration and land allocation is seen as an important element to be stressed in the land policy. Communities must be informed and involved in all decisions on their land.

As part of tenure reform in urban areas of south Sudan, there is a need to reform the system of urban plot allocation and classification, a legacy of British colonial rule. The current system allocates plots for residential use based upon size. The consequence is economic segregation, as poorer people buy or squat on smaller pieces of land. This has led to the establishment of “slum” areas and informal settlements in Juba and other towns of south Sudan.

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

The top five categories were prioritized as follows: Women, Youth, Pastoralists, IDPs, disabled people (Appendix 7). These include the right of women to own and inherit land and property; youth to buy, sell, and exchange land; pastoralist to regulate grazing areas and to free passage between grazing land areas; IDPs should be re-integrated into their communities; and disabled people should receive government assistance with tax exemptions and resources:

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

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

- Women should have land rights equivalent to men; e.g. own land, inherit land and property, right to exchange land, etc;
- Women should have the right to participate in land dispute resolutions which affect them;
- Women should have the right to equal share of land allocations;
- Women should be represented in institutions dealing with land; and
- There should be affirmative legal action for women that ensures effective protection against any form of discrimination on land and property rights.

Participants expressed the need to influence positive developments on the social-cultural issues that impede women land rights.

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

- Youth should have the right to: inherit, let, sell, and exchange land;
- Youth should be involved in land demarcation (survey) and dispute resolution;
- They should have the right to land ownership, control, and access; and
- Youth should be organized and aided to invest in land through capacity building in land management.

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

- Pastoralists should have the land rights of regulating and accessing water and grazing areas within their land tenure systems;
- They should participate in land dispute resolutions; and
- They should be involved in decision making to regulate movements in other land use systems; e.g. towns, crop farms, fair penalties when crossing into land that is not theirs, and consulates on land issues that affect them.

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

- IDPs should have the right to invest in land allocated to them;
- They should have the right to re-integrate into their ancestral communities;
- Receive a tax waiver (pay 1/4 of what others pay) and or tax exemptions;

- IDPs should be represented on land committees;
- They should have right to plots in urban areas, a right to sell, exchange, and donate land; and
- IDPs should have the right to temporal allocation of land by host communities with legal protection.

The general feeling is that IDPs should re-integrate into their areas of origin and that access to land granted by host communities is only temporary.

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

- Disabled persons should have equal right of access to land like any human;
- They should be proportionately exempted from land taxes;
- They should have the right to participate in land dispute resolution and in land management;
- They should have the right to inherit land from parents; and
- They should have the right to invest in, utilize, and sell land and property.

### **Participants' reactions to presentations from Groups 1, 2, and 3 on the five most vulnerable categories of people identified above:**

1. There should be no partitioning of land to provide access for men and women. Access to land should be for all people regardless of gender differences.
2. The youths should be involved in both minor and major land disputes so that they understand their positive contributions to their immediate society.
3. Pastoralists should be restricted from roving with their cattle around and through farms, towns, and settlements and between fellow pastoralists.
4. Livestock (mainly cattle) grazing at shared water points should be better controlled in order to prevent the spread of water-borne disease to humans.
5. Women's land rights issues should be addressed from a perspective of natural misfortunes; for e.g. widows and human offenses as well as property grabbing on a principle of gender equity. The focus should be based on gender equity for land and property rights.
6. Women's land rights should be viewed from a global perspective of fundamental rights of people, not just for women. It should be emphasized that the right to own, control, and manage land and property by women will not result in the end of marriages. A slow process of cultural attitude is needed in which men do not see the exercise of land rights by women as a threat to their status or marriages.
7. Land rights for specific cases identified above should be viewed from the positive contributions these categories of people make to southern Sudan.
8. The government should promote joint land rights; e.g. for spouses to help children to learn a balanced understanding of inheritance rights at an early age.
9. According land rights and inheritance rights to these specific cases deserve process and guidelines to which societies gradually adapt for the betterment of all; e.g. gender equity shall be achieved in the future only if children are introduced to it as they grow.

### **Implications for Land Policy**

Participants strongly stressed the expectation that once security and stability are established, IDPs should return to their areas of origin and are no longer welcome among the communities where they have settled,

posing a challenge to policy drafters seeking to ensure principles of equity and protection for vulnerable populations of people. While participants expressed the need for recognition and protection of the full land rights of women, the small size of the group and the near absence of traditional authorities suggests this position is not widely held throughout WBGS. It is likely that any future policy development will entail the incorporation of language and principles that may be at odds with widely held views and beliefs about the role of the GOSS and recognition of women's land rights.

