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LAND POLICY STATE CONSULTATION – MALAKAL, UPPER NILE STATE

WORKSHOP REPORT, NOVEMBER 2009

NOVEMBER 2009

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DISCLAIMER

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ACRONYMS AND ABBREVIATIONS

CES	Central Equatoria State
CLA	County Land Authority
CLTS	Customary Land Tenure System
COP	Chief of Party
CPA	Comprehensive Peace Agreement
CSO	Civil Society Organization
EES	Eastern Equatoria State
FBO	Faith Based Organizations
GIS	Geographic Information System
GOSS	Government of Southern Sudan
ICSS	Interim Constitution of Southern Sudan
IDP	Internally Displaced People
JOSS	Judiciary of Southern Sudan
JS	Jonglei State
LS	Lakes State
LTPR	Land Tenure and Property Rights
MHPPE	Ministry of Housing, Physical Planning, and the Environment
NBGS	Northern Bahr el Ghazal State
PP	PowerPoint
SPLM	Sudan Peoples' Liberation Movement
SPRP	Sudan Property Rights Program
SSLC	Southern Sudan Land Commission
USAID	United States Agency for International Development
WBGS	Western Bahr el Ghazal State
WS	Warrap State
UNS	Upper Nile State
US	Unity State
WES	Western Equatoria State

EXECUTIVE SUMMARY

A team of six members from the USAID/Sudan Property Rights Program (SPRP) and the Southern Sudan Land Policy Steering Committee (LPSC) conducted a workshop consultation with 107 participants from 11 counties of Upper Nile State (UNS), including representatives of state line ministries, county commissioners, traditional chiefs, county executive secretaries, women representatives, youth representatives, and civil society organizations (CSOs). Participants discussed their concerns and ideas regarding land tenure and property rights (LTPR) over the course of three days.

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], and youth), and land conflicts.

With the exception of a few exercises, the results are neither quantitative nor statistically representative. Thus, no conclusion should be drawn regarding the extent to which the views expressed reflect the will of a plurality or majority of stakeholders. However, these qualitative results do demonstrate the existence of important issues and deeply held views that are sufficiently widespread and compelling to warrant careful consideration when formulating a land policy. Participants identified a number of key ideas, principles, and issues around which there was consensus:

- Government should develop a land policy and law that clarify land access and rights to land for all its citizens;
- The policy and law should clarify roles and mandates of the various levels of government, traditional authority, and community in land administration and management;
- Policy and law should reform the land administration framework with a view to ensuring transparency, equity, efficiency, and effectiveness;
- Rights of land use should be made more secure, especially for women and other vulnerable groups;
- Major land rights identified in the workshop are those of ownership, utilization, fair and prompt compensation, exclusion, transfer, and inheritance;
- Urban land under a leasehold regime should be under the administration and management of state or county governments while rural land under a freehold regime remains under traditional authorities;
- There is need to establish a strong, decentralized, and streamlined institutional framework for land administration and management that clearly defines the mandate and role of traditional authorities;
- Compulsory acquisition of community land in public interest should be preceded by consultations with affected community and be accompanied by fair and prompt compensation;
- The workshop identified widows, pastoralists, women, families of martyrs or fallen soldiers, IDPs, returnees, refugees, demobilized soldiers, orphans, elderly, and the poor as the most vulnerable groups in terms of those whose access or use of land is particularly challenged, vulnerable to loss or displacement, or who may not have rights equal to that of other members of the community;

- The majority of the participants would like men and women to have equal access and rights to land, while others are of the opinion that current cultural practices in respect to property and land inheritance be maintained;
- Communities are willing to offer land to investors on a lease basis but would like to participate in negotiations on the terms of the investment contract and monitor compliance;
- Grazing or communal land should remain under the jurisdiction of traditional authorities or chiefs; and
- Unlike the other states where consultative workshops have been held, individual household in UNS know their land boundaries and have exclusive rights of ownership and use.

As seen in Yambio, Torit, Wau, Kuajok, Rumbek, and Aweil, certain issues and contradictions were apparent in Malakal in respect to public views and mandates of the Interim Constitution including:

- Whether land access is reserved for those native to the rural area or whether Southern Sudanese citizens moving in from other areas should also have rights;
- The extent and pace to which women's rights to land are expanded under customary rules. In this workshop, there were apparent contradictions on women's land rights in Exercise 4 and the plenary discussions; and
- Whether IDPs and demobilized soldiers should be forced to return to their areas of origin or ancestral lands once peace has returned.

I.0 INTRODUCTION

The workshop in UNS was the seventh of 10 workshops being conducted in each state of Southern Sudan. 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 the Government of Southern Sudan (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.

Some key issues anticipated at the outset of this consultation process 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.

Through consultation workshops, participants are sharing their perspectives on these and other issues. These state consultation 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, present the rationale for land policy, and gather the information needed to formulate relevant principles and guidelines for land administration in Southern Sudan. The overall intent of this process is to ensure that the content and guidance provided by a GOSS land policy are as comprehensive, transparent, and legitimate as possible, based upon relevant views and concerns of stakeholders in Southern Sudan.

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, SSLC, and LPSC team met with all state ministries to gain interest in the program and plan the workshop in accordance with the availability of participants.

In preparation for the workshop, a team of four representatives from the SSLC, LPSC, and SPRP travelled to Malakal, the capital of UNS, on October 28, 2009 to introduce the workshop plan and objectives to state officials and enlist their support and assistance in mobilizing key participants. The team spent two weeks meeting various officials, organizing logistics, and planning the consultation. Given that the Malakal workshop had been planned as the first consultative workshop and introductions were conducted back in July 2009, but it still was not possible to have it up to this time, SPRP found it imperative to keep its representative in Malakal until the workshop date. The intention was to maintain the momentum in the mobilization of participants. The team was later joined by Mr. Peter Giampaoli, technical backstop from the ARD Head Office. The team met with representatives of the State Governor's Office; the Ministries of Local Government and Law Enforcement; Physical Infrastructure; Gender, Social Welfare, and Religious Affairs; Legal Affairs and Constitutional Development; the State Legislative Assembly; the Southern Sudan Relief & Rehabilitation Commission; and the SPLM Secretariat. Prior to the workshop, the Chief of Party (COP) and the team met the Minister for Physical Infrastructure, who reiterated government commitment to ensure the success of the workshop.

The workshop was held November 26-28, 2009, and attracted 107 participants (89 men and 18 women) representing 12 of the 13 counties of UNS. Participants included representatives of state administration, county commissioners, traditional authorities, women and youth groups, faith-based organizations, and other civil society organizations (CSOs) to address issues of gender, IDPs, and other vulnerable groups. Accommodation, transport, and food were provided for all invited participants.

The consultation team—consisting of six people from the SPRP and the LPSC—organized logistics and venue, handled the administration, and facilitated the workshop. Two Arabic-speaking translators were hired to translate presentations and discussions during the activity. During the breakout exercises, participants themselves arranged for interpretation when required from their peers.

3.0 WORKSHOP METHODOLOGY

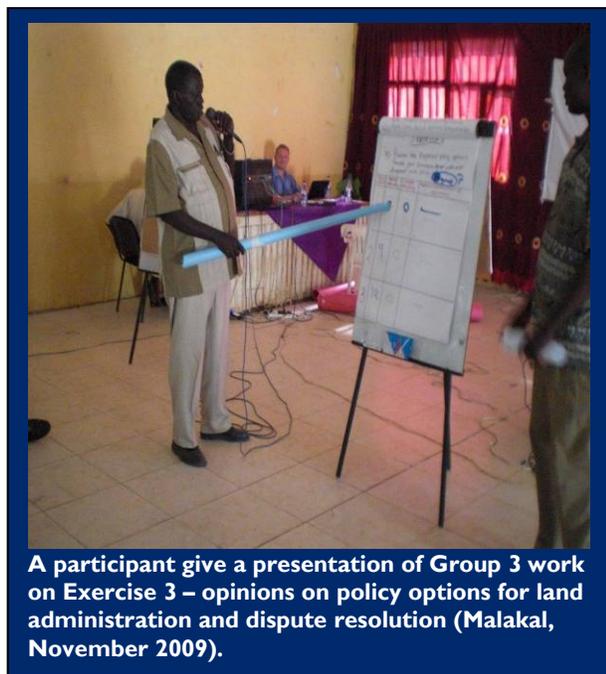
Small group exercises and brief presentations on land tenure property rights (LTPR) concepts and principles were used to stimulate discussion among participants and elicit their views and ideas regarding issues related to land and property rights, land access, urban land management, land administration,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

3.1 PRESENTATIONS AND EXERCISES

The workshop was comprised of six sessions that included both PowerPoint (PP) presentations and facilitated discussions in plenary and small groups focusing on LTPR concepts, issues, and challenges. All presentations were interpreted by two Arabic-speaking translators. A 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.

- **Session 1:** Registration. Opening remarks. PP on *Why a Land Policy*.
- **Session 2:** Exercise 1. PP on *Land Rights*.
- **Session 3:** PP on *Land Tenure Systems* followed by discussion. 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* followed by discussion. Exercise 3.
- **Session 5:** Exercise 4. Participants responded in writing on what rights they propose for women.
- **Session 6:** Specific Cases—Vulnerable Groups. PP on *IDPs, Refugees, Demobilized Soldiers, Women, and Other Vulnerable Groups* followed by discussion. Day Two summary and highlights. Exercise 5 in working groups. Closing remarks.

Presentations (3 hours): To provide a basis for discussion and establish a common understanding of terms and ideas, the USAID/SPRP Senior Land Advisor used PP presentations on the rationale for Southern Sudan land policy, concepts, and principles of LTPR and tenure system, land administration and land registration,



A participant give a presentation of Group 3 work on Exercise 3 – opinions on policy options for land administration and dispute resolution (Malakal, November 2009).

urban land management, and land issues of specific groups such as IDPs, demobilized soldiers, women, youth, and other vulnerable groups. Each of the presentations was followed by a plenary discussion. Key points and statements arising in these discussions are presented in the results.

3.2 EXERCISES

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

Exercise 1 – Land Policy Issues of Concern to Participants (1 hour): 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 these issues among themselves as part of this process.

Exercise 2 – The Jurisdiction of Traditional Authority and Government (3.25 hours): 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 – Opinions on Policy Options for Land Administration and Dispute Resolution (3 hours): Participants broke into five mixed groups. Each group reviewed nine proposed options regarding a hypothetical institutional framework for land administration planning, and management based upon the Comprehensive Peace Agreement (CPA). Participants discussed the various options and noted their preferences on a flip chart under headings presented in a tabular form. Each group then shared the results of their discussion in plenary, followed by questions and discussion.

