



USAID | SUDAN
FROM THE AMERICAN PEOPLE

LAND POLICY STATE CONSULTATION – TORIT, EASTERN EQUATORIA STATE WORKSHOP REPORT, JULY 2009



JULY 2009

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

Prepared by: USAID Sudan Property Rights Program
ARD, Inc
P.O. Box 1397
Burlington, Vermont 05402
USA

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

LAND POLICY STATE
CONSULTATION – TORIT,
EASTERN EQUATORIA
STATE
WORKSHOP REPORT

JULY 2009

DISCLAIMER

The authors' views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

TABLE OF CONTENTS

ACRONYMS AND ABBREVIATIONS	III
EXECUTIVE SUMMARY	V
1.0 INTRODUCTION	1
2.0 WORKSHOP PREPARATION AND ATTENDANCE	3
3.0 WORKSHOP METHODOLOGY	5
3.1 PRESENTATIONS:.....	5
3.2 EXERCISES:.....	6
4.0 EXERCISE RESULTS.....	8
4.1 EXERCISE 1 – LAND POLICY ISSUES OF CONCERN TO PARTICIPANTS	8
Land Law Policy and Access:.....	8
Land Rights and Tenure:	8
Access to Land:.....	9
Land Markets:.....	9
Urban Land Management:	9
Land Administration:.....	10
Dispute Resolution:.....	10
Women and the Youth:	11
Other Vulnerable Groups:	11
Implications for land policy:.....	11
4.2 EXERCISE 2 – THE JURISDICTION OF TRADITIONAL AUTHORITY AND GOVERNMENT	12
Most Important Land Rights Listed in Order of Priorities:	12
Other Land Rights Proposed:	12
Responsible Entity for Administering Laws and Contracts:	12
Jurisdictional Boundaries – At What Level Should Land Rights be Exercised?:	13
Implications for land policy:.....	14
4.3 EXERCISE 3 – PARTICIPANTS’ OPINIONS ON POLICY OPTIONS FOR LAND ADMINISTRATION AND DISPUTE RESOLUTION	15
Implications for land policy:.....	17
4.4 EXERCISE 4 – PARTICIPANT DISCUSSION OF LAND ADMINISTRATION AND MANAGEMENT AND OTHER PRIORITY ISSUES.....	17
First Critical Area: Land Administration.....	17
Second Critical Area: Land Acquisition	17
Third Critical Area: Land Tax Administration	18
Fourth Critical Area: IDPs.....	18
Fifth Critical Area: Urban Land Management.....	18
Implications for land policy.....	19
4.5 EXERCISE 5 – LAND ALLOCATION TO COMMERCIAL INVESTORS (DETAILED RESULTS IN APPENDIX 8).....	19
Investment benefits:	19
Investment challenges:.....	19
Implications for land policy.....	20
5.0 LESSONS LEARNED.....	21
6.0 CONCLUSION.....	23

APPENDIX 1: TORIT CONSULTATIVE WORKSHOP AGENDA	25
APPENDIX 2: LIST OF PARTICIPANTS.....	27
APPENDIX 3: SPEECHES.....	29
APPENDIX 4: EXERCISE 1 – LAND ISSUES AND CONCERNS OF PARTICIPANTS..	31
APPENDIX 5: EXERCISE 2 – LEVELS AT WHICH LAND RIGHTS SHALL BE EXERCISED.....	35
APPENDIX 6: EXERCISE 3 – PARTICIPANTS FEEDBACK ON LAND ADMINISTRATION INSTITUTIONS AND CONFLICT RESOLUTION	37
APPENDIX 7: EXERCISE 4 – PARTICIPANT DISCUSSION OF AREAS OF LAND ADMINISTRATION AND MANAGEMENT AND OTHER PRIORITY ISSUES.....	41
APPENDIX 8: EXERCISE 5 – BENEFITS AND CHALLENGES FACING EXTERNAL INVESTMENT	43

ACRONYMS AND ABBREVIATIONS

CLA	County Land Authority
CPA	Comprehensive Peace Agreement
CSO	Civil Society Organization
EES	Eastern Equatoria State
GIS	Geographic Information System
GOSS	Government of Southern Sudan
ICSS	Interim Constitution of Southern Sudan
IDP	Internally Displaced Persons
LPSC	Land Policy Steering Committee
LTPR	Land Tenure and Property Rights
MHPPE	Ministry of Housing, Physical Planning, and the Environment
PP	PowerPoint
SSLPSC	Southern Sudan Land Policy Steering Committee
SPRP	Sudan Property Rights Program
SSLC	Southern Sudan Land Commission
USAID	United States Agency for International Development

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. Given the focus on State and local government stakeholders in these consultations, the summary findings from all State consultations will be validated through subsequent workshops with participants drawn widely from civil society, women's organizations, and those representing vulnerable groups.

A team of seven members from the United States Agency for International Development (USAID)|Sudan Property Rights Program (SPRP), the Southern Sudan Land Commission (SSLC), and the Southern Sudan Land Policy Steering Committee (SSLPSC) conducted a consultation with 45 participants in Torit, Eastern Equatoria State (EES). Participants came from six of eight counties of EES, representing state line ministries, county commissioners, traditional chiefs, religious leaders, County Executive Secretaries, head chiefs, press representatives (radio and news editors), youth representatives, state advisors, and members of the State Legislative Assembly. Participants discussed their concerns and ideas regarding land tenure and property rights (LTPR) over the course of two and a half days.

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. 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.

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 persons (IDPs), youth), and land conflicts.

A number of issues and principles emerged from participant's discussions and comments, including:

- Land should belong to people or communities. While the ownership in urban areas should be to individuals or households, ownership of land in rural areas should be vested in the clan.
- Women's access to land is a contentious issue in EES. Women's rights to access and use land continue to depend upon their relationships to men through family and marriage, primarily husbands or fathers.
- 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 host communities but in the long-term should be reintegrated in their ancestral communities.
- Land rights under both statutory and customary land tenure systems should be clarified in both policy and law.
- Protected areas need to be established and access restricted. Some participants suggested that a Land Acquisition Act could guide land acquisition in public interest.
- There is need for an effective and accountable land administration framework. Participants suggested that each level of government, traditional authority, and even citizens need to better understand land administration and management.
- Traditional authority and customary practices should be the primary means by which rural land rights are administered, adjudicated, and mediated in rural areas.

- Statutory law under the jurisdiction of the Government of Southern Sudan (GOSS) should be the primary means for administering, adjudicating, and mediating land tenure in urban areas.
- A transparent public process may legitimize state and county compulsory taking of land at the peri-urban boundary for urban expansion. A systematic, open “takings” process that includes public notification, negotiation, and consultation is essential for a legitimate policy of compulsory acquisition by government. This process should include government and traditional leaders and citizens.
- Only men 18 or older should have the right to inherit land owned by their parents.
- Conflicts over access to water and grazing land are widespread and common in EES, both between pastoralists and farmers as well as neighboring pastoralist tribes.
- Investors granted land leases by communities and contracted with state or county government to develop and use land should respect local customs and norms. It was further suggested that failure to adhere to this request should result in termination of the contract.
- The respective roles of the GOSS, state, local government, and traditional authority need clarification to monitor investor operations and ensure they comply with the terms of the contracts and lease agreements.

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.

If these issues continue to arise throughout all state consultations, they present a significant challenge to developing a land policy that both embodies principles of universal rights to land and reflects the broadest possible will of the citizens of southern Sudan.

The discussion of women’s rights to land was sensitive and the issue of conflicts between pastoralists and farmers and the question of IDPs were largely presented as originating with those groups. That is, the best solutions would be to send IDPs back and forbid their settlement in areas to which they’d relocated and to restrict the movement and access of pastoralists. This likely does not reflect views one might hear from individuals from such groups.

Prior to convening a consultation, the SPRP should make a concerted effort to identify legitimate representatives who can credibly voice the perspectives and interests of IDPs, pastoralists, women, and other vulnerable populations. It is questionable whether government representatives or customary authorities from agricultural communities can fully present the perspectives of such groups.

I.0 INTRODUCTION

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 and local government, and traditional authorities in the management of land and property rights. A substantive, legitimate land policy must reflect and address relevant concerns and issues given the central cultural and economic importance of land in the lives of Southern Sudanese citizens.

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.

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; and
- Need to define, recognize, and protect the rights of women and other vulnerable groups to land and related natural resources.

The land policy consultation workshops are an opportunity to present the rationale for land policy and solicit the views of various stakeholders at the state, county, and local level on land and property rights. 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 program begins to raise awareness, reduce ambiguity, and sensitize citizens on land and property rights through discussion, examples, and exercises. The overall intent of this process is to ensure that the content and guidance provided by a GOSS land policy are comprehensive, inclusive, transparent, and legitimate.

This workshop was the third of 10 (one for each state) that was conducted in coordination with the SSLC with support of the USAID-funded SPRP to consult stakeholders on the development of southern Sudan land policy. The first two were carried out in Yambio and Wau of Western Equatoria and Western Bahr El Ghazal States respectively.