## **5.5 EXERCISE 5 – LAND ALLOCATION TO COMMERCIAL INVESTORS**

Participants expressed a strong desire for investment and a willingness to allocate land to investors. Participants recognized the potential value of investment in their communities due to job opportunities, skills training, market development, and the construction of infrastructure (Appendix 8).

However, participants identified several concerns pertaining to investment schemes in their localities, including health risks such as HIV from outsiders, loss of culture, displacement of indigenous people, environmental degradation, and potential dishonoring of investment. They emphasized that communities should have the right to share in the investments and that investors should only have the right to use land for a specified period of time.

### **Proposed conditions:**

Participants outlined number conditions for investors and communities related to allocation of land for investment and the respective rights and responsibilities of both investors and communities.

A local investor should:

- Be a Sudanese national;
- Have a valid investment license from a recognized authority;
- Be insured from an insurance company;
- Be assessed on previous taxes performances;
- Sign contracts for different investments;
- Verify capacity, initial capital/collateral security;
- Abide by investment rules and laws of south Sudan; and
- Market quality products.

A foreign investor should:

- Be a citizen from a friendly country;
- Provide a health insurance certificate;
- Have approval from GOSS for investment and possess a valid trading license;
- Respect local traditions/cultures;
- Comply with the laws of southern Sudan;
- Sign a contract with relevant authorities for an agreed-upon period;
- Invest in accordance with the terms of their agreement; and
- Abide by price control measures on commodities and other agricultural produce.

Participants associate the following rights with the grant of land for investment; communities would have the:

- Right to employment associated with an investment project;
- Right to be compensated for use of the land;
- Right to renew or rescind allocation of land;
- Right to participate in negotiation and drafting of investment contracts;
- Right to monitor disposal of waste and other environmental factors;
- Right to reclaim land upon expiration of a lease; and
- Right of protection by government from abuses by foreign investors.

### **Land rights for investors:**

- Occupy and make proper use of land for a specified period of time;
- Right to renew land lease;
- Right to protection from government and local communities for a secure business environment;
- Right to pull out in case difficulties arise with agreed investment plans;
- Right to employ foreign technicians; and
- Right to export goods.

In summary, investors with clean records and who have fulfilled government conditions for running businesses are desired. Communities would like to have a monitoring role to ensure their rights are respected and if not have a right to terminate the investment contract.

### **Administration of contracts between community and investors**

The contracts should be administered by GOSS, state, and local government. The three levels have to be involved though this will require clarification of roles for each of the levels.

### **Land demarcation:**

Participants were asked which types of land-use in both urban and rural areas would require demarcation to clearly delineate boundaries:

**Urban areas:** Settlements, physical infrastructure such as investment/industrial areas, public/private and non-governmental organizations (NGO) institutions, hotels and tourism-related facilities, cemeteries/graveyards, sport facilities, agricultural schemes, and community land.

**Rural areas:** Settlements, agricultural schemes, national parks and wildlife reserves, pasture areas, markets, fish ponds, sport facilities, social infrastructure such as schools and hospitals, and communal land down to the clan level.

Despite the diagrammatic illustration shared by the facilitator and participants on land ownership in rural areas this question was not properly understood. In urban areas it should have been a plot of land while in rural areas it should be clan land as agreed on the lowest geographical boundaries that are considered permanent by the participants.

Participants were then asked to indicate who would hold the certificate of title to various categories of demarcated land listed above.

**Urban areas:**

- Government; and
- Individuals, companies, and institutions.

**Rural areas:**

- Community; and
- The lowest land holding-unit that is permanent; e.g. community land (Bagari), clan land, and individual land.

The only permanent ownership structures of land are those defined by community and clan boundaries. The lowest unit that can be titled in a rural area is clan land.

### **Plenary reactions to presentations on investment benefits and threats**

1. As a condition of land allocation, investors should be encouraged to develop local technical skills.
2. In WBGs, it is not possible for land title registration to be in individual names for rural land. To promote major investments, local communities should be sensitized on fundamental benefits of land title(s) registration.

### **Implications for Land Policy**

Participants recognized the value of investment, both domestic and foreign. However, they also stressed their concerns about accountability and due process when the government seeks to allocate land, particularly in rural areas, for investment. Participants want investors with transparent records, who follow the laws, and have fulfilled government conditions for running businesses. Communities would like to have a monitoring role to ensure their rights are respected and if not, possess the right to terminate the investment contract.

The promulgation of a land policy will require coordination with the Southern Sudan Investment Authority to ensure the development of complementary policy objectives that promote investment while safeguarding the rights of communities and individuals.