Exercise 4 – Critical Vulnerable Groups for the Land Policy (2.7 hours): Participants were asked to identify groups or populations of people whose access or use of land is particularly challenged, vulnerable to loss or displacement, or who may not have rights equal to that of other groups. Examples were provided such as women, IDPs, orphaned youth, handicapped, and pastoralists. Participants then identified: 1) Women, 2) IDPs/Returnees/Refugees, 3) Demobilized soldiers, 4) Widows, 5) Orphans, 6) Handicapped and Disabled, 7) Pastoralists, 8) Street children, 9) Families of heroes or fallen soldiers, and 10) Old and poor. Using the small groups formed for Exercise 3, each group discussed the land issues and challenges faced by two of the identified vulnerable groups. After identifying 5 to 10 most pressing challenges, problems, or issues faced by people of a vulnerable group in accessing, using, or defending rights to land, each group ranked them according to most important or greatest priority. Each group then shared their results in a plenary, followed by questions and answers.



Participants in a Group work on Exercise 5 – land allocation for commercial investments.

Exercise 5 – Land Allocation for Commercial Investment (2.3 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 RESULTS OF THE CONSULTATION

The following results are derived from both participants' input during group exercises as well as comments and questions in plenary, following the presentations. 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.

These results represent the comments, views, and issues expressed by workshop participants. Detailed comments and input from participants have been transcribed and are provided in the appendices. Whenever possible, results are presented verbatim in order to present as accurately as possible the views expressed by participants. As needed, participant input has been edited and reworded in order to make grammatical sense to the reader or make a point more clear; however, the intent has been to retain as closely as possible the original voice and content of the participants.

4.1 EXERCISE I – LAND POLICY ISSUES OF CONCERN TO PARTICIPANTS

Detailed results are presented in Appendix 3.

Land Policy and Law:

1. Land should be owned by the community;
2. Land laws should be respected;
3. Land demarcation policies should be made clear;
4. GOSS should come up with land laws as soon as possible to protect people's land rights;
5. Land policy and law should be handled by a committee that include the technical expert of town planning in the state;
6. Land policy and law are essential but not yet developed;
7. There should be law that helps persons to develop their country;
8. The government should provide land for every citizen through legal laws;
9. There should be clear policy and law regarding participatory planning in government and community;
10. Recommend a land policy and law that addresses issues of border security;
11. The land commission should be represented in the state and counties;
12. Government should come out with clear policies on land rights;
13. Government should take ownership of land so that strict laws are put in place for Southern Sudan;
14. There is no clear land law on management of land disputes in Southern Sudan;
15. Government should provide land laws that cater to the young and future generation;

16. Government should have the right to set land laws;
17. Land laws should be enforced at the lower levels of government—at counties, *payams*, and *bomas*;
18. Land law should address border issues;
19. Land policy should guide legislation of law and decrees;
20. Land law should be established by government; and
21. Land law should define rules that clarify how government and the people relate on land issues.

Land Rights:

1. The right to own land should not be recognized on a tribal basis;
2. Each and every citizen has a right to land ownership;
3. Southern Sudanese should enjoy their land ownership rights even in the absence of land law;
4. As an informal land owner, a person should have the right to develop land, sell it for investment, and exchange it;
5. Land rights should be given for 30 years;
6. Land rights should enable holders to freely make use of it in a way they desire;
7. Extending land rights should consider borders between counties, *payams*, and *bomas*;
8. Land rights are needed in order to manage resources for long-term benefits and reduce land-related conflicts;
9. Distribution of land should be fair and equal;
10. All people in the state and counties should be able to have land rights;
11. Land rights have to be equitably administered for better development of Southern Sudan;
12. Civil Societies should have land rights that allow them to enjoy freedom of use and ownership while living within the country;
13. Individual persons should have the right to stay on land which belongs to her/him; and
14. God gave people land rights and they should be respected.

Access to Land:

1. Access to land should not only be for men, but also for women to bring the society together;
2. Access to land should be strictly regulated;
3. Land is only accessible to certain groups of people like politicians, senior officials, etc;
4. Access to land from locally responsible people/customary land owners or landlords should be secured by the government;
5. Access to land should be approved by concerned institutions and legal documents processed;
6. Access to land should be through simple and short procedures for all people including vulnerable groups;
7. New people who want to access land should be given citizen identification cards for identification and recognition;
8. Land distribution should be done according to the CPA provisions;

9. Land should be given to any Sudanese citizen where he or she chooses to stay without any discrimination; and
10. Access to land should be under both government and civil societies based on the CPA.

Urban Land Management:

1. Provision of essential services should be made a priority, in case of urban expansion and before distribution of land;
2. Government should ensure houses are built according to urban requirements;
3. The local government, community, and church leaders should be responsible for urban land management;
4. Property rights should be considered in urban planning and management;
5. Urban land management should include formation of town planning committees, consultation of local communities in case of encroachments into rural areas, and formation of committees for land distribution;
6. Urban land management should not be mismanaged by allotments through brotherhood;
7. Urban land management should be participatory to include the state, county authorities, and community leaders. The consultative process will bring about common understanding allowing for urban expansion;
8. Urban land should be managed by the state government, county, *payams*, and *bomas*;
9. The government should manage urban land through recommendations from the urban land planning board;
10. There is no clear urban land management and planning;
11. Urban land management needs planning because there are problems in the towns;
12. Urban land is owned by the government;
13. Urban experts should be given full rights to execute town development plans without interference from politicians. This should be guided by the land policy;
14. Urban land should be managed by the local governments; and
15. The town planning board and land administration should carry out their activities in consultation with community leaders.

Land Markets:

1. Laws governing sale of land to investment companies should be put in place;
2. Women should have the right to access land for business purposes;
3. Local people in rural areas should not be allowed to sell their land without consulting their community leaders/chiefs; and
4. The government should set equal prices for public or private land.

Land Administration:

1. Land administration should be shared between the government and community leaders/chiefs, especially in rural areas;

2. Land administrators should treat people equally;
3. The government should open land commission offices in the states;
4. Land administration should be strengthened for efficient land distribution;
5. Communities should be involved in land registration;
6. Land administration should be reformed by the land policy and Land Act;
7. Recruitment and training of land officials at all levels in the government is necessary;
8. Elders from both counties sharing a boundary should sit down to discuss issues of land administration;
9. Land administration can be run by the government in consultation with local communities;
10. The community should hand over land distribution to the government to take care of local citizen's rights;
11. Land administration should be under the government, which has power of control over people;
12. Land administration should be transparent enough for easy retrieval of pieces of information on various aspects of land;
13. In Malakal, one person can have up to 7 plots while others have none. This is a wrong practice; and
14. Land administration (in towns) like Malakal should be streamlined. For example, if a person is allotted a piece of land, s/he may not find it on ground.

Dispute Resolution:

1. The government and community leaders should demarcate the boundaries all over south Sudan according to those of 1.1.1956;
2. The government should hold a conference for public and community leaders to design a mechanism for resolving land disputes; and
3. A chief should be given the right to (participate) in land dispute resolution because he knows the land boundaries for each clan.
4. The government should help community elders who own a specific land and use their opinions/experience to resolve land disputes;
5. Avoid occupying somebody's land;
6. Government should form a committee, which includes observers and community-based leaders to establish land boundaries;
7. Clear demarcation of county boundaries should be made in accordance to CPA provisions;
8. Traditional leaders should set regulations on grazing land and water points to minimize disputes between youths during their seasonal movements with livestock;
9. Find the root cause of land disputes;
10. Land dispute resolution should involve community and government leaders in case of state or county boundaries;

11. Mark (demarcate) borders between counties or tribes;
12. The land management should be left to the chiefs to resolve land-related disputes;
13. The government should intervene to solve land disputes in states and counties;
14. Some people find it difficult to establish land prices. The government is supposed to establish prices for land in consultation with the community;
15. Use land as collateral or impose legal conditionality;
16. Identify land boundaries between counties to end tribal conflicts;
17. Compensation for land confiscated by the government through an agreement;
18. Land disputes resolution should address the problems of multiple allocation of plots;
19. Land disputes should be solved at the levels of central government, state, county, *payam*, and *boma*;
20. The GOSS should enact laws related to land ownership to establish those who really own the land;
21. Land disputes in Malakal (UNS) arise from lack of law enforcement to deal with land issues;
22. The government should establish security by marking the land boundaries through traditional leaders; and
23. Land distribution should be done through traditional chiefs.

Women and the Youth:

Women

1. Women should be given equal opportunity with men in the ownership of land. Their land rights appear to be denied in this regard;
2. Land administrators should give women the rights of owning and using land;
3. Women and vulnerable groups should be considered in the composition of land committees;
4. Laws that ensure women's ownership of land should be clearly elaborated;

Summary Results of Exercise I

- Government should develop land policy and law to clarify land access and rights to land for all its citizens;
- Policy and law should address boundary issues and clarify mechanisms for land dispute resolution;
- Policy and law should clarify roles and mandates of the various levels of government, traditional leadership, and community in land administration and management;
- Policy and law should reform land administration framework with a view to ensuring transparency, equity, efficiency, and effectiveness;
- Land laws should clarify land ownership while observing the principle of equity for all;
- Informal or customary land rights should be recognized and expanded to include alienation rights;
- Rights of land use should be made more secure, especially for women and other vulnerable groups;
- Access to land should be regulated and based on the principle of equality between women and men, non-discrimination based on tribes or clans and equity for all citizens;
- Procedures for accessing land should be established that are simple, transparent, and recognize the role of community leaders;
- The CPA provisions should be respected when establishing procedures for accessing land;
- Urban land management must provide for essential services as a priority and ensure building standards are adhered to;
- Property rights should be respected in urban planning and development;
- Urban expansion through compulsory acquisition of community land must be consultative;
- Transparency, efficiency, and equity should be observed in land administration and urban land management;
- Government should work with communities in land adjudication and demarcations to mitigate land disputes;
- Dispute resolution should be community-based;
- The CPA and 1956 border demarcations should guide establishment of the current administrative boundaries;
- Establish boundaries of community/clan land to mitigate land conflicts;
- GOSS should establish laws clarifying land ownership and allow chiefs the powers of land allocation/distribution;
- Women should be given equal opportunity with men in the ownership and dispositions to land and this principle be covered under the land law;
- Youth should have the right to inherit and own land and be involved in institutions making decisions on land;
- Authorities should give particular consideration to vulnerable groups and ease their access and ownership of land. These include IDPs, demobilized soldiers, handicapped, widows, etc.;
- Government should provide financial start-up support to the most vulnerable groups to access land; and
- A regulatory framework should be developed to guide evolution of land markets and rural land should not be sold.

5. Government should allow land access to women regardless of their whereabouts;
6. Women should have the right to land and property ownership;
7. Women should have the right to land through consultation with their husbands;
8. Women's land rights and access to land should be equalized with those of men; for example, inheritance of land and sale of family land in consultation with the husband;
9. Women and men (husband and wife) should share ideas (about land) because they are the only two partners;
10. Women should have the right to get land;
11. There should be equitable access to land for women and vulnerable groups; and
12. Women have the right to own land.