2.0 WORKSHOP PREPARATION AND ATTENDANCE

All Land Policy State Consultations begin with an introduction in the respective state capital. The consultation team requests permission and endorsement from the governor's office (state secretariat) to convene the workshop. The team provides a preliminary list of attendants and invitations printed and signed by the Chairman of the SSLC. In prior consultations, the SSPR and SSLC team meet with all state ministries to gain interest in the program and plan the workshop in accordance with the availability of participants.

For the consultation in Torit, the introduction process was modified to incorporate a protocol step. The chairperson of the SSLC drafted a formal letter to the State Governor, explaining the land policy consultations and requesting a suitable period in which to schedule a land policy consultation workshop. The SSLC Coordinator followed up the letter by contacting the local representative of the Ministry of Local Government and Law Enforcement. Consequently, a workshop date was scheduled for the following week; a period of very short notice. The SPRP/SSLC consultation team traveled to Torit to convene a workshop the workshop. However, due to the miscommunication among a number of parties, a number of participants were not contacted in time and the inception of the workshop was delayed a day.

The SPRP/SSLC team formally introduced the idea of consultations to the State Governor and the Director of the State Ministries of Physical Infrastructure and Local Government at the state level to explain the purpose of the Consultative Workshop. The Governor was very responsive and ordered the quick mobilization of participants. Following a day of preparation and mobilization, the workshop began on July 9th 2009.

The workshop held July 9-11, 2009 in Torit, EES attracted 45 representatives from state administration, county commissioners, traditional authorities, elders, and civil society organizations (CSOs). Civil Society Organizations representatives were drawn from youth groups, and faith-based and other civil organizations to address issues of gender, IDPs, and other vulnerable groups. Women organizations were not represented; however, a representative from the Ministry of Gender did attend. The SPRP provided accommodation, transport, and food for all invited participants traveling to attend from outside Torit.

The consultation team consisting of seven people from the SPRP, the Land Commission, and the Land Policy Steering Committee (LPSC) 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 translated for their peers.

3.0 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). (See agenda of Consultative Workshop in Appendix 1.)

3.1 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 Appendix 3 for speeches and opening and closing remarks.
- **Session 2:** Exercise 1. PP on *Land Rights*.
- **Session 3:** PP on *Land Tenure Systems*. Formation of working Groups and 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. Participants responded in writing on what rights they propose for women. 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.



Participants discuss the rationale for drafting a land policy for southern Sudan. (photo: p.giampaoli)

3.2 EXERCISES:

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

Exercise 1 (1.5 hrs): Each participant was provided with 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, HIV/AIDS), land markets, land rights and tenure, access to land, urban land management, land administration, and dispute resolution. Participants discussed amongst themselves as part of this process.

Presentations (3 hrs): To provide a basis for discussion and establish a common understanding of terms and ideas, the USAID SPRP Senior Land Advisor presented on the rationale for southern Sudan land policy, concepts, and principles of LTPR and tenure system, land administration and land registration, urban land management, and land issues of specific groups such as IDPs, demobilized soldiers, women, youth, and other vulnerable groups.



Participant presenting findings of Exercise 3 on the second day of the Torit Consultative Workshop.

Exercise 2 (2.5 hrs): Participants broke into five focus groups representing state government, county commissioners and civil servants at the county level, chiefs and religious leaders, women and vulnerable groups, and youth representatives. Each group received a questionnaire covering the following topics: land rights, rural land, natural resources and environment, and dispute resolution. Based on these topics, participants discussed and shared their views regarding which LTPR topic they view as most important, the appropriate levels for administration, enforcement, and exercise of those rights, what forms of tenure the government should recognize, and whether those tenure categories would be workable or sufficient.

Exercise 3 (1.5 hrs): 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) (Appendix 4). Participants discussed the various options and noted their preferences on a flip chart under headings presented in a tabular form (Appendix 2). Each group then shared the results of their discussion in plenary, followed by questions and discussion.

Exercise 4 (2 hrs): A list of vulnerable groups and critical areas of land policy were written on a flip chart and placed in the front of the room: 1) Demobilized soldiers; 2) Women; 3) Refugees/Returnees; 4) Youth; 5) IDPs; 6) Pastoralists; Land Administration; 7) Land Acquisition; 8) Urban Land Management; and 9) Land Taxes. Participants then voted to prioritize the list. After five successive rounds the outcome was a ranking of most critical issues. Participants were then divided into five random groups to discuss the most pressing issues under the critical area for the group, and identify up to the 10 most crucial issues. Each group then shared their results in plenary, followed by discussion (see Appendix 7 for group rankings and priority issues reported by each group).

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) Participants discussed the potential benefits and costs of investment in relation to negotiated rights and responsibilities of investors when using land leased from communities. The same groups (from Exercise 4) discussed the costs and benefits accruing to communities from investment activities, the terms required by investors to ensure security of their tenure, the rights and responsibilities of investors as tenure conditions, 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.

4.0 EXERCISE RESULTS

4.1 EXERCISE I – LAND POLICY ISSUES OF CONCERN TO PARTICIPANTS

Detailed results are presented in Appendix 4. Participants voiced the following issues and concerns were identified under each heading:

Land Law Policy and Access:

1. Land policies and laws should be known to communities;
2. Development and implementation of land policy and law should involve traditional chiefs and local communities;
3. Land tenure should be legal;
4. The land policy and law should help people to regain their land or rights that have been deprived;
5. The land policy should lead to the development of laws and regulation on land resource exploitations and percentage benefits for local community;
6. There should be a policy guideline, an act, or a land law detailing percentage benefit for land owners when they lease out their land and how a land owner can obtain a bank loan;
7. Land policy and law should create favorable conditions for both the poor and the rich, especially in respect to land use and ownership;
8. Land law should be used to help people who are resistant to land development opportunities;
9. County authorities should implement land laws; and
10. Law should protect tenants from landlords.

Land Rights and Tenure:

1. People should only have the right to own land in their clan boundaries;
2. Individuals should know their land rights under any land tenure system, be it statutory or customary;
3. Communities should be made aware of all issues relating to their land;
4. Women and the youth land rights remain very contentious with most people sticking to the current traditional practices of access to use rights only;
5. Land rights are not known at the county level—the phenomenon is new;
6. Communities should adjudicate who holds what rights and where;
7. Men above 18 years should have rights on land belonging to their parents;
8. Acquisition of land in public interest should be accompanied by prompt and fair compensation;

9. Rural land tenure system should be customary and provide for rural land uses such as farming/hunting/grazing/fishing and the right to restrict others from using land without holders' permission;
10. There is need to clarify:
 - Land tenure security to cover term;
 - Land rights for a particular land tenure system;
 - Land rights that should accrue to individuals and communities; and
 - The type of land tenure, including the institutional structure that determines how the state, individuals, and groups secure access to land; who can hold and use it; for how long and with what rights and obligations.

Access to Land:

1. Access to land for pastoralists outside their communities should be for temporal use only;
2. Land should be owned and leased by land owners at the local government and community levels;
3. There should be clear procedures on how to obtain land;
4. Land which is not good for human life (areas prone to floods, marshlands etc) should be protected; and
5. Land for worship and public institutions should be provided.

Land Markets:

1. Identify needs for marketing land through community consultations;
2. Land can be marketed to persons who invest and benefit the community;
3. Land should not be sold; and
4. Land transactions (sales, inheritances, and transfers between siblings should be made legal.

Urban Land Management:

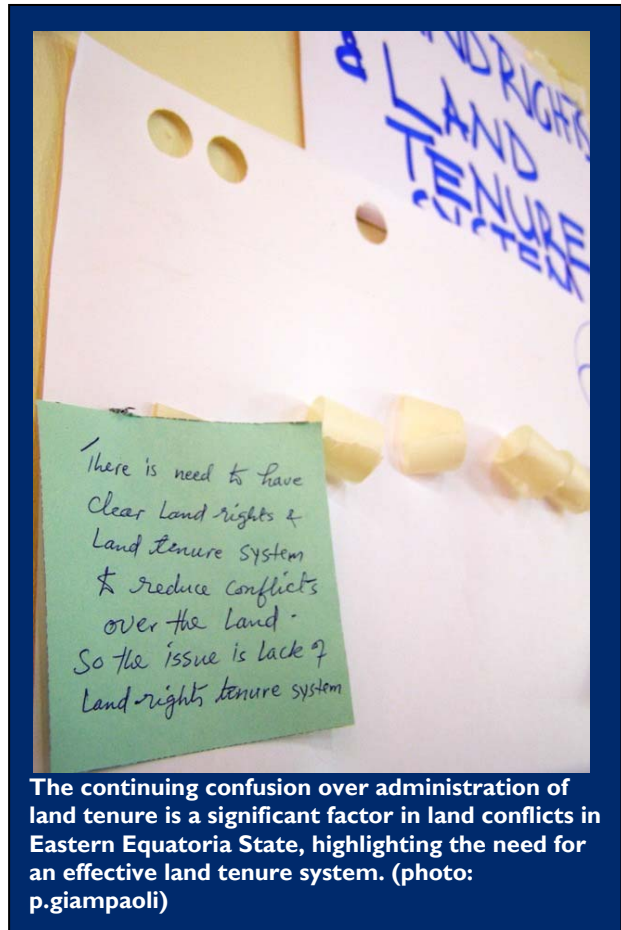
1. Clarify the powers of state and county especially where the state capital is located in a county headquarters;
2. Urban planning should include sanitation and urban environmental conservation;
3. There should be sensitization on urban land management under government and suburbs;
4. Urban land taxes should be economically affordable for local people;
5. Town councils should be responsible for urban land management;
6. Urban land owners should pay for ground tax while tenants pay rent; and
7. Taking towns to the people in villages should be done through consultations.