# 6.0 LESSONS LEARNED

## EMERGENT ISSUES

The initial introduction in WBGS illustrates numerous political and structural issues within the state. Challenges included traditional face to face communication across the vast distances in the state, knowledge of the program, and concern over the struggle for land rights. Though the initial introduction team included a member of the SSLC who was local to the area, support for the consultation from the state officials was not strong due to security meetings in Bentiu, Unity State, the governor traveling to Khartoum for other meetings and communication confused the participants. The Minister of Physical Infrastructure was uncertain about the purpose and process of the consultation. Participation was less than expected.

The SPRP and SSLC will revisit WBGS to consult specific groups that were underrepresented, such as IDPs and pastoralists. Sufficient advance notice will be required to minimize scheduling conflicts and encourage broader participation. The SPRP is reviewing how radio or television spots can be used to prepare and mobilize participation for consultations.

Participants understood most of the illustrations though some additional instruction was necessary. Clear instructions will be prepared and handed out to groups for each exercise. Further refinement and preparation will assist the team. Consistency of workshop trainers from the Land Commission may provide additional stability in the workshop.

Through discussions it is apparent that there is a need for clear property rights to guide urban planning and allocation of land. Land conflicts in urban areas and rural communities require support and process. There appears to be an appreciation for tenure and the recognition that improvements are needed.

As seen in the first Land Policy State Consultation in WES, there remains contradiction between the provisions of the Interim Constitution and the views of the participants in Western Bahr el Ghazal, along the same lines. The fundamental issue is the freedom of ownership, settlement, and use of land by people throughout south Sudan no matter which tribe they are from.

Participants supported the statutory recognition of lease rights, subject to the oversight of traditional authorities (in rural areas) and government officials (in urban areas), and provided the system for transacting such leases is fair and transparent.

Further research should explore how a land market can be operationalized under the current system.

Under existing laws, there is widespread ignorance of the necessary steps for acquiring a residential plot in urban areas. One participant in the consultation raised this question; another participant, the Acting Director of Lands, Ministry of Physical Infrastructure of WBGS, was able to respond and outlined the process for plot creation and allocation. However, relying on ad hoc incidents such as this are not a reliable means to disseminate land-related information to citizens; the participant's question points to the need for a systematic program of documenting and informing people of relevant requirements, processes, and procedures.

The consultations illustrate a lack of sophistication and the need to define land, property, real estate and the estate of real property. Throughout the discussions, thus far, land is viewed physically and spatially as a temporary location for a temporary use. Land is not owned but possessed for a period of time. The improvements to the land may be owned and if possible removed when the household or community moves on. In the case of investments an outsiders improvements to the land become part of the

community's estate and there is no recapture of the investment. The economic aspects of investment do not reference land as capital. The right to alienate or transfer the land is a new concept faced by rural community leaders. Large scale investments in land and subterranean resources are contracted through statutory systems. Future consultations may shed light on the continuation of conflict and reduce confusion between government and traditional authority. Participants also expressed a number of fears that they associate with investment: health risks such as HIV from outsiders, loss of culture, displacement of indigenous people, and environmental degradation.

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.

# 7.0 CONCLUSION

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

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

- Access to land is paramount. Households, IDPs, youth, and other vulnerable groups are restricted and claims are ignored;
- Chiefs and government administer land but rights and jurisdiction are unclear; chiefs should not interfere in urban land management;
- Indigenous communities only allow people from outside their tribe or clan to settle if they respect the local customs and practices. Land allocated to non-community members is granted on a temporary basis by the chief;
- Rural communities want the government to inform them what their land rights are, particularly their right to compensation for compulsory acquisition or provision of land for IDPs;
- Women's right to access, inherit, and own land must be recognized and protected;
- There is a lack of communication between state, county, and traditional authority;
- Informal settlements and slums in urban areas need to be upgraded;
- Urban planning must revise plot sizes and class system;
- Adult children should be allowed to inherit and own land but not be allowed to sell it;
- Better mechanisms are needed for conflict resolution;
- Investors granted leases by communities to develop and use land must respect the local customs and norms; and
- Investors should have clean records and fulfill government conditions for running businesses. Communities would like to have a monitoring role to ensure their rights are respected and, if not, have a right to terminate the investment contract.

As seen in the first Land Policy State Consultation in Western Equatoria State, there remains contradiction between the provisions of the Interim Constitution and the views of the participants in Western Bahr el Ghazal, along the same lines. The fundamental issue is the freedom of ownership, settlement, and use of land by people throughout south Sudan no matter which tribe they are from.