Youth

1. Youth should be considered to get pieces of land;
2. Youth have the right to inherit land from their fathers;
3. Land authorities should consider leaving open spaces for youth to do various activities when planning for housing in any area;
4. The youth should be given land;
5. The youth have a problem of accessing land, especially after their fathers die when they are still young;
6. Youth should be reorganized through associations to engage them in sports and vocational training activities;
7. Youth should have the right to own land. We recommend putting forth laws to land access for this important group;
8. Returnee youths from the diasporas should have the right to claim their father's land;
9. Youths should have the right to participate in land policy formulation to know their land boundaries with other countries or other regions;
10. Concerned authorities should consider the rights of youth, both male and female, in owning land when they reach 18 years of age and provide them land for agriculture to boost the economy;
11. Youth should be given a chance to take part in making land legislations; and
12. Land authorities should give priority to youth and women regarding land ownership rights.

Other Vulnerable Groups:

1. Authorities should give particular consideration to vulnerable groups and ease their access to land and ownership of it;
2. IDPs should be given the right to land and build on it like other land owners;
3. There should be no ignorance about vulnerable people's land rights;
4. The government should consider the rights of ex-combatants to have access to land ownership;
5. Considerations for access to land by vulnerable people should be by government;
6. Vulnerable groups should have opportunity to access land;

7. Vulnerable groups have the right to get start-up support and run businesses, which helps them to establish and resettle; and
8. There is a need to have a law that gives IDPs and returnees the right to own land because they face difficulties for settlement.

Prior to Exercise 1, a presentation was made on why Southern Sudan requires a land policy. The presentation began by asking the participants their views on the topic and had the following responses:

- To clarify the land boundaries and control people who trespass on others' land;
- To clarify land rights for all its citizens; and
- To harmonize relations between the government and local communities about land.

In UNS, the government authorities continue to implement various land legislations, which came into force between 1925 to 1994. Most of these land legislations have been outlawed by the Land Act of 2009 but, given that the act still requires additional regulations for it to be implementable, the state is still going by the 1994 law.

The post-conflict changes resulting from the signing of the CPA (2005) attracted IDPs and returnees back to Southern Sudan. These populations are faced by enormous problems related to reclaiming their land and property occupied by second owners. The properties include houses, plots, and community social centers in each local area.

4.2 EXERCISE 2 – THE JURISDICTION OF TRADITIONAL AUTHORITY AND GOVERNMENT

Participants discussed and debated a number of rights identified by the consultation team and identified a number of additional rights. Participants also discussed the importance of these rights and the different functions and roles for the administration and allocation of these rights. Detailed responses are presented in Appendix 4.

Most Important Five Land Rights Listed in Order of Priorities:

- Right to own land (5 out of 5)
- Right to utilize land (rent, use, invest, etc.) (4 out of 5)
- Right to compensation (4 out of 5)
- Right for an individual to protect his/her land (right of exclusion) (4 out of 5)
- Right to transfer land (3 out of 5)
- Right to inherit land (3 out of 5)

Other Land Rights Proposed:

- Right to exchange or sell land (2 out of 5)
- Government to protect the rights of land holders (2 out of 5)
- Right to registration and titling with lease renewal (2 out of 5)
- Right to mortgage land (1 out of 5)
- Right to subdivide land (1 out of 5)
- Right to transfer to children (1 out of 5)
- Right to occupy land through lawful means (1 out of 5)

- Right to develop land through agricultural schemes and gardens (1 out of 5)
- Right to sell land for public and domestic purposes, e.g., 20 fedans to build a school or a hospital (1 out of 5)
- Right to environmental protection (1 out of 5)
- Right for women to access land (1 out of 5)

In summary, the participants recommended the rights of ownership, utilization, compensation, exclusion, transfer, and inheritance of land.

Responsible Entity for Administering Laws and Contracts:

Right	Responsible Entity
Ownership, control, and access to title certificates	State government for urban areas (3 out of 5) Chiefs for rural areas (3 out of 5) State government, county, and community leaders (1 out of 5)
Transfer the land (sale or exchange)	Wife and husband (1 out of 5) State government for urban areas (2 out of 5) Chiefs for rural land (2 out of 5) State /county governments (2 out of 5)
Investment protection	Chiefs for rural areas (1 out of 5) State government for urban areas (1 out of 5)
Fair and prompt compensation	State government for urban areas (2 out of 5) Chiefs for rural land (2 out of 5) Law courts (2 out of 5)
Environmental protection	Chiefs and for rural land (1 out of 5) State government for urban areas (1 out of 5)
Right of women to access land	Chiefs for rural areas (1 out of 5) State government for urban areas (1 out of 5)
Right to security and protection	Chiefs for rural areas (2 out of 5) State government for urban areas (2 out of 5) Government and community leaders (1 out of 5)
Provision of land leases for safe ownership	State town planning board (1 out of 5) County land committee (1 out of 5)
Right to land registration and titling	State land authority (Ministry of physical infrastructure) (1 out of 5)
Right to own land according to traditional norms	Traditional authorities (1 out of 5)
The right to occupy land by lawful means	Competent courts (1 out of 5) Customary courts (1 out of 5)
Right to utilize land (rent, use, invest, etc.)	State government and county administration for urban areas (1 out of 5) The owner of the land (1 out of 5) Community and its leaders (1 out of 5) Traditional authority for rural land (1 out of 5) State/county governments (1 out of 5) State government for urban areas (1 out of 5)
Right to transfer the land to children or right to inheritance	The father (1 out of 5) State/county governments (2 out of 5) Traditional authority (1 out of 5)
Right to exclude others	Community leaders and government (1 out of 5)
Right to mortgage	State/county governments (1 out of 5)
Right to subdivide land	State/county governments (1 out of 5)

Jurisdictional Boundaries – At what levels should rights be administered and exercised?

When the participant groups were asked, who should exercise or enjoy the rights to land, answers varied from group to group. Group 1 was only able to identify individuals for urban land and families for rural land in respect to ownership and utilization rights. The answers given for all the other rights reflected those who administer the rights and not those that are supposed to enjoy them. Group 2 and 5 on the other hand identified five and four rights, respectively, and all were properly addressed, splitting the answers into the rights to be enjoyed by communities, clans, household, and individuals. Group 3 found it most difficult to understand the question and their answers were like those of Group 1. They were only able to provide proper answers in respect to the rights to compensation, inheritance, and use of land. Group 4 was of the opinion that all rights identified should be exercised by individuals. They urged that individual households in Upper Nile State know their land boundaries—whether urban or rural—and should therefore be the ones to enjoy all the rights.

With respect to the policy options government should adopt for the administration of rights (land regime), all groups, except Group 5, recommended leasehold for urban areas and freehold for rural areas. Group 5 recommended leasehold and delayed freehold for urban and rural areas. Delayed freehold—a regime that requires those holding it to first fulfill development conditions—is difficult to implement in rural areas, although it works well in urban areas.

Participants discussed the impact of urban expansion into rural/community lands and emphasized the principle of just compensation to the affected community or households: negotiating with communities and compensating them whenever government acquires their land. It was implied that mechanisms are still needed to allow for the incorporation of a due process, consultation, and fair compensation by government when acquiring land in public interest.

The plenary on presentations of the different groups' work on this exercise was of the opinion that communal land which is used for communal grazing continues to be administered by chiefs under the supervision of community members. A chief who mismanages communal land would be dismissed from his portfolio by the community. The other issue that had participants' consensus is that transfer rights (sale, gift, mortgage, exchange, etc.) must be exercised by wife and husband jointly. It was also stressed that, in the short term, some transfer rights, such as mortgage, are not possible in rural areas.

Exercise 2 was preceded by presentations on land rights and land tenure systems. During the presentations, the following views were expressed by participants.

Women's views about land rights for women	Men's views about land rights for women
<ul style="list-style-type: none"> Women do have the right to inherit, transfer, or sell land 	<ul style="list-style-type: none"> Men have exclusive rights to sell land and inherit it
<ul style="list-style-type: none"> Husbands do not consult their wives on matters pertaining to land 	<ul style="list-style-type: none"> Women have rights to land owned by their husbands
<ul style="list-style-type: none"> Women are not allowed to know the number of plots or size of land owned by their husbands 	<ul style="list-style-type: none"> In urban areas, women have the right to build and use property on the land they own
<ul style="list-style-type: none"> Women are clearly denied the right to own land 	<ul style="list-style-type: none"> They have a right to renew their land leases in urban areas
<ul style="list-style-type: none"> In Melut (oil-rich county), women's opinions are ignored by the investors and yet they are most affected by environmental concerns 	<ul style="list-style-type: none"> Land rights are complicated by politicians trying to ignore cultural norms and advancing gender equity
<ul style="list-style-type: none"> The Southern Sudan Land Commission should step up the development of laws and recommend gender-responsive land rights 	<ul style="list-style-type: none"> Insecurity marginalizes women's access to land rights

The crises over land rights in UNS are often incited by town-based politicians, and yet the resulting conflicts impact on the rural inhabitants. Four opinions emerged from participants' expressions on how politicians complicate land rights:

- They suggest that people such as IDPs, war veterans, and demobilized soldiers deserve land rights everywhere in Southern Sudan because they fought for it;
- The Interim Constitution of Southern Sudan (ICSS, 2005) and the CPA (2005) give any Southern Sudanese the right to settle anywhere, and guarantee their land rights;
- Local communities are confused by the continued emphases by government officials that land belongs to the community, and yet community lands are being acquired, demolished, and occupied illegally for commercial and government interests; and
- Politicians frequently mention tribal differences and identity to define land rights and ownership. This has undermined peace for people's multicultural co-existence.

Participants suggested that traditional chiefs should be mandated to define local boundaries based on their local administrations. Local communities attach land ownership rights to ancestral limits to access, use, manage, and protect land within their 'blood' relations.

Urban expansion over to rural areas cannot be limited by customary land tenure systems, unless it is done forcefully. This is evidenced by the growth of current towns in the state as a result of land offered from communities.

Implications and Caveats of Results:

Generally the exercise was better understood than in the previous workshops. The biggest challenge was when the groups were asked who exercises the rights identified. For instance, answers to the question of the appropriate level at which rights should be exercised for Groups 1 and 3 suggested that participants were confusing the administration of rights by government with the exercise of those rights by citizens. The two groups confused the concepts of tenure administration with the exercise of rights. The other groups had well-focused answers to this.

The general consensus is that the rights for urban areas should be administered by state and county government while, in rural areas, chiefs and community leaders were preferred by all the groups.

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

These results summarize participants' responses to a number of the policy options related to land administration prepared and presented by the SPRP Senior Land Advisor. The intent is to solicit participant views regarding the appropriate roles and functions of different levels of government and traditional authority related to compulsory acquisition of land in public interest, land administration, and conflict resolution. The full description of the policy options is presented in Appendix 5.