Land Administration:

1. There is need for effective land administration systems with a clear institutional framework;
2. Involve chiefs in land administration institutions;
3. Sensitization for all people in the GOSS;
4. Clarify:
 - Work relations between communities and government;
 - How to achieve objective land administration while respecting cultural values;
 - The role of citizens in the management of Customary Land Tenure Systems;
 - The authority of chiefs and government for administration of land in rural area;
 - The level of government land administration that should be responsible for land taxes; and
 - Consultation procedures for developing land.
5. Land administration should be accountable to people.

Dispute Resolution:

1. There should be awareness on land boundaries and ownership;
2. Secure access to appeal against unfair resolutions;
3. Strengthening powers of land authorities to solve land disputes, e.g. the State Ministry of Physical Infrastructure;
4. Demarcate land according to tribes and clans;
5. GOSS should be able to intervene in land disputes;
6. Land uses for livestock grazing are defined;
7. Water and cultivation should be negotiated with community concerned before actual use;
8. Border demarcation between the north and south, states, counties, payams, and bomas;
9. Develop mechanisms for compensation to owners of land;
10. Sensitization about the CPA and against land grabbing;
11. Develop penalties for people who trespass demarcated land boundaries;
12. Clear information of who handles land disputes at different levels; and



The continuing confusion over administration of land tenure is a significant factor in land conflicts in Eastern Equatoria State, highlighting the need for an effective land tenure system. (photo: p.giampaoli)

13. Public education on the concepts of land dispute resolution.

Women and the Youth:

1. Women and youth should be accorded their right to education to know their land rights;
2. They should have right to participate in land issues that concern them;
3. Support their ability to acquire, inherit or own land from their parents or spouses;
4. Equity for all people regardless of gender differences over land; and
5. Youth should be sensitized on land issues.

Other Vulnerable Groups:

1. Vulnerable people should participate in land policy issues which affect them;
2. IDPs should be repatriated to their respective areas;
3. Returnees should resettle in their areas or origin;
4. Should have right to voluntary integration into the host community but respect their culture and customs;
5. IDPs should surrender land they had occupied during the war time to the rightful owners;
6. The government should plan IDP resettlement;
7. IDPs should have the right to own land if they possess legal documents; and
8. Demobilized soldiers should have the right to land according to the prevailing systems in their villages or towns where they are settled.

Implications for land policy:

The continuing lack of any credible vision or program to resettle IDPs and reconstitute either IDPs or host-communities risks further land conflict.

Some participants also noted that under current customary systems, rights of women and youth are largely through their relationships to either male family members or spouses, effectively limiting the extent of their rights to claim and access land.

The likely emergence of these issues throughout all states during the consultation process highlights their central importance to any proposed GOSS land policy. The policy will need to provide guidance for lawmakers and practitioners at both the GOSS and state levels regarding 1) how the government proposes to address the issue of land restitution, compensation, and resettlement involving IDPs and host-communities; 2) authority, roles, and mechanisms for managing land conflicts; and 3) achieving

Summary Results of Exercise 1:

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

- Effective law and policy do not exist and are needed;
- Participants stress the primary need for effective management and de-escalation of land conflicts;
- There is no clear jurisdiction of different administrative levels as to who controls what in land administration and land use management (state, county government, or traditional authority);
- Conflicts result from lack of clear definition of mandates—land grabbing and absence of compensation mechanisms;
- Women and youth are clearly denied rights of access to land;
- Customary land tenure systems restrict evolution of markets;
- Participants believe that the government should develop a comprehensive plan for addressing the IDP problem; participants appear to strongly feel that IDPs have no right to remain in areas to which they relocated during the war and that that land should be returned to the local community and owners; and
- The right of demobilized soldiers to land is recognized, provided they respect the customary tenure of the locality.

computability between customary land rules and international norms regarding land rights of women and other vulnerable groups.

4.2 EXERCISE 2 – THE JURISDICTION OF TRADITIONAL AUTHORITY AND GOVERNMENT

Though participants were generally able to understand key elements of this exercise, there was confusion regarding the hypothetical assignment of roles to different levels of statutory and customary authorities. There was also confusion regarding the meaning and thus, the relative importance of the right to “Hypothecate or burden the land with servitudes.”

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;
- The right to renew leases should be considered;
- Rent all or a piece of the land;
- Restrict or exclude others; and
- Fair and prompt compensation where requisitioned in public interest.

The last three had the same score (four points out of 20).

Other Land Rights Proposed:

- Mortgage or impose legal conditions;
- Protecting the land; and
- Keeping the original traditional names.

In summary, the participants recommended the right of use and full enjoyment, disposition, the right to renewal of lease, and the right to rent and exclude others. They, however, would restrict these rights to individuals/households in urban areas and to clan members in the rural areas and exclude any other groups even if they are Southern Sudanese.

Responsible Entity for Administering Laws and Contracts:

Right	Responsible Entity
Occupy, possess, enjoy, and use subject to legal restrictions on land use.	Community (1 out of 4); Local Government (3 out of 4)
Transfer of rights by sale, gift, exchange, inheritance, and bequeath or any other lawful means.	Local Government (3 out of 4); State Government (1 out of 4)
Mortgage or impose legal conditions.	Government/State Government/Individual/GOSS (each 1 out of 4)
Rent all or a piece of the land.	Courts (1 out of 4); Individual (2 out of 4);

Right	Responsible Entity
	Owner/Chiefs (1 out of 4)
In case of a lease, the right of renewal	Government (1 out of 4); Individual and Government (2 out of 4); Owner/Chief (1 out of 4)
Restrict or exclude others.	Individual (3 out of 4); County/State Government (1 out of 4)
Fair and prompt compensation where requisitioned in public interest.	Individual (2 out of 4); County (1 out of 4); GOSS (1 out of 4)
Protect the land.	State Government (1 out of 4)
Keep the original traditional names.	County/ State Government (1 out of 4)

The above responses illustrate a lack of basic knowledge on land administration and how it differs from land management. This question was not properly understood despite the fact that the exercise came after a PP presentation on land administration.

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

Two of the four groups voiced the opinion that land rights should be exercised at the individual/household levels, at times with government support. Group 3 opted for parallel systems in which traditional authorities administer and allocate land rights to rural land and statutory authorities fill the same roll for urban land. Group 4 did not address this issue; the reason for this is unknown.

Participants acknowledged that expanding urban areas in Southern Sudan require land for expansion as their populations grow, urban areas develop, and the government encourages investment for economic growth. However, as the growing urban areas grow into rural areas claimed by clans, transparent mechanisms of due process, consultation, and fair compensation by the state are necessary as land shifts from administration under rural, communal practices to statutory urban ones.

Participants had the following additional reactions during the plenary discussions of the group presentations on Exercise 2:

- Urban plots should be leased according to the existing classifications based on plot size. Peri-urban land should remain under customary land tenure systems;
- Land allocations should ideally be performed according to land-use zoning regardless of individual income levels;
- When asked how long it takes for an applicant to get his/her land certificate, participants expressed concerns about the bureaucratic process in several offices located in different ministries and said that favoritism is rampant. There was a general consensus that it takes a year or more to obtain a land certificate;¹
- EES does not have a land act of its own—participants had heard of the 2009 Southern Sudan Land Act;

¹ QUESTIONS: How long would an applicant for land lease take to get his/her certificate? How many officers do you have to go to?

- In urban areas, delayed freehold of five years should be applied to both natives and persons from outside the community; granting of freehold would be conditional upon demonstrable use of the land by the end of five years.
- Many people live on land on a customary freehold system as a clan, but have not made good use of the land. Such clan members are encouraged to partner with investors to exploit the land so they may not lose their right to land; and
- Leasehold land tenure system is usually applied on investment projects. Freehold (clan members) and leasehold land policies (for investors) should therefore be applied exclusively depending on the type of developments wanted or its areas classified for quick development or not within a specified period of land lease. Meanwhile, delayed freehold should apply for investors in urban areas and leasehold should be applied for the majority of applicants.²

There is continuing uncertainty and different interpretations of rights and levels at which they are exercised among participants in Exercise 2. There appears to be a conflation of the administration and exercise of rights that may in part arise from the facilitation of the Exercise. There are also apparent differences among participants or contradictory views regarding the allocation and use of urban plots. While participants said that urban plots should be leased according to the existing classifications based on plot size, there was also the view that land allocations should be based on land-use zoning. The current system tends to result in dense poorer “slum” areas, the result of the tendency for wealthier people to buy larger plots.