# ANNEX I: WAU CONSULTATIVE WORKSHOP AGENDA



**USAID | SUDAN**  
FROM THE AMERICAN PEOPLE



**Government of Southern Sudan**

**Southern Sudan Land Commission**

**Venue: State Legislative Assembly Hall, Wau, Western Bahr El Ghazal State**

**June 17<sup>th</sup> – 19<sup>th</sup> 2009**

## DAY ONE

Time/day	Activity	Person responsible
10:15-10:30 am	Registration	ARD, Inc. SPRP & SSLC
10:30-10:50 am	Welcome Remarks and Consultation Objectives	ARD, Inc. SPRP & SSLC
10:50-11:20 am	Official Opening	State Minister of Finance, Trade and Industry (WBGS)
<b>11:20-11:40 am</b>	<b>Tea/Coffee Break</b>	
11:40-12:10 pm	Presentation: Why a Land Policy for Southern Sudan?	ARD, Inc. SPRP & SSLC
12:10-01:10 pm	Exercise (1), writing out key issues on post cards	Participants, Facilitators
<b>01:10-2:10 pm</b>	<b>Lunch</b>	
02:10-02:40 pm	Reflection on post cards with plenary	Participants, Facilitators
02:40-03:20 pm	Presentation: Land Rights	ARD, Inc. SPRP & SSLC
03:20-03:50 pm	Presentation: Land Tenure Systems	ARD, Inc. SPRP & SSLC
3:50-5:30	Exercise (2), break out groups	Participants, Facilitators
	Groups report back	Participants
<b>5:00pm</b>	<b>Closing remarks</b>	ARD, Inc. SPRP & SSLC

## DAY TWO

Time/day	Activity	Person responsible
09:00-09:30 am	Wrap up—Day 1 Activities Feedback	ARD, Inc./SSLC & Participants
09:30-10:20 am	Presentation: Land Administration	ARD, Inc. SPRP
10:20-10:50 am	Presentation: Urban Land Management	ARD, Inc. SPRP

<b>Time/day</b>	<b>Activity</b>	<b>Person responsible</b>
<b>10:50-11:20 am</b>	<b>Tea/Coffee Break</b>	
11:20-01:00 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	ARD, Inc. SPRP
03:00-05:00pm	Exercise (4) by focus groups	Participants, Facilitators
	Groups report back	Participants
<b>5:00pm</b>	<b>Closing remarks</b>	

## **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, Inc. SPRP
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
11:45-01:45 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>	
<b>01:45-03:00 pm</b>	<b>Lunch and Speeches</b>	<b>ARD, Inc. SPRP, SSLC, Participants and WBGs Deputy Speaker of Parliament</b>

# ANNEX 2: LIST OF PARTICIPANTS

## LIST OF ATTENDANTS

NAME	GENDER	MINISTRY/COUNTRY/NGO	TITLE	PHONE	EMAIL
Dahta Abraham Dahta	M	Sudan People's Liberation Movement (SPLM) Youth League (WBGS)	Chairman	0917385790	
Deng Tongjang	M	Local Government Ministry	Director	0910236458	
Edward Wade	M	Local Government Ministry	Director for Planning	0121957910	
Farris Adam Etman	M	SPLM Youth League (WBGS)			
Hon. Romano Ramadan	M	State Legislative Assembly	Member of Parliament	0128263763	
John Mofum	M	Wau County	Chief		
Karlo Vitali	M	Ministry of Physical Infrastructure	A/Deputy Dir. of Land	0916419943	
Katherine Edward Tom	F	SPLM Women League (WBGS)	Chairperson	0121748624	
Leon Uyak Madut	M	Ministry of Physical Infrastructure	Acting Dir. of Survey	0912698665	
Lucia Remijo	F	SPLM Women League (Wau County)	Chairperson	0128091054	
Mahamud Deba	M	Raga County	Chief		
Mario Ada	M	Local Government Ministry	Director	0121957972	
Musa Al Kharim Omer	M	Raga County	Chief		
Pasquale Jokondo	M	State Legislative Assembly	Staff	0126750863	
Peter Nyomach	M	Jur River County	Chief	0914408362	
Ring Majok	M	Bahr el Ghazal University	Lecturer	0122231039	<a href="mailto:ringmajok@yahoo.com">ringmajok@yahoo.com</a>
Sebit Bernardo	M	State Ministry of Agriculture	D/Director of Agriculture	0911601392	
Vito Gabriel Banda	M	State Ministry of Phy. Infrastructure	A/Director of Land	0919240191	
Zachariah Richard	M	State Ministry of Phy. Infrastructure	Director of Housing	0126536098	
<b>ARD Inc. SPRP and SSLC Facilitators</b>					
Iyadema John Bosco	M	ARD, Inc.	Senior Technical Advisor		<a href="mailto:iyademajejan@yahoo.com">iyademajejan@yahoo.com</a>
David Scribner	M	ARD, Inc.	Chief of Party		
John Matata Eluzai	M	ARD, Inc.	A/Technical Advisor	0914811197	<a href="mailto:johnmatata2000@yahoo.com">johnmatata2000@yahoo.com</a>
Voya James	M	ARD, Inc.	Admin. Officer	0917222583	<a href="mailto:doikoso@yahoo.com">doikoso@yahoo.com</a>
Mary Boyoi	F	Musician	Translator	0129335940	<a href="mailto:boyoiary@yahoo.com">boyoiary@yahoo.com</a>
Rejoice Manasseh	F	Southern Sudan Land Commission	Dir. Conflict Resolution		