Exercise 3 Participant Responses to Policy Options				
No.	Option	Agreed	Disagreed	No. of responses
1	Compulsory Land Acquisition	97%	3%	65
2	Decentralized Land Administration	98.5%	1.5%	65
3	Creation of an Autonomous Land Administrative and Management Authority	100%	0%	68
4	Establishment of a Semi-Autonomous GOSS Land Administration and Management Board	91.2%	8.8%	68
5	Establishment of a State Land Board	100%	0%	68
6	Establishment of a Autonomous State Land Authority	83%	17%	70
7	Establishment of a County Land Authorities	100%	0%	70
8	Establishment of a County Land Office Under the County Land Authority	100%	0%	70
9	Establishment of a GOSS Land Dispute Resolution System	100%	0%	70

Policy Option No. 1: Compulsory Land Acquisition

Reactions were strongly positive. Out of 65 participants, 63 (97%) mostly agreed and 2 (3%) mostly disagreed with the notion of *compulsory takings* and unqualified *acquisition*. Group 1 (with 12 participants) felt that the statement should capture the need to consult affected communities before acquiring the land. Although Group 5 totally agreed with the statement, they recommend that the *power of compulsory acquisition* should be accompanied by fair and appropriate compensation. This argument by Group 5 is the first time it has come out in this exercise since the consultations started and is an important one.

Policy Option No. 2: Decentralized Land Administration

Reactions to the policy were strongly positive and in support of nationwide coverage from national to local levels. Out of 65 participants, 64 (98.5%) mostly agreed. One participant from Group 3 insisted that land administration should remain centralized to avoid disputes over land. Her argument was based on the fact that decentralization without sufficient human and institutional capacity is likely to aggravate corruption and inefficiency which is then likely to increase conflicts on land. Participants would like to have a proper land administration system in place. This idea of a strong and streamlined land administration institutional framework was stressed in Exercise 1.

Policy Option No. 3: Creation of an Autonomous Land Administration and Management Authority

Reactions were strongly positive. All the participants who responded mostly agreed 68 (100%), and there were no proposed amendments to the policy option.

Policy Option No. 4: Establishment of a Semi-Autonomous GOSS Land Administration and Management Board under the Ministry of Housing, Physical Planning, and the Environment (MHPPE)

Reactions were mostly positive in terms of establishing the board. Out of 68 participants, 62 (91.2%) mostly agreed, with 6 (8.8%) disagreeing with the option. Those who disagreed (2 participants from Group 4) wanted to have an autonomous board instead of semi-autonomous, and 4 participants from Group 5 were of the view that this board is not necessary given that the functions it would perform are already being done by the Ministry of Physical Infrastructure. The same people recommended that if the board has to be established, the membership should come exclusively from the same ministry.

Policy Option No. 5: Establishment of Autonomous State Land Boards

All the participants were strongly supportive—other than Group 5 suggesting changes in the board composition. All 68 participants (100%) strongly agreed. Group 5 recommended that the state land board should include representatives of traditional authorities/chiefs in addition to staff drawn from the state line ministries. The participants in plenary agreed to a small representation of traditional authorities on the board.

Policy Option No. 6: Establishment of a State Land Authority under the State Land Board

Most of the 70 participants—58 (83%)—mostly agreed, indicating a consensus toward policy that is decentralized and includes local government and traditional authority in decision making. However, two participants from Group 4 were of the opinion that appointment of the staff should be approved by the Council of Ministers to give them more authority. Most of the participants in Group 5 (62.5% of the group) disagreed with the appointment of the Land Authority, arguing that its functions are being performed by the state land board. This position reflects on lack of understanding in respect to the current role of the state land boards.

Policy Option No. 7: Establishment of County Land Authorities (CLA)

All (100%) participants responding mostly agreed with this statement indicating a consensus towards a decentralized local government and traditional authority.

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

This response is the same as that provided for Policy Option No. 7; 100% of participants responding mostly agreed indicating the need to establish a decentralized institutional system with checks and balances.

Policy Option No. 9: Establishment of Transparent, Decentralized Dispute Resolution System Informed by Customary Norms

The response was unanimous in favor of this policy. Group 5 stressed the need to specify the membership of the institutions to be established for dispute resolution.

Land administration institutions in UNS are operating with very basic technology. Housed under the State Ministry of Physical Infrastructure (MPI), the departments for land include Survey, Town Planning, and Land Administration. Attached to the MPI is a Committee for Town Planning Board. Each county is supposed to have a land registry office but, to date, only two of the 12 counties have land registry offices—Malakal and Renk Counties.

The following summarizes the views expressed in the plenary:

- No new state land laws have been developed.
- The Ministry of PI has three departments dealing with land administration—Town Planning, Surveys, and Land Administration.
- There is a town planning board in Malakal.
- Five county Headquarters have been surveyed and each of these has a land office that implements state land policies.
- There is only one land registrar covering the state and it operates under the judiciary of SS.
- Each designated area has a ledger book, and these constitute the land register.

- The registrar receives a cadastral map and a letter from the Land Administration Department qualifying ownership.
- Surveys are either by chain survey or those conducted using a theodolite.
- Adjudication of land rights are not witnessed by communities.
- The Land Act of 2009 is not yet followed and, instead, the Land Laws of 1925 and 1994 are guiding land administration practices.
- Dispute resolutions are through administrative procedures and, when they fail, court of law are resorted to.

When asked as to whether urban land is to be governed by statutory or customary land laws or both, participants suggested that the current system should remain until the state attains capacity to cope with modern systems. The participants observed that, although the current state government is under-resourced, it is already prepared to adopt the Local Government Act for Southern Sudan (2009) which provides for creation of city, municipal, and town councils.

Implications and Caveats of Results:

Even after explaining the principle of compulsory acquisition and the requirement of due process incumbent upon government, participants continued to insist that government should not have the right to take any land without consulting the affected communities. They want to see the communities exercising the right to reject the acquisition and offer an alternative. This argument has come up in all seven workshops so far and reflects the feelings of the people on how government has been acquiring land from them. In the case of land registration, participants were generally supportive of the idea that the states register land, but only with community representation and consultation. The management and resolution of land-related conflicts should be community-based, with traditional leaders taking a more active role. Policy Option 9 is to ensure that decisions that are already being taken in dispute resolution are, in the future, regularized by capturing the system under a dispute resolution law.

The consensus is that land should be administered under a statutory land tenure system that recognizes the existing customary tenure system with the support of state and local governments overseeing implementation. However, any level of government taking land in public interest must provide fair and prompt compensation to the community or the communities being dispossessed. The establishment of land administration systems is considered a crucial and urgent issue for Upper Nile State. The institutional framework must involve all layers of government and traditional authority down to the community level, including women and youth.

4.4 EXERCISE 4 – MOST VULNERABLE GROUPS AND PRIORITY ISSUES FACED BY EACH

The following summarizes participants' views regarding problems and challenges for a number of identified vulnerable groups in terms of accessing land and tenure security.

I a) Widows

Challenges

- Lack of residential plot;
- Lack of income;
- No responsible caretaker; and
- They are unable to support their children's education.

Solutions

- A widow without a residential plot, responsible caretaker, and source of income should be given a plot of land free of charge.

I b) Pastoralists versus Pasture and Water Point Issues

Challenges

- Lack of water and pasture in their respective areas for nine (9) months;
- Community land owners prevent pastoralists to access pasture and water points; and
- Extension of agricultural activities, especially large schemes, reduces grazing land.

Solutions

- Open routes for seasonal movement to grazing land and water points;
- The local government should help pastoralists to improve pastures within their localities to prevent seasonal movements; and
- Provide land for permanent settlement of pastoralists in their respective areas.

2 a) Women

Challenges

- No freedom to own land;
- No right to inherit land;
- No land right to sell, transfer by gift, or mortgage, etc.; and
- No right to participate in decision making related to land use.

Solutions

Women should have the right to:

- Own land;
- Inherit land;
- Sell land, transfer by gift or mortgage etc; and
- Participate in decision making.

2 b) Families of Heroes, Heroines, and Martyrs

Challenges

- No access to land; and
- Have limited finances to afford land.

Solutions

Families of heroes, heroines, and martyrs should:

- Be given special considerations to access land;
- Be helped to access financial support to buy land; and
- Be provided land free of charge by the government so they can generate income for their children's schools.

3 a) IDPs, Returnees and Refugees

Challenges

They have difficulty with:

- Accessing land in urban areas;
- Accessing agricultural land; and
- Accessing individual land.

Solutions

- The government should provide land and pay the required installments;
- The government should give them agricultural land; and
- The government should provide financial support to IDPs, refugees, and returnees for investment.

3 b) Demobilized Soldiers

Challenges

Demobilized soldiers have difficulty with:

- Having the right to acquire land;
- Investing in land; and
- Having agricultural land.

Solutions

The government should:

- Give land for demobilized soldiers; and
- Pay their installments for land fees.

4 a)The Handicapped and the Disabled

Challenges

- They fail to obtain land because they lack financial resources to pay land fees or purchase land;
- Ignorance of the land offices to receive applications from the handicapped and disabled; AND
- No means of transport to reach land authorities in their offices.

Solutions

- The government (state) Ministry of Social Affairs should pay land fees for the handicapped and the disabled, or issue directives to the land authorities to issue them land free of charge.
- The Department of Lands should create a section to take care of the handicapped and the disabled. The State Ministry of Social Welfare should be enlightening on the social economic problems with which the handicapped and the disabled are faced; and
- The government should provide tricycles/bicycles for the disabled to facilitate their transport to and from land offices.

4 b) The Elderly and the Poor

Challenges

- They lack land for accommodation, medical care, and financial support; and
- Their relatives ignore their problems (related to land).

Solutions

- The State Ministry of Social Welfare should take full responsibility; and
- The state government should (avail land to) build a center for accommodation and feeding.

5 a) Orphans

Challenges

- No access to land;
- No right to rent land; and
- Lack of land for orphanage schools.

Solutions

- The government should provide land to orphans free of charge;
- The government should rent houses for orphans; and
- The government should build orphanage schools.

5 b) Street Children

Challenges

- No access to land for housing.

Solutions

- Government should build reformatory schools for street children.

Implications and caveats of results: In this workshop, this exercise was altered to focus on issues of access to land by vulnerable groups that the participants identified in their societies/communities. While they were very quick to identify these groups of people considered to be constrained in accessing and retaining rights to land, they were unable to come up with strong recommendations on how to address their constraints. It was nevertheless an opportunity to access to what extent these particular groups have been denied their rights to access, own, and securely utilize land and other related natural resources.

4.5 EXERCISE 5 – LAND ALLOCATION TO DOMESTIC AND FOREIGN INVESTORS

This exercise attempts to capture the participants' perception and to deal with the issue of accessing land for investors. The government, both at the GOSS and state level, is attempting to promote private investments with an aim to stimulate economic growth. Key comments are listed below in order of importance as measured by the number of groups that indicated the benefits and challenges. Detailed responses are presented in Appendix 7.

Investment Benefits:

- Provides job opportunities/employment to local people;
- Opportunity to reduce market prices;
- Provides development opportunities (infrastructure, schools, hospitals, communication);
- Offers capacity-building opportunities (technical skills);
- Contributes to state incomes/revenue and boosts local economy;
- Provides a new range of products/goods to the local community;
- Provides an opportunity to raise local living standards;
- Provides opportunities for new services such as water and electricity;
- Builds harmony between counties;
- Increases population in the investment area;
- Strengthens internal and external relations;
- Promotes new agricultural schemes;
- Introduces new airports and hotels; and
- Introduces new recreation centers.