Implications for land policy:

The results suggest that Sudan’s largely rural population makes a clear distinction between urban and rural land and the responsible authorities over these lands. While statutory authorities may be responsible for administering land rights in urban areas, their authority ends at the undemarcated but socially defined urban/peri-urban boundary. Beyond this, customary authority holds sway. The strong sentiment favoring customary practice and rules is reflected by participants’ identification of a “right” not anticipated by the consultation team: the right to keep traditional place names. Given the importance of names for historical memory and cultural definitions, identification of this “right” as important by traditional authorities among the participants is understandable.

Even in urban areas, an individual’s right to land would be subject to prevailing cultural ideas regarding the land rights. That is, participants said an individual’s right to own land in an urban area would be contingent upon making acceptable use of it. Any “owner” failing to use the land consistent with existing cultural or statutory definitions of acceptable or productive use would risk losing it.

The results of this exercise suggest the continuing and significant challenge of synthesizing or incorporating contradictions between urban, largely statutory and rural customary systems in a coherent land policy. The identification of a right not usually associated with Western statutory laws also suggests that the policy will need to reflect a broader consideration and definition of “land rights” than is usual.

² If a village grows from freehold land tenure system to a town, what will be the land policy for indigenous people or will the land policy be applied exclusively/selectively?

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

Participants were prepared by the Senior Technical Advisor of the SPRP team prior to consultation. These policy opinions reflect the potential framework. Participants were divided into four 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. (See Appendix 6 for further details).

Exercise 3 Participant Responses to Policy Options			
No.	Option	Agreed	Disagreed
		(N=45)	
1	Compulsory Land Acquisition	24%	76%
2	Decentralized Land Administration	100%	0%
3	Creation of an Autonomous Land Administrative and Management Authority	100%	0%
4	Establishment of a Semi-Autonomous GOSS Land Administration and Management Board	76%	24%
5	Establishment of a State Land Board	100%	0%
6	Establishment of an Autonomous State Land Authority	100%	0%
7	Establishment of a County Land Authority	100%	0%
8	Establishment of a County Land Office Under the County Land Authority	100%	0%
9	Establishment of a GOSS Land Dispute Resolution System	100%	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.

Response: Reactions were mostly negative. Out of 45 participants, 11 (24%) people mostly agreed and 34 (76%) 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 the GOSS. Group 2 wanted traditional leadership consulted before any takings occur. Group 3 wanted consultation and involvement of local government while Group 4 preferred to see the community consulted before any compulsory acquisition.

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

Response: Reactions to the policy were strongly positive and in support of nationwide coverage from national to local levels. All participants expressed the wish to have the system sooner than later hoping this would minimize land conflicts, corruption, and bureaucracy in land administration.

Policy Option No. 3: The GOSS Ministry of Housing, Physical Planning, and the Environment (MHPPE) 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.

Participants uniformly agreed with this proposition but emphasized that the institution should be limited to policy and legislative reviews, setting up of implementation procedures and building capacity for state level institutions.

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

Response: Participants favored a Board but strongly disagreed on its composition. Those disagreeing or wanting modification tended to feel that the Land Administration and Management Board should include state governments' representatives and not GOSS representatives only. The idea here is to ensure all policies and laws governing land administration and management have inputs from the states.

Policy Option No. 5: 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.

Response: Participants were strongly supportive. Some participants said that this Board should include representatives from all counties in addition to staff drawn from the state line ministries. The plenary agreed on having a small representation of county and traditional governments/ authorities on the Board.

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: Participants were also strongly supportive, and responses mirror those of Policy Option 5 above but stressed the priority should be to improve the capacity of people working in the current system.

Policy Option No. 7: Establishment of a County Land Authority (CLA) in each County in Southern Sudan (79 Counties). 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.

All (100%) participants responding mostly agreed, indicating a consensus toward policy that is decentralized and includes local government and traditional authority in decision making.

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

Response: That response is the same as that provided for Policy Option 7; all participants agreed but emphasized that state government should be responsible for land administration implementation.

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.

Response: The response was unanimous in favor of this policy.

Implications for land policy:

Generally, participants do not accept the idea of “compulsory acquisition” as they currently understand it and believe that government should not be able to take any land without first consulting affected communities. In the case of land registration, participants were generally supportive of the idea that states take the lead in registering 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 respect 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.

Two major conflict issues in EES are access and use of land for IDPs and pastoralists movements for pasture and water. There was a general consensus of restricting livestock movements and reintegrating IDPs into their ancestral communities.

The authority of the State to acquire land in the public interest, subject to fair and prompt compensation, is a recognized and widely used (and abused) right of governments around the world. A significant question for any future GOSS land policy will be whether this principle is recognized and if so, what steps will be taken to inform citizens and foster their trust that this authority will not be abused by government?

Further, what guidance will the land policy provide to policymakers and practitioners in order to reconcile the needs and concerns of host communities and IDPs, farmers and pastoralists?

4.4 EXERCISE 4 – PARTICIPANT DISCUSSION OF LAND ADMINISTRATION AND MANAGEMENT AND OTHER PRIORITY ISSUES

First Critical Area: Land Administration

- Need to ensure consultation and coordination in the land administration departments;
- Need land to be demarcated;
- Need clear registration of land ownership; and
- Need for a land administration framework.

Second Critical Area: Land Acquisition

- It is necessary to have a Land Acquisition Act;
- Land acquisition on public investment interests (e.g. mining, industry etc) should consider environmental conservation measures;
- Consultation procedures that involve local government and traditional authorities are needed for land acquisition;

- There should be compensation for negative environmental impacts as a result of an ongoing investment activity and respect for areas reserved for customary uses;
- Negotiation on compensation should include grassroots participation on key issues like resettlement, social services, and type of compensation (either monetary or in form of development services);
- The process should be challengeable in courts of laws if procedures were not followed; and
- Minimum employment requirements for local people.

Third Critical Area: Land Tax Administration

- **Urban areas:**
 - Land tax should be clarified for each level of government to avoid interferences, e.g. state governments should collect only first class land taxes, second and third classes should be collected by county authorities, and fourth class land taxes be collected by payam authorities.
- **Rural areas:**
 - Land should be taxed by executive chiefs at the boma levels to raise revenue for administration of the boma; these tax collection systems are to guarantee land ownership to the relevant communities.

Fourth Critical Area: IDPs

- They should be allowed temporary land allocation through community leaders;
- Government should set a process for repatriation of IDPs to their ancestral lands;
- IDPs should respect customary practices of indigenous communities; and
- IDPs should have the right to fair dispute resolution by land authorities.

Fifth Critical Area: Urban Land Management

- Urban areas should be demarcated to avoid inconveniences with local populations/communities;
- Multiple plot allocations to individuals before development must be avoided;
- A clear policy for urban land management should be developed;
- The management of land under state and county authorities should be defined;
- All residential and investment areas within urban areas should be surveyed;
- There should be transparent procedures for acquiring land in urban areas to avoid corrupt practices;
- Urban extensions should be negotiated with communities; and
- Guidelines for urban land management should be provided.

Implications for land policy

Land tax was a recurring issue in Torit and has been raised by participants in other state consultations. Ideally, provided the land policy helps to define the various roles, responsibilities, and authorities for land administration and allocation, subsequent enabling legislation should specify in which institutions the powers to tax land are vested and the bases upon which such taxes are calculated.

The prevailing message from this Exercise, as in the others, is participants' expectation that statutory authorities respect the role and authority of customary leaders and the wishes of the "community" or "grassroots," particularly in addressing IDP or land investment issues.

This reinforces the emerging and central issue of how the policy will reconcile the rights of vulnerable people, such as IDPs, with the will of the majority; reconcile international norms, such as freedom of movement and settlement in a country with customary claims based on ethnicity, and local concerns about investment with the need for economic growth.

4.5 EXERCISE 5 – LAND ALLOCATION TO COMMERCIAL INVESTORS (DETAILED RESULTS IN APPENDIX 8)

Many communities in southern Sudan have a negative impression of investors from past experience as people who collude with the government to take away their land, without due compensation for the affected communities. 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 (groups used in Exercise 4 above). Key comments are listed below in order of importance, as measured by the number of groups that indicated the benefits and challenges (details are in Appendix 8). Commercial investment was raised repeatedly throughout the workshop, at times from the perspective of creating opportunity and the need to stimulate investment in the state

Investment benefits:

1. Access to social services, e.g. schools, hospital, leisure, etc. (5 out of 5);
2. Employment opportunities for skilled and unskilled labor. Improvement in technologies and innovations (5 out of 5);
3. Livelihood improvement (4 out of 5);
4. Market for local goods (1 out of 5);
5. Infrastructural development, e.g. schools, hospitals, roads etc. (3 out of 5);
6. Satisfactions to the local people by government (1 out of 5);
7. Skills development (3 out of 5);
8. Create cordial relationship between countries (1 out of 5); and
9. Positive cultural impact (1 out of 5).

Investment challenges:

1. Displacement of communities/eviction of indigenous people (3 out of 5);

2. Negative cultural influence e.g. loss of native language, names etc. (5 out of 5);
3. Environmental impact/pollution changes (5 out of 5);
4. Exploit natural resources without the consent of the community/local government (2 out of 5);
5. Bring high cost of living in the area (1 out of 5);
6. Can cause insecurity (1 out of 5); and
7. Destruction of cultural sites (1 out of 5).