# ANNEX 3: SPEECHES

## **1. ARD, INC. CHIEF OF PARTY, DAVID SCRIBNER**

ARD, Inc. is a partner of the United States Agency for International Development (USAID) implementing the Sudan Property Right Program (SPRP). This program supports the Government of Southern Sudan and the South Sudan Land Commission (SSLC) to development a land policy for south Sudan. ARD, Inc. remains committed to a comprehensive land policy development. The views collected from each consultation activity shall be used to support land policy for south Sudan.

Thank you for your participation we look forward to a good workshop.

## **2. STATE MINISTER OF FINANCE, INDUSTRY AND TRADE, MR. ANTHONY UDO AWET**

The land policy consultation activity will be marked in the history of Western Bahr el Ghazal as the first of its kind. Land as a scarce economic resource touches each and every individual's life. Essential land uses are agricultural, industrial, residential/settlements and transport-roads/bridges/airports. There is need for legal guidelines for land use to mitigate conflicts like land grabbing, which occurs in the state and particularly in towns. USAID is most recognized for development projects throughout the Sudan and these should indeed be appreciated. The results of commitments to the consultative land policy for south Sudan shall make people of the state happy.

## **CLOSING REMARKS**

## **3. USAID/ARD, INC. MR. DAVID SCRIBNER, CHIEF OF PARTY (COP)**

Thank you all for your participation over the past three days. The land policy state consultations in south Sudan seek to address the land issues faced by stakeholders in Western Barh el Ghazal and in every state throughout southern Sudan. The consultation process so far in your state included meeting with the governor's office, the ministry of physical infrastructure, and other line ministries to initiate this workshop. The workshop was planned and the team arrived only a few days ago. Due to scheduling, communication and other activities the representation of traditional authority was not as prevalent as hoped. I realize that Raja county is over 200 miles from Wau town. The land policy consultation team, which is comprised of the SSLC and USAID/ARD, Inc., will be in Western Bahr el Ghazal for a third level consultation to try to meet with those not available for the workshop.

## **4. PARTICIPANTS' REPRESENTATIVE, DENG TONGJANG, DIRECTOR-MINISTRY OF LOCAL GOVERNMENT**

Western Bahr el Ghazal (WBGS) representatives in this land policy consultation wish to thank everybody for the commitment to involve people at this good time. In particular, WBGS participants do appreciate the efforts of the USAID/ARD, Inc. and the SSLC.

For the first time ever, we are happy and proud to be part of the contributions for a land policy in the Sudan (south). From this land policy development, we believe that the laws of the land were written with our consent.

Everybody in the state has been opportunistic for a renewed system that will guide people to reduce land related conflicts by yielding the desired fruits of south Sudan land policy and law.

(Most of the speech was in Arabic)

## **5. WBS DEPUTY SPEAKER OF PARLIAMENT, HON. TINGO PETER REGBIGO**

WBS is grateful for the fair representation at the south Sudan land policy consultation to discuss matters about land. In WBS land is a sense of identity for our people.

The south Sudan land policy is going to bring the needed changes pertinent to land issues and conflicts which have torn our people apart. For instance, scrambles over pieces of urban land, confusions in local administrative boundaries between states, counties and between government administrations and traditional authorities' jurisdictions.

As it may be known, land issues in Western Bahr el Ghazal can be referred to as national concerns due to their impacts on every citizen and development partners in the state.

The contents of the land policy for south Sudan should be quite comprehensive to strengthen the land administration and in particular the land laws of southern Sudan.