Investment Challenges:

1. May cause displacement of local communities;
2. May cause destruction or degradation of the environment;
3. Disregards contractual obligations in the lease contract;
4. May negatively impact on cultural or traditional norms and practices;

5. Introduces new transmittable disease (HIV/AIDS);
6. May cause a rise in crimes like stealing, child labor, raping;
7. May cause insecurity;
8. Lack of cooperation with the community; and
9. Lack of cooperation with government.

Implications and Caveats of Results:

Many communities in Southern Sudan have a negative impression of investors from past experience as people who collude with the government and take away their land without due consideration of any form of compensation for the affected communities. Their communities do not have a say in the negotiations and management of contracts between the land and the investors.

Despite these problems, the results reveal a strong desire for investments and the will to extend land to investors. Participants understood the importance of investments in terms of supporting socio-economic advances to the beneficiary communities through improved agricultural practices; employment; and access to social services, 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 environmental degradation, community displacement, abuse of cultural norms, spread of incurable diseases, and lack of cooperation with the community or government.

This is the first workshop where issues such as investors stealing, raping, and using child labor came up as potential risks of gaining investors.

5.0 LESSONS LEARNED AND EMERGING ISSUES

Participants were enthusiastic and vocal in their participation. Although representation of women was still low, those that came were more active or participatory than in the previous workshops. It was difficult to keep time and it was inappropriate to cut many of the individual speakers short, due to protocol. As a result, time for questions and discussions on Exercise 5 was shortened, suggesting the need to get participants to start on sessions earlier than the usual 9:00 am time.

Based on previous workshops, time was added in plenary within the presentations, to allow participants the opportunity to discuss, debate, and ask questions. This revised approach allowed the team to elicit more detailed information and views on land policy and issues. The results of these debates have been included under each of the sessions as plenary results.

Women's representation in state consultations remains low. Despite introductory visits with the Women's Association and Women's Union in Malakal, only 18 women attended. The few women who attended articulated the need to have women property and land rights elevated to those of their male counterparts. Even where men tried to suppress this opinion, they strongly argued and defended their position, occasionally getting a lot of clapping from the audience. The SPRP intends to convene a workshop on Women's Access to Land in Juba following the completion of state consultations, to ensure the opportunity for women to attend and discuss their concerns and issues and ensure they are reflected in the eventual land policy.

Some of the participants were not able to follow the Arabic translations. For these individuals, fellow Nuer Jikany translated the discussions for them. Efforts will be made to organize sitting arrangements for participants to enhance translations from their peers and improve on their responses to the plenary discussions.

Most of the participants were cautious when speaking out on issues of livestock-grazing activities and related land conflicts. They were vocal, however, on suggesting a way forward amidst mixed feelings. The state is in a fresh mood of land conflicts but, given a chance of security and reconciliation, people appear to be willing to negotiate a peaceful settlement for land use strategies. The general impression was that pastoralists causing problems in UNS are from neighboring Jongolei state and nomads from the north.

As in previous workshops, some of the expressed views and beliefs of participants contradict principles embodied in the CPA, the interim constitution of Southern Sudan, or other nascent GOSS policies and laws. 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. Given the complexities, government officials may require further technical assistance in drafting and debating the land policy in order to strike a balance among these and other competing policy principles, objectives, and stakeholder needs.

6.0 CONCLUSION

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

Some of the key findings at the workshop include:

- Government should develop a land policy and law that clarify land access and rights to land for all its citizens. The policy and law should clarify roles and mandates of the various levels of government, traditional authority, and community in land administration and management;
- Policy and law should reform the land administration framework with a view to ensuring transparency, equity, efficiency, and effectiveness;
- Rights of land use should be made more secure, especially for women and other vulnerable groups. Major land rights identified in the workshop are those of ownership, utilization, fair and prompt compensation, exclusion, transfer, and inheritance;
- Urban land under a leasehold regime should be under the administration and management of state or county governments, while rural land under a freehold regime remains under traditional authorities. Grazing or communal land should remain under the jurisdiction of traditional authorities or chiefs;
- There is a need to establish a strong, decentralized, and streamlined institutional framework for land administration and management that clearly defines the mandate and role of traditional authorities;
- Compulsory acquisition of community land in public interest should be preceded by consultations with affected community and be accompanied by fair and prompt compensation;
- Majority of the participants would like men and women to have equal access and rights to land, while others are of the opinion that current cultural practices in respect to property and land inheritance be maintained; and
- Communities are willing to offer land to investors on a lease basis but would like to participate in negotiations on the terms of the investment contract and monitor compliance.

Participants voiced a number of key issues and concerns to those expressed in previous workshops which indicate strong contradictions between widely held public views and mandates of the Interim Constitution of Southern Sudan, including:

- The extent and pace to which women's rights to land are expanded under customary rules. In this workshop, there were apparent contradictions on women's land rights in Exercise 4 and the plenary discussions; and
- Whether IDPs and demobilized soldiers should be forced to return to their areas of origin or ancestral lands once peace has returned.

APPENDIX I: MALAKAL CONSULTATIVE WORKSHOP AGENDA



Government of Southern Sudan
Southern Sudan Land Commission

Land Policy State Consultation

Date: 24-26, November 2009

Venue: River Transport Hall

Malakal, Upper Nile State

DAY ONE

Time/day	Activity	Person responsible
09:00-09:30 am	Arrivals and Registration	ARD-SPRP/LPSC, Guests and Participants
09:30-10:20 am	Welcome Remarks and Workshop Objectives	ARD-SPRP and LPSC
10:20-11:00 am	Official Opening	Acting State Governor
11:00-11:30 am	Tea/Coffee Break	
11:30-12:00 noon	Session one: Why a land policy for South Sudan	ARD-SPRP
12:00 -12:30 pm	Session two: Land rights	ARD-SPRP
12:30-01:00 pm	Comments, questions and answers	Participants
01:00-02:00 pm	Lunch	
02:00 -03:00 pm	Exercise (1), policy issues posted on cards per topic	Participants and Facilitators
03:00-03:30 pm	Session three: Land tenure systems	ARD-SPRP

03:30-05:30 pm	Exercise (2), break out groups	Participants and Facilitators
05:30pm	Closing remarks and announcements	ARD-SPRP and LPSC

DAY TWO

Time/day	Activity	Person responsible
09:00-09:15 am	Wrap up—Day 1 Activities Feedback and registration	ARD/LPSC and Participants
09:15-10:20 am	Exercise (2) Groups report back	Participants
10:20-10:50 am	Comments, questions and answers	Participants
10:50 -11:00 am	Tea/Coffee Break	
11:00-11:40 pm	Session four: Land Administration	ARD-SPRP
11:40-12:10 pm	Session five: Urban Land Management Lunch	ARD-SPRP
02:10-12:30 pm	Comments, questions and answers	Participants
12:30-01:00 pm	Exercise (3), group formation	Participants and Facilitators
01:00-02:00 pm	Lunch	
02:00-03:30 pm	Exercise (3): break out groups	Participants and Facilitators
03:30-04:30 pm	Groups report back exercise (3)	Participants
04:30-05:00 pm	Comments, questions and answers	Participants
05:00-05:30 pm	Exercise (4) Identification of Vulnerable Groups	Participants and Facilitators
05:30 pm	Closing remarks and announcements	ARD-SPRP and LPSC

DAY THREE

Time/day	Activity	Person responsible
09:00-09:15 am	Wrap up	ARD-SPRP
09:15-10:45 am	Exercise (4) Break out group	Participants and Facilitators
10:45-11:15 am	Tea/Coffee Break	
11:15-11:35 am	Session six: Women land rights	ARD-SPRP
11:35-01:15 noon	Exercise (5) Break out groups	Participants and Facilitators
01:15-02:20 pm	Lunch	
02:20-03:00 pm	Exercise (4) Groups report back	Participants
03:00-03:30 pm	Comments, questions and answers	Participants

03:30 -04:10 am	Exercise (5) Groups report back	Participants
04:10 -04:40 pm	Comments, questions and answers	Participants
04:40-05:30 pm	Closing ceremony	ARD-SPRP/LPSC; Participants' Representative & Acting Governor. UNS

APPENDIX 2: LIST OF PARTICIPANTS

S/No.	Name	M/F	Ministry/NGO	Title	Location.	Phone No.
1	H.E. Daniel Odok Deng	M	Ministry of Local Gov. Law & Enf	Commissioner	Panyikang	913100514
2	Peter Aywok Laa	M	Ministry of Physical Infrastructure	Act. Director Housing	State	
3	James Daniel Chuang	M	Ministry of Physical Infrastructure	Director Land	State	128665744
4	William Kur Ajang	M	Ministry of Physical Infrastructure	Director General	State	917673075
5	Fatima Kur Chol	F	Civil Society	Women member	Renk	919809787
6	Natou Deng	F	Civil Society	Women member	Renk	12675424
7	Bernadetta Samuel Yor	F	Civil Society	Women member	Baliet	917677034
8	Ruben Yan Ruach	M	Ministry of Local Gov. Law & Enf	County Land Director	Ulang	913393458
9	Chol David Gatwech	M	Civil Society	Admin Officer	Ulang	912440181
10	Elijah Lig Bany	M	LOCAL GOVERNMENT	Executive Director	Makal	912386318
11	Nyok Dau Nyok	M	LOCAL GOVERNMENT	Chief	Melut	129534324
12	John Deng Diing	M	SSBCSAC	Senior Inspector	State	128469259
13	Diwad Otor Awat	F	SSBCSAC	Assistance	State	128963780
14	Tabitha Gwang	F	Min. of LOCAL GOVERNMENT	Director for Gender	State	122466519
15	Koang Tharjiath Deng	M	LOCAL GOVERNMENT	Director of Land	Longechuk	919540398
16	Josephine William OKong	F	Ministry of Finance	Economic Director	State	911294845
17	Josephine Romana	F	Civil Society	Women member	Makal	122562602
18	Wiyual Lul Kur	M	Civil Society	Youth Representative		914590889
19	Beach Banang	M	Civil Society	Youth Representative	Longechuk	915919970
20	Martha Odhok	F	Civil Society	Head of Computer		915607863
21	David Jal Nyang	M	SSDDRRC	Coordinator	State	121737191