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 through abuse of cultural norms and the exploitation of other resources not envisaged or declared in their investment plans.

Implications for land policy

Despite their concerns and negative perception of investment schemes based on past experience, participants acknowledged the potential benefits of domestic and foreign direct investment and said that communities would be prepared to allocate land to investors. However, participants stressed that the government should recognize and protect the right of communities to participate in the negotiation of terms and monitoring of compliance with lease agreements.

While a future land policy may include principles that recognize the value of land allocation for investment and the security of such investments, it will be equally important to recognize the right of citizen and community involvement in setting the terms of, benefiting from, and monitoring the progress of such investments.

5.0 LESSONS LEARNED AND EMERGING ISSUES

The SSLC experimented with the Torit introductions by trying to request a workshop with a letter and phone calls instead of through a consultative process. The new process was hindered by poor telecommunications and a lack of a mail delivery system. The Governors did not receive the letter in a timely manner.

Unlike the previous consultation workshops in Yambio and Wau, participants were given 15-30 minutes to ask questions, following the presentations of basic land administration and management concepts. Questions included how women access land and the rights associated with the land access; how the existing cultures be managed to incorporate the land rights of women and other vulnerable groups; and what land rights exist in rural and urban areas of Eastern Equatoria State. These questions largely helped to clarify issues that the exercises in the workshops did not target.

Participants were very interactive and openly discussed issues in the working groups. Five exercises were conducted covering a wide range of issues on land administration and land dispute resolution, land rights, land rights of vulnerable people, and investment both foreign and local. The results revealed a lot of divergence in the opinion of participants to the exercises as observed by the Group Facilitators.³

Women⁴ representation in Eastern Equatoria State was very low. Hence, most opinion from the land policy consultation reflected men's position. This required participant mix is usually clarified at state introduction visits that emphasize expected representation to the land policy consultation activity. There were no physical pre-workshop introductions and a new strategy was devised from this experience to be followed for the next workshops.

In this particular workshop Group 3 did not, for example, differentiate policy recommendations for domestic and foreign investors. They did not separate the rights of communities from those of investors under the same Exercise 5.

The current state consultations are not representative of the entire population of southern Sudan nor does the participation reflect the full range of potential stakeholder groups. Participation of people who can credibly represent the views of pastoralists, women, or IDPs remains limited. This was reflected in Exercise 4, when participants expressed greater interest and concern in issues of taxation and land acquisition than in discussing the challenges faced by women or pastoralists in acquiring land. Presumably, more numerous participation by individuals who self-identify as pastoralists, IDPs, or women would give voice to views and perspectives that are notably limited or absent in these results.

Recommendations:

- Group facilitators should review and rehearse exercises a day before the opening of the consultation.

³ Senior Technical Advisor: John Iyadema, Assistant Technical Advisor: John Matata Eluzai, Peter Giampaoli: ARD Inc. Washington DC Head Office, Butros Apollo (SSLC). Steering Committee Members: Prof. Patrick Legge (DG. Ministry of Energy and Mining), Luka Ipoto Ojok (Ministry of Wildlife Conservation and Tourism and Lecturer at the University of Juba)

⁴ Four (4) women participated in the Eastern Equatoria State consultation. They included Agnes Lox: State Adviser on Gender, Elizabeth Ashamu: Student Researcher from the New York University, Magdalena Tito Ohidong: State Head of Chiefs, Nandawula Juliet Abu: Public Officer, CARITAS SWISS.

- The “rights” presented to participants for discussion and debate should be less prescriptive in order to allow the identification of “rights” that might be important to the participants but outside those usually considered.
- Care should be taken to better define and explain certain concepts, such as “to hypothecate and burden the land with servitudes.” In some instances, facilitators themselves were unable to clearly explain this concept, thereby preventing any meaningful feedback on it from participants.
- The involvement and active participation of GOSS staff and representatives of the LPSC from EES helped stimulate participation and added legitimacy to the consultation process. This should be a continuing practice in future consultations.
- Prior to convening a consultation, the SPRP should make a concerted effort to identify legitimate representatives who can credibly voice the perspectives and interests of IDPs, pastoralists, women, and other vulnerable populations. It is questionable whether government representatives or customary authorities from agricultural communities can fully present the perspectives of such groups.

Participants voiced a number of key issues and concerns similar to those expressed in previous consultations and voiced perspectives that strongly indicate contradictions between widely-held public views and norms reflected in 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;
- The participants did not want to discuss women’s land and property rights in Eastern Equatoria State; and
- Whether IDPs and demobilized soldiers should return to their areas-of-origin (ancestral lands).

If these issues continue to arise throughout all state consultations it presents a significant challenge to developing a land policy that both embodies principles of universal rights to land and reflects the broadest possible will of the citizens of southern Sudan.

6.0 CONCLUSION

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.

Some key findings at the workshop include:

- Overlapping or unclear political authority for land administration and land management in both urban and rural settings;
- 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 and associated mandate on land tax collection;
- 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; and
- Need to define, recognize, and protect the rights of women and other vulnerable groups to land and related natural resources.

Participants voiced a number of key issues and concerns similar those expressed in previous consultations and voiced perspectives that strongly indicate contradictions between widely-held public views and norms reflected in the Interim Constitution and other GOSS laws, including:

- The view that IDPs should be required to return to their ancestral lands once Southern Sudan is secure.
- The view that the current status of women and their land rights under customary laws is sufficient;
- And the view that government should not have the power of compulsory acquisition, a standard policy tool of government, if it cannot be trusted to protect people's rights.

If these issues continue to arise throughout all state consultations it presents a significant challenge to developing a land policy that both embodies principles of universal rights to land and reflects the broadest possible will of the citizens of southern Sudan.

APPENDIX I: TORIT CONSULTATIVE WORKSHOP AGENDA



Government of Southern Sudan
Southern Sudan Land Commission
Land Policy State Consultation
Venue: Hotel Torit, Eastern Equatoria State
JULY 9-11, 2009

DAY ONE

Time/day	Activity	Person responsible
09:00-09:15am	Registration	ARD, Inc. SPRP/SSLC
09:15-09:30am	Welcome remarks/objectives	ARD, Inc. SPRP/SSLC
09:30-10:00am	Official opening	State Governor
10:00-10:30am	Tea/Coffee Break	
10:30-11:00am	<i>Why a Land Policy for South Sudan?</i>	ARD, Inc. SPRP/SSLC
11:00-11:30am	<i>Land Rights</i>	ARD, Inc. SPRP/SSLC
11:30-12:00noon	Questions/Comments/Answers	Participants
12:00-01:00pm	<i>Exercise (1)</i>	ARD, Inc. SPRP/SSLC and Participants
01:00-02:00pm	Lunch	
02:00-02:30pm	<i>Land Tenure Systems</i>	ARD, Inc. SPRP/SSLC
02:30-03:00pm	Questions/Comments/Answers	Participants
03:00-04:00pm	<i>Exercise (2)</i>	ARD, Inc. SPRP/SSLC & Participants
04:00-04:30pm	Group Presentations	Participants
04:30-05:20pm	Questions and Comments	Participants
5:00 pm	Closing remarks	ARD, Inc. SPRP/SSLC

DAY TWO

Time/day	Activity	Person responsible
09:00-10:00am	<i>Land Administration</i>	ARD, Inc. SPRP/SSLC
10:00-10:40am	Questions/Comments/Answers	Participants
10:40-11:10am	Tea/Coffee Break	
11:10-11:45am	<i>Urban Land Management</i>	ARD, Inc. SPRP/SSLC
11:45-12:45pm	<i>Exercise (3)</i>	ARD, Inc. SPRP/SSLC & Participants
12:45-01:30pm	Group Presentations	Participants
01:30-2:30pm	Lunch	
02:30-03:00pm	<i>Women and Vulnerable groups</i>	ARD, Inc. SPRP/SSLC
03:00-05:15pm	<i>Exercise (4)</i>	Participants
5:00 pm	Announcements	

DAY THREE

Time/day	Activity	Person responsible
09:00-10:00am	Group Presentations <i>Exercise (4)</i>	Participants
10:00-10:30 am	Tea/Coffee Break	
10:30-12:00 noon	<i>Exercise (5)</i>	ARD, Inc. SPRP/SSLC & Participants
12:00- 12:30pm	Group presentations on key issues	Participants
12:30- 01:15pm	<i>Exercise (6)</i>	ARD/SSLC & Participants
01:15-03:00pm	Closing remarks, Certificates and Lunch	Commissioner of Torit County Col. Massimino Alam