The notion that land belongs to the community needed to be simplified so that people value and own land for an objective purpose. It is vital that the relationship between government and traditional authorities never get differentiated by the land boundaries, but by opportunities that build societies.

The government shall always have necessary powers to protect people and land in the best interest of the community as a sovereign state.

Subjects needing better clarification included: the powers and right, the mandate of government to own, control, manage, and strategize exploitation of land and natural resources which are described as national property in or over community land. Such a mandate for a government over traditional authorities should not be viewed as conflicting with local communities.

(Most of the speech was in Arabic.)

# ANNEX 4: EXERCISE I- LAND ISSUES AND CONCERNS OF PARTICIPANTS

<b>PRESENTATION RESULTS</b> (Individual comments from posted notes)	
<b>ISSUE</b>	<b>Policy Constraints or Areas the Policy Should Give Priority</b>
<b>Land rights and land access</b>	<ul style="list-style-type: none"> <li>• Fair land distribution;</li> <li>• Land authorities should not allot more than three plots for one person;</li> <li>• Chiefs and government determine who shall have access to land;</li> <li>• Land should be approved by a Director or Director General of Lands but not by a politician; and</li> <li>• Refugees should have the right to access land.</li> </ul>
<b>Land markets</b>	<ul style="list-style-type: none"> <li>• Selling and buying of land should be approved by land management institutions; the land market should be improved.</li> </ul>
<b>Urban land management</b>	<ul style="list-style-type: none"> <li>• Towns and roads should be surveyed;</li> <li>• Land owners should have land lease;</li> <li>• There should be strategic urban management plans;</li> <li>• People should know the value of land in urban areas to help them;</li> <li>• Revenues from urban areas should be shared between counties and land departments;</li> <li>• Urban land administration is needed for land acquisition, allocation;</li> <li>• Chiefs should not interfere in urban land management;</li> <li>• Upgrade shanty slums in urban areas;</li> <li>• Urban land should be zoned for: residence, schools, sports and games, industries, security, and government institutions; and</li> <li>• There should be changes in plot sizes – 1st, 2nd and 3rd classes.</li> </ul>
<b>Land dispute resolution</b>	<ul style="list-style-type: none"> <li>• Land officers should be trained in law and given judiciary powers;</li> <li>• The responsibility for land dispute resolution should be well defined either under chiefs or lands offices;</li> <li>• Land disputes resolution should clarify time and period for land tenure, the survey or area of disputed land and property on that land; and</li> <li>• Address root causes of urban land disputes.</li> </ul>
<b>Women and youth</b>	<ul style="list-style-type: none"> <li>• They should have rights to own land; recognize children's' land rights of inheritance;</li> <li>• Children above 18 years of age should be allowed to own land but not to sell; and</li> <li>• Land rights should be accorded to widows and divorced women.</li> </ul>
<b>Vulnerable groups</b>	<ul style="list-style-type: none"> <li>• Vulnerable people like the disabled should be protected to enjoy their land rights; and</li> <li>• They should not be isolated but treated with the common laws everyone enjoys.</li> </ul>



# ANNEX 5: EXERCISE 2 – THE JURISDICTION OF TRADITIONAL AUTHORITY

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	<p>Q 1: A, B, C, D, G (See statements below table).</p> <p>Q 2: Community in urban and rural areas, clans and individuals, households (men, women and children), individuals and organizations, government and individuals.</p> <p>Q 3: State government in urban areas and county administration in rural areas, state and local government, GOSS and state government, state government, state in urban areas and community in rural areas.</p>	No specific answer. But the group stated that GOSS should determine.	No answer.
2	County Commissioners, Chiefs and Civil Servants	<p>Q 1: A, B, C, E, F (See statements below table).</p> <p>Q 2: Land Commission or Community, individuals or households, community or county, state government.</p> <p>Q 3: State land administration in urban areas and county land administration in rural areas, community and individuals/households, individuals in urban areas and counties or chiefs in rural areas, GOSS and state government.</p>	Leasehold in urban areas and freehold in rural areas.	Yes.
3	Mixed group (Youths, Women)	<p>Q 1: A, B, C, D, E, G (See statements below table).</p> <p>Q 2: Community and clans, household, clan.</p> <p>Q 3: State government, individual, or owners.</p>		Yes.

## Proposed land rights:

Question 1: What rights do you regard to be most important? List the land rights in order of priority.

- A Occupy, enjoy, and use-possession and full enjoyment subject to legal provisions on land use.
- B Transfer of rights by sale, gift, exchange, inheritance, and bequeath or any other lawful means.
- C Hypothecate or burden the land with servitudes.