S/No.	Name	M/F	Ministry/NGO	Title	Location.	Phone No.
22	Libo Onak Adang	M	LOCAL GOVERNMENT	Youth Representative		126946964
23	William Oyath Bol	M	Traditional Authority	Youth Representative	Panyikang	919691620
24	John Awol Nyibang	M	Ministry of Agriculture	Director Agric.	Makal	913267201
25	Doyak Kock Deng	M	Civil Society	Member	Maiwut	128527387
26	Joseph Okoth Pakwa	M	Ministry of Agriculture	Director	State	121361299
27	Rezig AbdaLocal Government	M	Youth	Political Affairs	Longechuk	918270415
28	Simon Koang Reat	M	Civil Society	Coordinator	Ulang	915532053
29	Jacob Babouth Chol	M	Ministry of Social Development	Asst. Inspector	State	917363606
30	Gatluak Manytap Pal	M	LOCAL GOVERNMENT	Director Land	Maiwut	919895521
31	Kaza Bala Tongkuey	M	LOCAL GOVERNMENT	Head Chief	Maban	918270415
32	Gatwech Khor Nuol	M	Civil Society	Officer	Maban	
33	Mary Nyakoang Tut	F	Civil Society	Women Representative	Ulang	913281718
34	Nyabedpiny James	M	Civil Society	Women Representative	Malakal	919236476
35	Mary Nyakok Chuol	F	Civil Society	Women Representative	Ulang	908651275
36	Angelina Gabriel Ayag	F	Civil Society	Women Representative	Fashoda	916197427
37	Suzan Hakim Nyagon	F	Civil Society	Women Representative	Panyikang	918258837
38	Chan Alak	M	LOCAL GOVERNMENT	Commissioner	Makal	911146365
39	Gabriel Jago Nyawelo	M	LOCAL GOVERNMENT	Act. Commissioner	Fashoda	917824262
40	David B. Monydet	M	State Secretariat	Advisor Political Affairs	State	126353341
41	Thoc Thon Pal	M	LOCAL GOVERNMENT	Act. Commissioner	Baliet	912236299
42	Stephen Chan Alang	M	LOCAL GOVERNMENT	D/Director	Renk	919818940
43	Philip Abathur	M	LOCAL GOVERNMENT	Director Land	Renk	915725973
44	Philip Manitug	M	LOCAL GOVERNMENT	Paramount Chief	Panyikang	126211038

S/No.	Name	M/F	Ministry/NGO	Title	Location.	Phone No.
45	Peter Oyath	M	LOCAL GOVERNMENT	Paramount Chief	Panyikang	91406290
46	Pal Nyok Jany	M	LOCAL GOVERNMENT	Executive Director	Longechuk	918110788
47	Wal Kang Bil	M	Civil Society	Representative	Ulang	908850764
48	Jeremiah Ocamkwok	M	Ministry of Physical Infrastructure	Director Roads & Bridges	State	918079194
49	Ocien George	M	Ministry of Social Development	D/Director Youth	State	918008879
50	Kawang Top Nyunkuoth	M	Ministry of Agriculture	D/Director Fisheries	State	126021550
51	Dr. Stephen O. Deng	M	Ministry of Agriculture	Resource Director	State	122495639
52	Panoum Wal Law	M	LOCAL GOVERNMENT	Act. Commissioner	Ulang	912587726
53	Tut Khan Guot	M	LOCAL GOVERNMENT	Paramount Chief	Ulang	917105543
54	Elizabeth Akwed	F	Civil Society	Women Representative	Ulang	913393527
55	Catherina Tito Tipo	F	Ministry of Social Development	Representative	State	911119461
56	Zeinab Thon Akwei	F	Civil Society	Teacher	Melut	911332087
57	Tut Banak	M	Civil Society	Youth Representative	Longechuk	
58	Gatwech Khor Nuol	M	Civil Society	Representative	Longechuk	
59	Obeny Deng	M	LOCAL GOVERNMENT	Chief	Longechuk	
60	Nyabuol Top	F	Civil Society	Women Representative	Longechuk	
61	Wan Kuluit	M	LOCAL GOVERNMENT	Admin Officer	Longechuk	910181518
62	Wiyual Chol Lual	M	LOCAL GOVERNMENT	Head Chief	Longechuk	908789169
63	Chol Mut Lony	M	LOCAL GOVERNMENT	Head Chief	Longechuk	908789163
64	Rev. Andrea Tingidi	M	Civil Society	Pastor	Makal	912877624
65	Bidong Tongyik Mar	M	LOCAL GOVERNMENT	Head Chief	Maiwut	916652381
66	Sarah John Gatkuoth	F	Civil Society	Women Representative	Maiwut	

S/No.	Name	M/F	Ministry/NGO	Title	Location.	Phone No.
67	Jok Bagur	M	LOCAL GOVERNMENT	Chief	Maiwut	906534185
68	Peter Bang Pieny	M	LOCAL GOVERNMENT	Chief	Maiwut	
69	Elijah Riak Chol	M	Civil Society	Pastor	Makal	910863875
70	Chuol Koryom Chuol	M	LOCAL GOVERNMENT	Act. Commissioner	Longechuk	911976913
71	Wani Anthony	M	UN University	Assist. Professor	State	911322885
72	James Jwong Lwanya	M	Ministry of Physical Infrastructure	Director	State	
73	James Gatluak Kor	M	LOCAL GOVERNMENT	Director	State	121653624
74	Elizabeth Mayik	F	Ministry of Social Development	Director General Gender	State	907076886
75	Dr. Lino Libo Ador	M	UN University	Act. Principle	State	918080459
76	Peter Gatwech Mark	M	LOCAL GOVERNMENT	Executive Director	Maiwut	913281717
77	Ernest Kur Otini	M	Ministry of Social Development	Director Rel. Affairs	State	121251256
78	Samuel Amum Othow	M	Ministry of Physical Infrastructure	Director	State	917435878
79	Deng Ajak	M	ARD/SPRP	Chief	Renk	913584908
80	Pagar Akoy Gol	M	LOCAL GOVERNMENT	Chief	Renk	914857404
81	Ajuwer Chan Dok	F	Civil Society	Women Representative	Renk	121801995
82	Ayek Yot Garang	F	Civil Society	Women Representative	Renk	915658289
83	Francis Arop Ajak	M	Civil Society	Representative	Fashoda	917532054
84	James John Chan	M	LOCAL GOVERNMENT	Surveyor	Panyikang	915360150
85	Dak Tut Dey	M	Civil Society	Youth Representative	Longechuk	910600021
86	Wiyual Kun Gatluak	M	Civil Society	Representative	Longechuk	917531837
87	Sabet Akwakwan Papiti	M	UN University	Lecturer	State	912553891
88	Acwil Abwol Ayik	M	LOCAL GOVERNMENT	Executive Director	Melut	911268092

S/No.	Name	M/F	Ministry/NGO	Title	Location.	Phone No.
89	Dau Mai Deng	M	LOCAL GOVERNMENT	Director Land	Melut	911392564
90	Awan Manyru	M	LOCAL GOVERNMENT	Chief	Melut	924020018
91	Malu Gut Deng	F	Civil Society	Women Representative	Melut	
92	Musa Chol Kon	M	Civil Society	Youth Representative	Melut	925437818
94	Michael Kwathi Amon	M	LOCAL GOVERNMENT	Act. Executive Director	Manyo	918654268
95	Apaktong Laa Demang	M	LOCAL GOVERNMENT	Land Director	Manyo	913392935
96	Zacharia Luanyo Amum	M	Civil Society	Youth Representative	Manyo	917021504
97	Wanth Ochor Okujham	M	LOCAL GOVERNMENT	Paramount Chief	Manyo	914695307
98	Adelijisa Nyanyaw Kur	F	Civil Society	Women Representative	Manyo	918312175
99	Teresa Adwok Ajong	F	Civil Society	Women Representative	Manyo	913092889
100	Anna Daniel Kudit	F	Civil Society	Chair Lady	Fashoda	
101	Hakim Nyagon	M	LOCAL GOVERNMENT	Executive Director	Panyikang	912420413
102	Bol Ruach	M	Civil Society	Youth Leader	State	
103	William Dhuor	M	LOCAL GOVERNMENT	Paramount Chief	Baliet	
104	Mary Achol Thon	F	Civil Society	Business Woman	Baliet	
105	Abing Deng Abur	M	LOCAL GOVERNMENT	Land Director	Baliet	
106	Monybany Chol	M	LOCAL GOVERNMENT	Executive Director	Baliet	
107	Hassen Diing Lual	M	LOCAL GOVERNMENT	Chief	Baliet	
1	H.E. Dok Jok Dok	M	State Secretariat	D/Governor	State	
2	H.E. Kueth Kang Deng	M	Ministry of Physical Infrastructure	State Minister	State	
3	H.E. Yiey Puoc Lur	M	LOCAL GOVERNMENT	Commissioner	Maiwut	907175445
4	David Scribner	M	ARD/SPRP	COP	Juba	
5	Iyadema John	M	ARD/SPRP	STA	Juba	
6	Helida Alex	F	ARD/SPRP	PC	Juba	
7	John Matata	M	ARD/SPRP	ATA	Juba	
8	Voya James	M	ARD/SPRP	APO	Juba	
9	Emmanuel Samuel	M	MARF	Director Training	GoSS	

APPENDIX 3: EXERCISE I

PRESENTATION RESULTS (Individual comments from posted notes)	
ISSUE	Policy Constraints or Areas the Policy Should Give Priority
1. Land Law, Policy and Access	<ul style="list-style-type: none"> ▪ Land should be owned by the community. ▪ Land laws should be respected. ▪ Demarcation policies should be made clear. ▪ GOSS should come up with the land laws as soon as possible to protect people's land rights. ▪ Land policy and law should be handled by a committee, which includes the technical expert of town planning in the state. ▪ Land policy and law are not in a good place. ▪ There should be a law that helps persons to develop their country. ▪ The government should provide land for every citizen through legal laws. ▪ There should be clear policy and law regarding participatory planning in government and community. ▪ Recommend a land policy and law (that addresses) border security. ▪ The land commission should be (practical) in the state and counties. ▪ The government should come out with clear policies on land rights. ▪ The government should take ownership of land so that strict laws are put in place for Southern Sudan. ▪ There is no clear land law on land disputes in Southern Sudan. ▪ The government should provide land laws for the young and future generation. ▪ Land laws should be enforced in the lower levels at counties, <i>payams</i>, and <i>bomas</i>. ▪ The land law should address border issues. ▪ The land policy should advise on legislation of law and decrees. ▪ Land law should be determined by government. ▪ The land law should define rules between the government and the people.
2. Land Rights and Land Access	<p>Land Rights:</p> <ul style="list-style-type: none"> ▪ The right to own land should not be recognized on a tribal basis. ▪ Each and every citizen has a right to land ownership. ▪ Southern Sudanese should enjoy their land ownership rights away from law. ▪ As an informal (land owner), a person may have the right to develop land, sell it as an investment, and have the right to exchange it. ▪ Land rights should be given for thirty (30) years. ▪ Land rights should enable freedom to make use of a plot in a desired way. ▪ Land rights (should clarify) borders between counties, <i>payams</i>, and <i>bomas</i>. ▪ Land rights are needed in order to manage resources for the long term and reduce land-related conflicts. ▪ Fair and equal distribution of land. ▪ All people in the state and counties should be able to have (land) rights. ▪ Land rights have to be treated equally for a better development of Southern Sudan. ▪ Land rights for all civil societies to enjoy freedom and land ownership while living within the country. ▪ Individual persons should have the right to stay on land which belongs to her/him, but the government should have the right to set land laws. <p>Land Access</p> <ul style="list-style-type: none"> ▪ Access to land should not only be for men, but also for women to bring the society together.