APPENDIX 2: LIST OF PARTICIPANTS

S/N O	NAME	TITLE	MINISTRY/NGO	COUNTY	CONTACT NO.	SIGNATURE
1	MAX YOUSIF KHALAFALLA	EXECUTIVE DIRECTOR	LOCAL GOVERNMENT	MAGWI	0911255054	
2	FR. MARTIN MADARA FUTUGANI	FATHER	CDOT	TORIT	0919273860	
3	SECOND ALIM SOLOMON	D/EXEC. DIRECTOR	LOCAL GOVERNMENT	TORIT	0915163729	
4	IMKE VAN DER HONING	SENIOR ADVISOR	SNV NERTHERLAND	TORIT	0917257400	
5	MALIDADI LANGA	SENIOR ADVISOR	SNV NERTHERLAND	TORIT	0927536287	
6	MADALINA TITO OHIDONG	HEAD TA	LOCAL GOVERNMENT	TORIT	0917551934	
7	OKWERA SANTO	SENIOR OFFICER	MIN. OF SOCIAL DEV'T	TORIT	0909066844	
8	MARK ATHUOK UBUR	NEWS EDITOR	MIN. OF INFORMATION	TORIT	0913269529	
9	HON. MARK TABAN	D/CHAIRPERSON	EES LEGISLATIVE ASSEMBLY	TORIT	0919501213	
10	CHARLES LONUHA MICHAEL	REPRESENTER	VOICE OF EE FM RADIO	TORIT	0914515747	
11	ALEX OBUK OHIDE	REPRESENTER	VOICE OF EE FM RADIO	TORIT		
12	JACOB LODULA	NEWS REPORTER	MIN. OF INFORMATION	TORIT	095514742	
13	ALFRED ODONG UMA	EXECUTIVE DIRECTOR	LOCAL GOVERNMENT	KAPOETA NORTH	0911286558	
14	TITUS OHIDE EFIL	EXECUTIVE DIRECTOR	LOCAL GOVERNMENT	KAPOETA EAST	0911833582	
15	CHARLES MERI LOLAI	CHIEF	MIN. OF LOCAL GOV'MNT	KAPOETA NORTH		
16	ALEMIN LOTOGO	YOUTH	YOUTH ASSOCIATION	KAPOETA NORTH		
17	HE. EMILIO IGGA ALIMAS	COMMISSIONER	MIN. OF LOCAL GOV'MNT	MAGWI	0128013171	
18	i.e. PASQUALE ANGASI LANGA	COMMISSIONER	MIN. OF LOCAL GOV'MNT	IKOTOS	0126568197	
19	ONEN THONY OMEK	YOUTH REPRESENTATIVE	CIVIL SOCIETY	MAGWI	0128326835	
20	FR. JOSEPH OTTO MOGGA	FATHER	CIVIL SOCIETY	MAGWI	0128013151	
21	JUSTIN LOJJO LONGOLIO	INSPECTOR	LOCAL GOVERNMENT	IKOTOS	0128326832	

S/N O	NAME	TITLE	MINISTRY/NGO	COUNTY	CONTACT NO.	SIGNATURE
22	MICAH OLOYA OLWENY	PARAMOUNT CHIEF	LOCAL GOVERNMENT	MAGWI	0126713564	
23	SALVATORE ODONGI LOLIA	PARAMOUNT CHIEF	LOCAL GOVERNMENT	LAFON		
24	H.E.LUKA L. ARIBOK	COMMISSIONER	LOCAL GOVERNMENT	LAFON	0915178492	
25	REV. JOHNSON SEBIT D.	DIR. RELIGIOUS AFFAIRS	MIN. SOCIAL DEV'PT	TORIT	0917223904	
26	OGALA DANIEL RANGA	YOUTH REPRESENTATIVE	YOUTH ASSOCIATION	LAFON	0908412116	
27	DUKE UKOTH UKOR	REPRESENTATIVE	CIVIL SOCIETY	LAFON		
28	NANDAWULA JULIET ABU	PUBLIC OFFICER	CARITAS SWISS	TORIT		
29	GAMAL BATWEL	C. REP	CARITAS SWISS	TORIT	0913756506	
30	ABDALLA HASSEN FAMAI	AG. DIRECTOR	MIN. LOCAL GOVERNMENT	TORIT	0917194018	
31	ORACH DENNIS	AG. DIRECTOR	MIN. OF SOCIAL DEV'T	TORIT		
32	H.E. MASSIMINO ALLAM TIYAHA	COMMISSIONER	MIN. LOCAL GOVERNMENT	TORIT		
33	LOKIRU AMOS	REPORTER	RADIO EMMANUEL DOT	TORIT	0927204286	
34	CLAUDIOUS SENDE BIYAJO	EXECUTIVE DIRECTOR	LOCAL GOVERNMENT	LAFON	0909067306	
35	ONESIMOUS OMOL	REPORTER	RADIO EMMANUEL DOT	TORIT	0909286036	
36	SOLOMON SIDORO	DIRECTOR GENERAL	MIN.PHY.INF. EES	TORIT	0909091738	
37	H.E. AGNES LOX	ADVISOR	STATE GOVERNMENT EE	TORIT	0914428593	
38	JAMES OPINY	S/PHOTOGRAPHER	MIN. INFORMATION	TORIT	0917113623	
39	SIMON SILVATORE	SOUND TECHNICIAN	MIN. INFORMATION	TORIT	0913795963	
40	COSMAS LOKIRI YONA	DIRECTOR	MIN. INFORMATION	TORIT	0922030243	
41	PR. DOMINIC VOLTA OLIMPIO	V.CHAIRPERSON	MIN. LOCAL GOVERNMENT	IKOTOS	0914255951	
42	ELIZABETH ASHAMU	STUDENT	NEW YORK UNIVERSITY SCHOOL OF LAW		0917259186	
43	DANIEL ALAN MBIYO	D/DIRECTOR	DIRECTORATE OF FORESTRY	TORIT	0909558519	

APPENDIX 3: SPEECHES

I. SSLC REPRESENTATIVE – BUTROS APOLLO, COORDINATOR

The Southern Sudan Land Policy development process is led by the Southern Sudan Land Commission (SSLC) and receives technical expertise support from ARD, Inc. Sudan Property Rights Program funded by the USAID.

SSLC pledges all commitments possible to reaching throughout the 10 States of Southern Sudan so that all views of stakeholders are reflected in the land policy text. This shall be used as the basis needed for people need to participate in the land policy process and for the final text, because they are involved at the relevant stages.

We pledge that the land policy consultation process should be a continuous process where representatives contribute land policy views to issues which needed legal attention throughout the period.

2. STATE GOVERNOR OF EASTERN EQUATORIA STATE, H.E BRIG. ALOYSIUS OJETUK

Eastern Equatoria State (EES) is pleased to receive and open the land policy consultation process in the administrative capital Torit. EES does not have a state land commission or a directorate. The state looks forward to establishing structures for this vital institution.

Land as a natural resource is a critical issue in EES and has a number of conflicts throughout its administrative counties, with key examples reported by farmers as contests over local administrative boundaries. It should be remembered that even the conflicts over the northern and southern borders at Abyei—the oil rich territory—are directly caused by the demand for land under which valuable economic natural resource was discovered.

EES representatives should bear in mind that their input to the land policy consultation comes at the right time, when people's views are aired and issues at hand discussed. It is also important that people read and understand legal national documents which pertain to land to know the truth; e.g. the Land Act (2009) for Southern Sudan; the Local Government Act (2009); the Interim Constitution of South Sudan (2005); and the Comprehensive Peace Agreement (CPA, 2005).

As leaders in Eastern Equatoria State, we should not be confined to a single document, but have some good understanding and use of key national documents that complement each other. With the understanding and use of such documents, we hope that a clear land policy guide shall be used to benefit this country in public projects through better management of the land that belongs to the people and to the government. There are examples these public projects in the Sudan that we can learn from, including the conversion of Halfa Gedim to Halfa Jadeed for farming, the Merowe dam construction, etc. Southern Sudan cannot avoid development opportunities like these; it is now time to plan them within a guided framework.

The Governor concluded by thanking USAID for its support to the GOSS through the SSLC, and by thanking ARD, Inc for organizing this consultative land policy in Eastern Equatoria State.

CLOSING REMARKS

3. REPRESENTATIVE OF PARTICIPANTS, H.E. EMILIO IGGA, COMMISSIONER OF MAGWI COUNTY

We appreciate the efforts of the SSLC made with the support of the USAID towards organizing the land policy consultation program for southern Sudan and for reaching us in EES. Southern Sudan is an emerging nation faced with massive land-based conflicts. The development of the Southern Sudan Land Policy shall be an opportunity to resolve critical issues which will bring local communities together. We are hopeful that the message will not end at the venue of the consultation workshop, but throughout our administrative areas of influence.

4. REPRESENTATIVE OF THE LAND POLICY STEERING COMMITTEE, LUKA IPOTO OJOK

The people of southern Sudan have a challenge to overcome all problems that come their way towards the success of the land policy development.

The resources employed for the land policy development should be used to generate the desired results for the Southern Sudan Land Policy.

Let us encourage all participants to continue submitting their views throughout the consultation process to the SSLC.

5. REPRESENTATIVE OF THE SSLC - BUTROS APOLLO, COORDINATOR

The consultations' process aims at attracting opinions of people in southern Sudan through workshops.

SSLC involves a good coverage of people in these consultations so that the policy is a result of people's contributions. We have been to Yambio, Wau, and now Torit, Eastern Equatoria State. We still have seven more states to cover and document findings from each state workshop.