- D Let all or a piece of the land.
- E In case of a lease, the right to renewal
- F Restrict or exclude others.
- G Fair and prompt compensation where requisitioned in public interest.

Question 2: Who should be responsible in administering the rights identified above?

Question 3: At what level should the rights be exercised?

Question 4: What Land policy should the Government of South Sudan adopt?

Question 5: Are the above policies workable or sufficient? If not, what are the alternatives?

# ANNEX 6: EXERCISE 3 – PARTICIPANTS FEEDBACK ON LAND ADMINISTRATION INSTITUTIONS AND CONFLICT 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 propose 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 a geographic information system (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 the 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 Land 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 = 7			Group size=6			Group size=6		
<b>Policy Option No. 1: Power of Compulsory Land Acquisition</b>								
7	0		6	0	Substitute the word “compulsory” with the word “consultative.”	6	0	
<b>Policy Option No. 2: Decentralized Land Administration</b>								
7			6	0		6	0	
<b>Policy Option No. 3: Creation of an Autonomous Land Administration and Management Authority</b>								
7	0		6	0		6	0	
<b>Policy Option No. 4: Establishment of a Semi-Autonomous GOSS Land Administration and Management Board</b>								
7	0		6	0		6	0	
<b>Policy Option No. 5: Establishment of a State Land Board</b>								
7	0		6	0		6	0	
<b>Policy Option No. 6: Establishment of an Autonomous State Land Authority</b>								
1	6	The capacity of the existing staff of the State Ministry of Physical Infrastructure should be built instead of hiring civil servants by the Land Board.	6	0		6	0	
<b>Policy Option No. 7: Establishment of a County Land Authority (CLA) in each county in southern Sudan</b>								
7	0		6	0		6	0	
<b>Policy Option No. 8: Establishment of a County Land Office under the CLA.</b>								
7	0		6	0		6	0	
<b>Policy Option No. 9: GOSS Establishment of a Land Disputes Resolution System</b>								
7	0		6	0		6	0	



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

Five Hypothetical Vulnerable Groups and Special Cases for Considered Treatment under the Land Policy: Ranking from Highest (1) to Lowest (5) Participants. Participants voted five times. Each time they were asked to vote for only one vulnerable group of a list of six. They added a seventh group of disabled people (people living with disability) before voting. The first round of voting was invalidated and a sixth round was added.

No. of Groups	CASES	RANKING
1	Demobilized Soldiers	
2	Women	1
3	Refugees/ Returnees	
4	Youth	2
5	IDPs	4
6	Pastoralists	3
7	Disabled people (added by participants)	5

Priority Issues Under the Five Most Important Cases		
Rank	Case	Key Issues
1	Women	<p>Women should have the land right to:</p> <ul style="list-style-type: none"> <li>• Own land in their own right;</li> <li>• Inherit land and property;</li> <li>• Participate in land dispute resolution;</li> <li>• Be represented in land allocations;</li> <li>• Exchange land;</li> <li>• Be represented on institutions dealing with land;</li> <li>• Affirmative action to improve on social-cultural issues that impede women land rights;</li> <li>• Rent land;</li> <li>• Control land rights; and</li> <li>• Demand government to enact laws that ensure effective protection of women against any form of discrimination on land and property rights.</li> </ul>

Priority Issues Under the Five Most Important Cases		
Rank	Case	Key Issues
2	<b>Youth</b>	<p>The youth should have the land rights to:</p> <ul style="list-style-type: none"> <li>• Sell and exchange land;</li> <li>• Be involved in land dispute resolution;</li> <li>• Be involved in land demarcation (survey);</li> <li>• Land ownership;</li> <li>• Require capacity building in land management;</li> <li>• Inherit land;</li> <li>• Be organized and helped to invest in land;</li> <li>• Control rights over land;</li> <li>• Be involved in land management; and</li> <li>• Rent land.</li> </ul>
3	<b>Pastoralists</b>	<p>Land rights of pastoralists include:</p> <ul style="list-style-type: none"> <li>• Regulating grazing areas and free passage;</li> <li>• Training on how to grow pasture and manage their animal stocks; and</li> <li>• Participation in land dispute resolutions.</li> </ul> <p>Other issues included:</p> <ul style="list-style-type: none"> <li>• Restriction by government of pastoralists movement;</li> <li>• Restriction of livestock in urban areas- government to enact laws to this effect;</li> <li>• Severe penalties imposed when they cross into land that is not theirs;</li> <li>• Prohibiting grazing on agricultural farmlands;</li> <li>• Consultation on land issues that affect them; and</li> <li>• Government collection of grazing taxes to cover services and vaccinations to cattle.</li> </ul>
4	<b>IDPs</b>	<ul style="list-style-type: none"> <li>• IDPs should be allocated land and allowed to make investments in land;</li> <li>• Should be re-integrated into their communities;</li> <li>• Should be given a tax waiver (pay 1/4 of what others pay);</li> <li>• Should be represented on land committees;</li> <li>• Should have right to plots in urban areas;</li> <li>• Should have a right to sell, exchange, and donate land;</li> <li>• Should be exempted from land taxes;</li> <li>• Temporal allocation of land by host communities; and</li> <li>• Government should enact laws protecting IDPs.</li> </ul>
5	<b>Disabled people</b>	<ul style="list-style-type: none"> <li>• Should have right of access to land;</li> <li>• Should be exempted from land taxes;</li> <li>• Should participate in land dispute resolution;</li> <li>• Should participate in land management;</li> <li>• Should have a right to inherit land from parents;</li> <li>• Should have right to invest in land resources, right of usage and sale; and</li> <li>• Government should allocate resources to enable them run projects.</li> </ul>