PRESENTATION RESULTS (Individual comments from posted notes)

ISSUE	Policy Constraints or Areas the Policy Should Give Priority
	<ul style="list-style-type: none"> ▪ Access to land should be strictly regulated. ▪ Land is only accessible to certain groups of people like politicians, senior officials, etc. ▪ Access to land from locally responsible people (customary land owners or landlords) should be secured by the government. ▪ Access to land should be approved by concerned institutions and legal documents processed. ▪ Access to land should be simple and short for all people, including vulnerable groups. ▪ New people who want to access land should be given citizen identification cards for recognition. ▪ Land distribution should be according to the CPA. Land should be given to any Sudanese citizen where he or she chooses to stay without any discrimination. ▪ Access to land should be under both government and civil societies based on the CPA.
<p>3. Land Markets</p>	<ul style="list-style-type: none"> ▪ Laws governing sale of land to investment companies should be put in place. ▪ Women should have the rights to access lands for business purposes. ▪ Local people in rural areas should not be allowed to sell their land without consulting their community leaders (chiefs). ▪ The government should set equal price for public or private land.
<p>4. Urban Land Management</p>	<ul style="list-style-type: none"> ▪ Provision of essential services should be made a priority, in case of a towns' expansion and before distribution of land. ▪ The government should shoulder the responsibility of ensuring that houses are built according to urban requirements. ▪ The local government, community, and church leaders should be responsible to manage urban land. ▪ Property rights should be considered in urban planning and management. ▪ Urban land management should include formation of town planning committees, consultation of (local) communities in case of encroachments into (rural) areas, and formation of committees for (land) distribution. ▪ Urban land management (should not be) mismanaged by selections through brotherhood. ▪ Urban land management should be participative to include the state, county authorities, and community leaders. That is, the consultative process will bring about common understanding allowing for urban expansion. ▪ The policies have been put down by God. ▪ Urban land should be managed by the state government, county, <i>payams</i>, and <i>bomas</i>. ▪ The government should manage urban land through recommendations from an urban land planning board. ▪ There is no clear urban land management and planning. ▪ Urban land management needs planning because there are problems in the towns. ▪ Urban land is owned by the government. ▪ Urban experts should be given full rights to execute town development (plans) without interferences from politicians. This should be guided by the land policy. ▪ Urban land should be managed by the local governments.
<p>5. Land Administration</p>	<ul style="list-style-type: none"> ▪ Land administration should be shared between the government and community leaders (chiefs) especially in rural areas. ▪ Land administrators should treat people equally. ▪ The government should open land commission offices in the states. ▪ Land administration should be strengthened for efficient land distribution. ▪ Communities should be called to register land. ▪ Land administration should be reformed by the land policy and Land Act.

PRESENTATION RESULTS (Individual comments from posted notes)

ISSUE	Policy Constraints or Areas the Policy Should Give Priority
	<ul style="list-style-type: none"> ▪ Recruitment and training of land officials at all levels in the government. ▪ Elders from both counties sharing a boundary should sit down (to discuss land administration). ▪ Land administration can be run by the government in consultation with local communities. ▪ The community should hand over land distribution to the government to take care of local citizen's rights. ▪ Land administration should be under the government, which has power of control over people. ▪ Land administration should be transparent enough for easy retrieval of pieces of information on various aspects of land. ▪ In Malakal, for example, one person can have seven (7) plots while other does not have. This is wrong. ▪ Land administration (in towns) like Malakal. For example, if a person is allotted a piece of land, s/he would not find it.
<p>6. Dispute Resolution</p>	<ul style="list-style-type: none"> ▪ The government and community leaders should demarcate the boundaries all over south Sudan according to 1.1.1956. ▪ The government should hold a conference for public and community leaders to resolve land disputes. ▪ A chief should be given the right to (participate) in land dispute resolution because s/he knows the land boundaries from each clan. ▪ The government should help community elders who were in that land and use their opinions (experience) to resolve land disputes. ▪ Avoid occupying somebody's land. ▪ The government should form a committee, which include observes and community based leaders to establish land borders. ▪ Clear demarcation of county boundaries in accordance to CPA provision. ▪ Traditional leaders should set ground rules on grazing land and water points to minimize disputes between youths (livestock transhumant herders). ▪ Find the root cause of land disputes. Land dispute resolution should involve community and government leaders in case of state or county boundaries. ▪ Mark (demarcate) borders between counties or tribes. ▪ The land should be managed by the chiefs. ▪ The government should intervene to solving land disputes in states and counties. ▪ The price for land is difficult for some people. The government is supposed to establish prices for land in consultation with the community. ▪ Use (land) as collateral imposes legal conditionality. ▪ Identification of land boundaries between counties to end tribal conflicts. ▪ Compensation for land confiscated by the government through an agreement. ▪ Land disputes resolution should address the problem where a person gets a plot and it is given out to another person. ▪ Land disputes should be solved at the levels of central government, state, county, <i>payam</i>, and <i>boma</i>. ▪ The GOSS should enact laws related to land ownership to establish those who really own the land. ▪ Land disputes in Malakal (Upper Nile State) are because of lack of law enforcement to deal with land issues. ▪ The government should establish security to mark the land borders through traditional leaders. <p>Land distribution should be done through traditional chiefs.</p>

PRESENTATION RESULTS (Individual comments from posted notes)

ISSUE	Policy Constraints or Areas the Policy Should Give Priority
<p>7. Youth, Women and Other Vulnerable Groups</p>	<p>Youth</p> <ul style="list-style-type: none"> ▪ Youth should be considered to get pieces of land. ▪ Youth have the right to inherit land from their father. ▪ Land authorities should consider leaving open spaces for youth to do various activities when planning for housing in any area. ▪ The youth should be given land. ▪ The youth of a problem of (access) to land, especially after their father died when they are still young. ▪ Youth should be reorganized through associations, which engages them in sports and vocational training activities. ▪ Youth should have the right to own land. We recommend putting forth laws to land access for this important right. ▪ Returnee youths from the Diasporas should have the right to claim their father's land. ▪ Youths should (have the right to) participate in land policy roles (formulation) to know their land boundaries from another country or other regions. ▪ Concerned authorities should consider the rights of youth both male and female in owning a land when they reach 18 years of age and provide lands for agriculture to boost the economy. ▪ Youth should be given a chance to take part in making land legislations. ▪ Land authorities should give priority to youth and women regarding land ownership rights. <p>Women</p> <ul style="list-style-type: none"> ▪ Women should be given equal opportunity the same as men in the ownership of land. Their land rights appear to be denied in this regard. ▪ Land administrators should give women the rights of owning and using land. ▪ Women and vulnerable groups should be considered in the compositions of land committees. ▪ Laws that insure women's ownership of land should be clearly stated. ▪ Town planning board and land administration should carry out their activities in consultation with community leaders. ▪ Government should allow land access to women regardless of their whereabouts. ▪ Women should have the right to land and property ownership. ▪ Women should have the right to land through consultation with their husbands. ▪ Women land rights to obtaining land should be equalized with those of men. For example inheritance of land, sale of family land in consultation with the husband. ▪ Women and men (husband and wife) should share ideas (about land) because they are the only two partners. ▪ Women should have the right to get land. ▪ There should be equitable access to land for women and vulnerable groups. ▪ Women have the right to own land. <p>Other Vulnerable Groups (De-mobilized Soldiers, Disables, IDPs & Returnees etc.)</p> <ul style="list-style-type: none"> ▪ Authorities should give particular consideration to vulnerable groups and ease them access to land ownership. ▪ IDPs should be given (the right to land) land to build on it like the land owners. ▪ There should be no ignorance (about vulnerable people's land rights). ▪ The government should consider the rights of ex-combatants to have access to land ownership.

PRESENTATION RESULTS (Individual comments from posted notes)

ISSUE	Policy Constraints or Areas the Policy Should Give Priority
	<ul style="list-style-type: none">▪ Considerations for access to land by vulnerable people should be by government.▪ Vulnerable groups should have opportunity to land.▪ Vulnerable groups have the right to get start-up support and run businesses (which helps them) to establish and resettle.▪ There is a need to have a law that gives IDPs and returnees to own land because they face difficulties for settle.
8. Other Issues	<ul style="list-style-type: none">▪ There are no empty places in Malakal town.▪ Land should be provided for social centers for children.▪ There should be land for churches in Upper Nile State.

APPENDIX 4: EXERCISE 2 –LEVELS AT WHICH LAND RIGHTS SHALL BE EXERCISED

Group No.	Group ID	Opinion on appropriate institution responsible for managing, enforcing the rights	Proposed land policy for government to adopt	Policies workable or sufficient?
1	State Government	State and county governments ¹ ; community leaders or traditional authority	Leasehold in urban areas and freehold in rural areas	Yes
2	County Commissioners and Civil Servants at County Level	Competent courts; state town planning board; county land committees; state administration, traditional authorities; customary courts	Leasehold in urban areas and freehold in rural areas	Yes
3	Chiefs and Religious Leaders	State government for urban land and Chiefs for rural areas; Some of the rights are to be administered by law courts, owners of the land themselves, parents, community leaders and government	Leasehold for urban and freehold for rural	Yes
4	Women	State government for urban and chiefs for rural areas	Leasehold in urban and free hold in rural areas	Yes
5	Youth and a representative of demobilized soldiers	State government for urban and chiefs for rural areas	Delayed freehold and leasehold for urban; freehold and delayed freehold for rural areas	Yes

¹ This group was of the opinion that the judiciary and legal authorities at the state/ county level would be responsible for administering some of their rights.

APPENDIX 5: EXERCISE 3 – PARTICIPANTS’ FEEDBACK ON LAND ADMINISTRATION INSTITUTIONS AND CONFLICT RESOLUTION

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 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 dispute resolution that is transparent, decentralized, and informed by customary norms of dispute resolution.