Thanks to the EES leadership and for your cooperation throughout this activity. We urge all people to continue the process of the land policy consultation in order to capture more viewpoints. More views can be sent to the Southern Sudan Land Commission through State Coordination Offices or the most available delivery means.

6. CLOSING REMARKS – H.E. COL. MASSIMINO ALAM, COMMISSIONER OF TORIT COUNTY

The workshop has opened people's eyes. We had mainly used common senses even up to the time the Land Act (2009) and The Local Government Act (2009) for Southern Sudan were passed.

The reasons for wars in the Sudan were many, but land was the central issue in respect to its control and management. We hope the Land Act (2009) of Southern Sudan shall be well informed by the land policy. The land policy is one of the documents we need urgently.

However, we worry that the land policy could take too long working through many drafts before a final document is completed because this final land policy is needed in good time for the people of southern Sudan.

APPENDIX 4: EXERCISE I – LAND ISSUES AND CONCERNS OF PARTICIPANTS

PRESENTATION RESULTS	
ISSUE	Policy Constraints Or Areas The Policy Should Give Priority
1. Land Law, Policy And Access	<ul style="list-style-type: none"> • There is no well designed or circulated land policy and law that belongs to the community or government; • Land policy and law should involve local communities and concerned people in urban areas; • People should have legal certificates for their properties; • Land policy and law should help people in the process to regain their land; • Disseminate land policies and laws at all levels; • Individuals should know their land rights under any land tenure system whether public or customary; • Traditional chiefs should be involved in the administration of land policies and laws for the local community; • There should be a policy guideline or an act on land detailing percentage benefits for land owners; • There should be community awareness on land issues; • There should be a law that favors both the poor and the rich on prices of land, land uses, and ownership; • Land policy should help people know their right to sell land or “putting” it to bank; • Land law procedures should be clear; • There should be land policies and laws because there are resistances to development in acquiring land; and • County authorities to handle land laws.
2. Land Rights Tenure and Land Access	<ul style="list-style-type: none"> • Clarify land rights for a particular land tenure system; • There should be compensation for land acquired in public interest; • State authorities should take responsibility; • Land tenure security should be clarified; • Access to land for pastoralists should be for use only; • Land rights should state the period of tenure, including land certificate and survey certificate; • Definitions of land rights for communities and individuals should be made clear; • Land should be owned and leased by land owners at the local government and community levels; • Rural setting for land tenure system should consider customary land tenure systems, rural land uses for farming/hunting/grazing/fishing; • There should be right to restrict others from using land without permission; • Taking towns to the people in villages should be done through consultations; and • Better for the community to own land so that they benefit from the land and land resources in a particular area.
3. Land Markets	<ul style="list-style-type: none"> • Identify needs for marketing land through consultations; • Land can be marketed to persons who invest and benefit the community; • Giving people land in order to sell is wrong; and • Land transactions (sales, inheritances and transfers from brother/sister to brother/sister) should be made legal.

PRESENTATION RESULTS	
ISSUE	Policy Constraints Or Areas The Policy Should Give Priority
4. Urban Land Management	<ul style="list-style-type: none"> • Clarify on the powers of state and county especially where the state capital is located in a county head quarters; • There should be urban engineering programs for sanitation; • Urban environment conservation; sensitization on urban land management in urban and peri-urban areas; • Urban land taxes should be economically affordable for local people; and • Town councils should be responsible for urban land management; land owners should pay for ground tax while tenants pay rent.
5. Land Administration	<ul style="list-style-type: none"> • There should be effective land administration systems/departments; • Involvement of chiefs in land administration institutions; • Sensitization for all people in the GOSS; • Work relations between communities and government; • How to achieve objective land administration not influenced by cultural values; • Clarify the role of citizens in the management of customary land tenure systems; • The authorities of chiefs and government on land administration in rural areas; • The level of government's land administration that should be responsible for land taxes; • Accountability to people; and • Consultation procedures for developing land.
6. Land Dispute Resolution	<ul style="list-style-type: none"> • There should be awareness on land boundaries and ownership; • Secure access to appeal against unfair resolutions; • Strengthening powers of land authorities to solve land disputes, e.g. the State Ministry of Physical Infrastructure; • Demarcate land according to tribes and clans. GOSS should be able to intervene in land disputes; • Land uses for livestock grazing, water, and cultivation should be negotiated with community concerned before actual use; • Define border demarcations between north and south, states, counties, payams and bomas; • Develop mechanisms for compensation to owners of land; • Sensitization about the CPA and against land grabbing; develop penalties for people who trespass demarcated land boundaries; • Clear information of who handles land disputes at different levels; and • There should be public education on the concepts of land dispute resolution.
7. Vulnerable Groups	<ul style="list-style-type: none"> • IDPs should be repatriated to their respective areas; • Vulnerable people should participate in land policy issues which affect them; • Returnees should resettle in their areas or origin; • There should be right to voluntary integration into the host community; • Respect for the rule of law in the host community; • IDPs should surrender land they had occupied during the war time to the rightful owners; • Government should plan IDP resettlement; • IDPs should have the right to own land if they possess legal documents; • Demobilized soldiers should have the right to land in their villages or town; • IDPs cause problems in certain areas; and • Soldiers are not demobilized.
8. Women And Youth	<ul style="list-style-type: none"> • Women and youth should be accorded their right to education to know their land rights; • Right to participate in land issues which concern them; • Support their ability to acquire, inherit or own land from their parents or spouses; • Equity for all people regardless of gender differences over land; and • Sensitization of the youth on land issues.
9. Access To Land	<ul style="list-style-type: none"> • There should be clear procedures on how to obtain land; and • People should not be allowed to access land that is not good for human life (areas prone to floods, mud flows).

PRESENTATION RESULTS

ISSUE	Policy Constraints Or Areas The Policy Should Give Priority
10. Others	<ul style="list-style-type: none">• Land for worship should be provided;• Land should be availed for public institutions; and• There should be a law that protects tenants from landlords.

APPENDIX 5: EXERCISE 2 – THE JURISDICTION OF TRADITIONAL AUTHORITY AND GOVERNMENT

Group No.	Group ID	Opinion on Appropriate Institution Responsible for Managing, Enforcing, or Exercising	Proposed land policy for government to adopt (Question 4)	Policies workable or sufficient? (Question 5)
1	State Government	Community leadership to enforce rights	Freehold. But where there is development, apply leasehold regime	Yes
2	County Commissioners and Civil Servants at County Level	Question 1. A, G, E, F, B Question 2. County/local government, state and individuals Question 3. Households, individuals	Leasehold terms	No Response
3	Chiefs and Religious Leaders	Question 1. This group chose to propose their own choice of land rights; please see text following this table Question 2. Land lords and Chiefs in rural areas; Government in collaboration with chiefs in urban areas Question 3. Family in urban areas and clan in rural areas	Land lease for 99 years in rural areas that can be renewed Delayed leasehold system in urban areas for about five years	Yes
4	Women and Youths	Question 1. B, A, C, F, E, D, G Question 2. Local government, local authority, state, GOSS, owner and chief Question 3. (Repeat of the above)	In urban areas: Apply leasehold: short-term for 49years and long term for 99 years; delayed freehold short term for 10 years and long term for 20 years. Rural areas: Freehold	Yes

Proposed land rights (from handouts):

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

Question 2: Who should be responsible to administer 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?

Group 3: Chiefs and Religious Leaders (choice of land rights, Question 1)

- Ownership of land by clan in rural areas and by family in urban areas;
- Right to use land;
- Rights to protect the land, i.e. land tenure security through traditional courts of law;
- Right to inherit land; and
- Right to keep the original traditional names, but permission is needed to change names from community.

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

Participants were divided 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, maintaining the 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 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			Group 4		
mostly agree	mostly disagree	proposed modification	mostly agree	mostly disagree	proposed modification	mostly agree	mostly disagree	proposed modification	mostly agree	mostly disagree	proposed modification
Group size =11			Group size=11			Group size=11			Group size =12		
Policy Option No. 1: Power of Compulsory Land Acquisition											
11	0		0	11	Need consultation and involvement of local government	0	11	Consult the traditional leadership	0	12	The community should be consulted before any acquisition of land
Policy Option No. 2: Decentralized Land Administration											
11	0		11	0		11	0		12	0	
Policy Option No. 3: Creation of an Autonomous Land Administration and Management Authority											
11	0	Involve The State	11	0		11	0		12	0	
Policy Option No. 4: Establishment of a Semi-Autonomous GOSS Land Administration and Management Board											
0	11	State government should be involved	11	0		11	0		12	0	
Policy Option No. 5: Establishment of a State Land Board											
11	0		11	0		11	0		12	0	
Policy Option No. 6: Establishment of an Autonomous State Land Authority											
11	0		11	0		11	0		12	0	
Policy Option No. 7: Establishment of a County Land Authority (CLA) in each County in Southern Sudan											
11	0		11	0		11	0		12	0	
Policy Option No. 8: Establishment of a County Land Office under the CLA.											
11	0		11	0		11	0		12	0	
Policy Option No. 9: GOSS Establishment of a Land Disputes Resolution System											
11	0		11	0		11	0		12	0	