Note: Comments were made by participants. Some participants posted more comments than others. Posted notes were paraphrased for clarity.

# 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
Job opportunities (employment).	3 out of 3	Fear of social problems; e.g. HIV/AIDS, new cultures, behaviors.	3 out of 3
Increase in incomes for local communities from jobs and produce sales and land market improvement.	3 out of 3	Displacements of indigenous people.	3 out of 3
Improvement in physical infrastructure (e.g. roads, bridges)	1 out of 3	Environmental pollution.	2 out of 3
Human resource/technical skills development (capacity building).	3 out of 3	Fear of expired products.	1 out of 3
Good relationship between investors and communities.	1 out of 3	Imported crops and animals may spread diseases.	1 out of 3
Development of social infrastructures.	1 out of 3	Dishonoring investment agreement.	1 out of 3
Better health standards.	1 out of 3	Narrow chances for domestic investors.	1 out of 3
Improve transport for service and commodity delivery.	1 out of 3		
Increase government revenue base (taxes).	1 out of 3		
Improve commodity quality and stabilize market prices.	1 out of 3		

There were three groups. Benefits were decided separately in breakup groups and summarized here collectively.

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

Rights for Communities	Groups Indicating Right	Rights for investors	Groups Indicating Right
Right to share employment.	1 out of 3	Occupy and make proper use of land for a specified period of time.	3 out of 3
Right to be compensated.	1 out of 3	Right to renew land lease.	2 out of 3
Right to renew terms of agreement or not.	2 out of 3	Right to protection from government and local communities for a secure business environment.	2 out of 3
Right to let piece of land to investors.	3 out of 3	Right to pull out in case discontented.	1 out of 3
Right to make contracts.	1 out of 3	Right to employ foreign technicians.	1 out of 3
Right to monitor waste management.	1 out of 3	Right to export goods.	1 out of 3
Right to receive back land after contract period expired.	1 out of 3		
Right to be protected by the government from foreign investors.	1 out of 3		

## 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
Must be a Sudanese national.	2 out of 3	Identification of investors' nationality, country of origin and operations; e.g. investors from friendly countries.	2 out of 3
Should have a certificate from a recognized authority; i.e. valid trading license subject to renewal.	2 out of 3	Should provide health insurance certificate.	1 out of 3
Should be insured from an insurance company.	1 out of 3	Should posse approval from GOSS for investment, valid trading license.	2 out of 3
Should be examined from other taxes.	2 out of 3	Respect local traditions/cultures.	1 out of 3
Sign contracts for different investments.	1 out of 3	Work according to the laws of south Sudan.	2 out of 3
Verify capacity, initial capital/collateral security.	1 out of 3	Sign contract with the authorities concerned for an agreed period.	1 out of 3
Abide by rules and laws regulating prices.	1 out of 3	Invest in commodities and fields specified in the agreement with concerned authority.	1 out of 3
Avoid selling of expired products.	1 out of 3	Abide by price control measures.	1 out of 3
		They should be tax free.	1 out of 3

## PART (D): LAND ADMINISTRATION RESPONSIBILITIES

For Administration of Contracts Between Community and Investor	Groups Indicating Responsibility	For Land Demarcation	Groups Indicating Responsibility
GOSS, state and local government.	2 out of 3	Community land, but according to the type of land; e.g. community land (Bagari), clan land (Fomol) and individual land (Unago).	
County Commissioners.	1 out of 3	Comments focused on land use, not demarcation or allocation.	





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