APPENDIX 7: EXERCISE 4 – PARTICIPANT DISCUSSION OF AREAS OF LAND ADMINISTRATION AND MANAGEMENT AND OTHER PRIORITY ISSUES

Five Hypothetical Administration and Management Areas: Ranking from Highest (1) to Lowest (5) Participants.	
No.	Areas
1	Land Administration
2	Land Acquisition
3	Land Taxes
4	Internally Displaced Persons
5	Urban Land Management

Priority Issues Under the Five Most Important Cases		
Rank	Case	Key Issues
1.	Land Administration	<ul style="list-style-type: none"> • Consultation and coordination in the land administration; • Land demarcation at all levels of administration; • Clear registration of land ownership; • The level of government concerned should reserve the right to administer a piece of land in public interest; • Need a land administration framework for land uses; and • All levels of government should form committees for land conflict resolutions who would be able to use communities' knowledge.
2.	Land Acquisition	<ul style="list-style-type: none"> • It is necessary to have a Land Acquisition Act; • Land acquisition on public investment interests (e.g. mining, industry etc) should consider conservation measures; • Land acquisition should detail consultation stages including local government, traditional authorities, review of land desired (ownership and survey), and explanations on proposed project descriptions and their environmental impacts— both positives and negatives; • Compensation negotiation should include grassroots participation on key issues like resettlement, social services, and type of compensation either monetary or in form of development services; • The process should be challengeable in courts of laws if procedures were not followed; • Compensation for negative environmental impacts as a result of an ongoing investment activity; • Respect for areas reserved for customary uses; • Percentage of benefits for community; and

Priority Issues Under the Five Most Important Cases		
Rank	Case	Key Issues
		<ul style="list-style-type: none"> • Minimum employment requirements for local people.
3.	Land Taxes	<ul style="list-style-type: none"> • Urban areas: land taxes should be clarified for each level of government to avoid interferences; e.g. state governments should collect only first class land taxes, second and third classes should be collected by county authorities, and fourth class land taxes be collected by payam authorities; • Rural areas: land should tax by executive chiefs at the boma levels to raise revenue for administration of the boma; and • These tax collection systems are to warrant land ownership to the relevant communities.
4.	Internally Displaced Persons	<ul style="list-style-type: none"> • Allow temporary land allocation through community leaders; • Set a process for repatriation of IDPs to their ancestral lands; • Respect for customary practices of indigenous communities; and • IDPs should have the right to fair dispute resolution by land authorities.
5.	Urban Land Management	<ul style="list-style-type: none"> • Populations/communities. • Multiple plot allocations before development must be avoided for individuals. • A clear policy for urban land should be stipulated. • The management of land under state and county authorities should be defined. • All residential and investment areas within urban areas should surveyed. • There should be transparent procedures for acquiring land in urban areas to avoid corrupt practices. • Urban extensions should be negotiated with communities. • Provide guidelines for urban land management.

APPENDIX 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
Access to social services (i.e.) schools, hospital, leisure, etc.	5 out of 5	Displacement of communities/eviction of indigenous people.	3 out of 5
Employment and income opportunities for skilled and unskilled labor.	5 out of 5	Impact cultural influence e.g. loss of native language, names and traditions.	5 out of 5
Market for local goods.	1 out of 5	Negative environmental impacts/pollution.	5 out of 5
Infrastructural development, roads, water, sanitation, school, general rapid development of the area etc.	3 out of 5	Exploit natural resources without the consent of the community/local government.	2 out of 5
Satisfactions to the local government.	1 out of 5	Bring high cost of living in the area.	1 out of 5
Skills development, experience needed.	3 out of 5	Can cause insecurity.	1 out of 5
Create cordial relationship between countries.	1 out of 5	Destruction of cultural sites	1 out of 5
Positive cultural impact	1 out of 5		
Raise standard of living and improved livelihood.	4 out of 5		

PART (B): RECOMMENDED POLICY CONSIDERATIONS FOR DOMESTIC AND FOREIGN INVESTORS

Proposed Policy for Domestic Investors	Groups Indicating Policy	Proposed Policy for Foreign Investors	Groups Indicating Policy
No time limits [freehold tenure].	2 out of 5	Should have guaranteed land tenure security.	2 out of 5
Ensuring land security for investors	2 out of 5	Land lease for 15 to 30 years. Group 1 mentioned freehold and not leasehold, which illustrates a conflict in terms.	3 out of 5
Land lease duration of 15-45 years or duration to be determined but all subjects to renewal.	2 out of 5	The investor should give employment priorities to indigenous people and accept technical experts into community.	3 out of 5
Compensation for displaced people from land under which subterranean resources were tendered out for exploitation by the government.	1 out of 5	Investment plans should be conditioned to include infrastructural developments e.g. feeder roads, schools, hospitals, etc.	2 out of 5
Should build permanent structures for the investment projects (implied improvements are left behind after termination of the lease).	1 out of 5	Training of local people for takeover.	1 out of 5
Should retain company asset.	1 out of 5	Investment construction should be permanent structures.	1 out of 5
Should follow land acquisition procedures.	1 out of 5	Company assets to remain with the investors while community assets like social infrastructure shall be handed over to the government.	1 out of 5
Same for all Sudanese.	1 out of 5	Respect the local laws and norms.	1 out of 5
Delayed freehold 15-20 years.	1 out of 5	Provision of environment mitigation.	
Respect the local laws and norms.	1 out of 5	The ownership of the land shall not be transferable.	1 out of 5
Must avoid corruption.	1 out of 5	After the elapse of the period all documents of the investment and rights over the land goes to the community in accordance with the laws of southern Sudan.	1 out of 5
Provision of environment mitigation measures.	1 out of 5	Abide by the law of local community/government.	1 out of 5
Free to sell the investment provided the new investor accepts the terms of the original contract.	1 out of 5		
The ownership of the land not transferable.	1 out of 5		
After the lapse of the lease period all documents of the investment and rights over the land goes to the community.	1 out of 5		
If there is no use/need for continuation of the project then the investors has the right to sell out the properties to the community.	1 out of 5		
Asses the land on renewal basis according to periods agreed on/monitor and evaluate the performances before renewal.	1 out of 5		
Change manpower.	1 out of 5		

PART (C). RIGHTS OF COMMUNITIES AND INVESTORS

Rights for Communities	Groups Indicating Right	Rights for investors	Groups Indicating Right
To be compensated for land acquired for investment (minerals/displacement).	2 out of 5	Right to be lease a piece of land [for a limited period].	2 out of 5
To own, occupy, enjoy and use [for investment].	2 out of 5	Right to occupy, enjoy and use for limited term.	2 out of 5
Safeguards from government power (forced occupation).	1 out of 5	Right to free access to service materials e.g. trees, sand and soil (except planted trees).	1 out of 5
Right to social benefits.	1 out of 5	Required security of investment tenure.	1 out of 5
Right to have agreements between community and investors, investors and local governments, community/government and investors.	1 out of 5	Right to sue and be sued.	1 out of 5
Right to have percentage shares for land uses for investment [mutual benefits].	2 out of 5	Right to interact with local community.	1 out of 5
Communities have the right to terminate contracts.	1 out of 5	Lease subject to performance of contract & government right to its lawful termination.	1 out of 5
“Land is naturally theirs so greater rights to use it as they please.”	1 out of 5	Right to manage financial security.	1 out of 5
[Request investors to] respect the customs and traditions of the area.	1 out of 5		

PART (D): LAND ADMINISTRATION RESPONSIBILITIES

Responsible for Administration of Contracts Between Community and Investor	Groups Indicating Responsibility	Land to be demarcated and Registered ⁵	Groups Indicating Responsibility
Local government.	1 out of 5	Urban land or areas such as residential 1 st , 2 nd and 3 rd class plots.	3 out of 5
GOSS through relevant Ministry and safeguarded by law.	1 out of 5	Urban demarcation to include all commercial, residential, industrial and recreation areas, parking yards, cemeteries, administration blocks and museums. Rural demarcation: admin block, commercial area, official, residential areas, schools, health, police, agricultural, ranching, game parks and leisure.	2 out of 5

⁵ Titles shall be issued in the holder of the land- individuals, companies, institutions, clans, etc.

Responsible for Administration of Contracts Between Community and Investor	Groups Indicating Responsibility	Land to be demarcated and Registered ⁶	Groups Indicating Responsibility
		All Rural areas under free hold.	2 out of 5
State government/authority.	2 out of 5	Developing urban centers in a rural area should be demarcated.	1 out of 5
County and local government.	2 out of 5		
Local authority and community.	1 out of 5		

PART (E): IF LAND IS TO BE DEMARCATED, REGISTERED, AND LEASE CERTIFICATE ISSUED, IN WHOSE NAME SHOULD THE LAND CERTIFICATE BE ISSUED?

Group 1: Residential areas: individual's name; Commercial areas: investor's or company's name.

Group 2: In company name, individual's family – both men and women.

Group 3: Owner's name.

Group 4: Urban area should be demarcated and registered.

Group 5: Names of investors, local authorities and communities.

⁶ Titles shall be issued in the holder of the land- individuals, companies, institutions, clans, etc.

U.S. Agency for International Development

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

www.usaid.gov