EXERCISE 3: PARTICIPANT RESPONSES REGARDING POLICY OPTIONS ON LAND ADMINISTRATION AND DISPUTE RESOLUTION

Group 1			Group 2			Group 3		
mostly agree	mostly disagree	proposed modification	mostly agree	mostly disagree	proposed modification	mostly agree	mostly disagree	proposed modification
Group size = 12			Group size=13			Group size=15		
Policy Option No. 1: Power of Compulsory Land Acquisition								
10	2	Consult community	13	0		15	0	
Policy Option No. 2: Decentralized Land Administration								
12	0		13	0		14	1	Centralize land administration to avoid disputes over land
Policy Option No. 3: Creation of an Autonomous Land Administration and Management Authority								
12	0		13	0		15	0	
Policy Option No. 4: Establishment of a Semi-Autonomous GOSS Land Administration and Management Board								
12	0		13	0		15	0	
Policy Option No. 5: Establishment of a State Land Board								
12	0		13	0		15	0	
Policy Option No. 6: Establishment of an Autonomous State Land Authority								
12	0		13	0		15	0	
Policy Option No. 7: Establishment of a County Land Authority (CLA) in each County in Southern Sudan								
12	0		13	0		15	0	
Policy Option No. 8: Establishment of a County Land Office under the CLA.								
12	0		13	0		15	0	
Policy Option No. 9: GOSS Establishment of a Land Disputes Resolution System								
12	0		13	0		15	0	

Group 4			Group 5					
mostly agree	mostly disagree		mostly agree	mostly disagree	proposed modification			
Group size =9-14			Group size=16					
Policy Option No. 1: Power of Compulsory Land Acquisition								
9	0		16	0	The power should be accompanied by compensation			
Policy Option No. 2: Decentralized Land Administration								
9	0		16	0				
Policy Option No. 3: Creation of an Autonomous Land Administration and Management Authority								
12	0		16	0				
Policy Option No. 4: Establishment of a Semi-Autonomous GOSS Land Administration and Management Board								
10	2	Autonomous to replace semi-autonomous	12	4	a)The same function can be performed by state ministry of physical infrastructure b)Membership should specifically come from the same ministry			
Policy Option No. 5: Establishment of a State Land Board								
12	0		16	0	Chiefs should be on the board			
Policy Option No. 6: Establishment of an Autonomous State Land Authority								
12	2	State council of ministers to approve appointment of the staff members of the authority	6	10	This function is for the state land board			
Policy Option No. 7: Establishment of a County Land Authority (CLA) in each County in Southern Sudan								
14	0		16	0				
Policy Option No. 8: Establishment of a County Land Office under the CLA.								
14	0		16	0				
Policy Option No. 9: GOSS Establishment of a Land Disputes Resolution System								
14	0		16	0	Membership should be specified			

APPENDIX 6: EXERCISE 4 – PARTICIPANTS’ IDENTIFICATION OF THE MOST VULNERABLE GROUPS AND PRIORITY ISSUES FACED BY EACH

Priority Issues Under each Vulnerable Group		
Working Group	Vulnerable Group	Key Issues
1	a) Widows	<p>Challenges</p> <ul style="list-style-type: none"> ▪ Lack of residential plot; ▪ Lack of income; ▪ No responsible caretaker; ▪ Unable to educate children. <p>Solutions</p> <ul style="list-style-type: none"> ▪ A widow without a residential plot, responsible caretaker, and source of income should be given a plot of land free of charge.
	b) Pastoralists versus pasture and water point issues	<p>Challenges</p> <ul style="list-style-type: none"> ▪ Lack of water and pasture in their respective areas for nine (9) months; ▪ Community land owners prevent pastoralists to access pasture and water points; ▪ Extension of agricultural activities especially large schemes reduces grazing land. <p>Solutions</p> <ul style="list-style-type: none"> ▪ Open routes for seasonal movement to grazing land and water points; ▪ The local government should help pastoralists to improve pastures within their localities to prevent seasonal movements; ▪ Provision of land for permanent settlement of pastoralists in their respective areas.
2	a) Women	<p>Challenges</p> <ul style="list-style-type: none"> ▪ No freedom to own land; ▪ No right to inherit land; ▪ No land right to sell, transfer by gift, or mortgage etc.; ▪ No right to participate in decision making related to land use. <p>Solutions</p> <p>Women should have the right to:</p> <ul style="list-style-type: none"> ▪ Own land; ▪ Inherit land;

Priority Issues Under each Vulnerable Group		
Working Group	Vulnerable Group	Key Issues
		<ul style="list-style-type: none"> ▪ Sell land, transfer by gift, or mortgage etc.; ▪ Participate in decision making.
	b) Families of Heroes, Heroines, and Martyrs	<p>Challenges</p> <ul style="list-style-type: none"> ▪ No access to land; ▪ Limited finances to afford land. <p>Solutions</p> <p>Families of heroes, heroines, and martyrs should:</p> <ul style="list-style-type: none"> ▪ Be given special considerations to access land; ▪ Be helped to access financial support to buy land; ▪ Be provided land free of charge by the government so they can generate income for their children's schools.
3	a) IDPs, Returnees, and Refugees	<p>Challenges</p> <p>They have difficulty with:</p> <ul style="list-style-type: none"> ▪ Accessing land in urban areas; ▪ Accessing agricultural land; ▪ Individual land. <p>Solutions</p> <ul style="list-style-type: none"> ▪ The government should provide land and pay the installments; ▪ The government should give them agricultural land; ▪ The government should provide financial support to IDPs, refugees, and returnees for investment.
	b) Demobilized Soldiers	<p>Challenges</p> <p>Demobilized soldiers have difficulty with:</p> <ul style="list-style-type: none"> ▪ Having the right to acquire land; ▪ Investing in land; ▪ Having agricultural land. <p>Solutions</p> <p>The government should:</p> <ul style="list-style-type: none"> ▪ Give land for demobilized soldiers; ▪ Pay their installments for land fees.
4	a) The Handicapped and the Disabled	<p>Challenges</p> <ul style="list-style-type: none"> ▪ They fail to obtain land because they lack financial resources to pay land fees or purchase land; ▪ Ignorance of the land offices to receive applications from the handicapped and disabled; ▪ No means of transport to reach land authorities in their offices. <p>Solutions</p> <ul style="list-style-type: none"> ▪ The government (state) Ministry of Social Affairs should pay land fees for the handicapped and the disabled, or issue directives to the land authorities to issue them land free of charge; ▪ The department of lands should create a section to take care of the handicapped and the disabled. And the State Ministry of Social Welfare should be

Priority Issues Under each Vulnerable Group		
Working Group	Vulnerable Group	Key Issues
		<p>enlightening the handicapped and the disabled;</p> <ul style="list-style-type: none"> ▪ The government should provide tricycles/bicycles for the disabled to facilitate their transport to and from land offices.
	b) The Elderly and the Poor	<p>Challenges</p> <ul style="list-style-type: none"> ▪ They lack (land for) accommodation, medical care, and financial support; ▪ Their relatives ignore their problems (related to land). <p>Solutions</p> <ul style="list-style-type: none"> ▪ The State Ministry of Social Welfare should take full responsibility; ▪ The state government should (avail land to) build a center for accommodation and feeding.
5	a) Orphans	<p>Challenges</p> <ul style="list-style-type: none"> ▪ No access to land; ▪ No right for rent (land); ▪ Lack (land) for orphanage schools. <p>Solutions</p> <ul style="list-style-type: none"> ▪ The government should provide land to orphans free of charge; ▪ The government should rent houses for orphans; ▪ The government should build orphanage schools.
	b) Street Children	<p>Challenges</p> <ul style="list-style-type: none"> ▪ No access to (land) for housing. <p>Solutions</p> <ul style="list-style-type: none"> ▪ Government should build reformatory schools for street children.

APPENDIX 7: 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
Provides job opportunities/employment to local people	5 out of 5	May cause displacement of local communities	1 out of 5
Opportunity to reduce market prices	1 out of 5	May cause destruction or degradation of the environment	5 out of 5
Provides development opportunities (infrastructure, schools, hospitals, communication like roads)	5 out of 5	Disregard of contractual obligations in the lease contract	1 out of 5
Offers capacity building opportunities (technical skills)	2 out of 5	May negatively impact on cultural or traditional norms and practices	3 out of 5
Contributes to state incomes/revenue and boost local economy	1 out of 5	Introduction of diseases new transmittable disease (HIV-AIDS)	1 out of 5
Provides a new range of products/goods to the local community	2 out of 5	May cause a rise in crimes like stealing, child labor, raping	3 out of 5
Provides an opportunity to raise local living standards	2 out of 5	May cause insecurity	3 out of 5
Provides opportunities for new services like water and electricity	2 out of 5	Lack of cooperation with the community	1 out of 5
Build harmony between counties	1 out of 5	Lack of cooperation with government	1 out of 5
Increase population in the investment area	1 out of 5		
Strengthens internal and external relations	1 out of 5		
Promote new agricultural schemes	1 out of 5		
Introduces new airports and hotels	1 out of 5		
Introduces new recreation centers	1 out of 5		

PART (B): RECOMMENDED RIGHTS FOR DOMESTIC AND FOREIGN INVESTORS

Proposed Rights for Domestic Investors	Groups Indicating Right	Proposed Rights for Foreign Investors	Groups Indicating Policy
Right to access freehold land	2 out of 5	Right to access land on a leasehold basis	1 out of 5
Right to establish a company for investment purposes	1 out of 5	Right to establish an investment company	1 out of 5
Right to put up housing apartments for rent	1 out of 5	Right to lease land (5 -30 years subject to renewal)	3 out of 5
Right to transfer ownership	2 out of 5	Right to utilize land	1 out of 5
Right to invest	1 out of 5	Not understood	1 out of 5
Right to rent land for 10-30 years subject to renewal	3 out of 5	Right to delayed freehold tenure	1 out of 5
Right to utilize land or use land for any project	2 out of 5	Security for their capital	1 out of 5
Not understood	1 out of 5	Personal protection	1 out of 5
Protection for their capital	1 out of 5	Easy procedures	1 out of 5
Right to have their personnel protected	1 out of 5	Free movement	1 out of 5
Easy conditions and procedures	1 out of 5	Right to basic contract	1 out of 5
Right to rent a house	1 out of 5	No transfer right	1 out of 5

PART (C). RIGHTS OF COMMUNITIES

Rights for Communities	Groups Indicating Right
Right to issue a piece of land to individuals	1 out of 5
Right to terminate investor's contract if he/she violates contract terms	1 out of 5
Right to employment shares in the investment	1 out of 5
Right to demarcate clan boundaries	1 out of 5
Right to access services established by investors like schools, hospitals, water, electricity, etc.	1 out of 5
Right to be involved in contract negotiations	2 out of 5
Right to monitor the Company activities	2 out of 5
Right to terminate unfulfilled contract	2 out of 5
Right to receive social and economic development services from investors	1 out of 5
Right to be compensated	1 out of 5
Right to have their cultural norms respected	1 out of 5
Right to have documentations	1 out of 5

PART (D): LAND ADMINISTRATION:

Responsible for Administration of Contracts Between Community and Investor/State and Investor	Groups Indicating Responsibility	Land to be Demarcated and Registered	Groups Indicating Responsibility
State government/ county judiciary for investors and community	1 out of 5	Plots, infrastructure and agricultural land in urban areas.	1/ out of 5
State government for contract between investor and state	1 out of 5	National zoo and Naivasha residential area (new land acquired by government for the town)	1 out of 5
GOSS and Judiciary of SS	1 out of 5	Clan land in rural areas	1 out of 5
Legal advisor at county level for investors and community and legal advisor for investor and state	1 out of 5	Not properly answered	2 out of 5
Community leaders for contract between investor and community	1 out of 5	Land for basic services in rural areas	1 out of 5
The local authority and legal affairs for investors and community	2 out of 5	Agriculture, residential, tourism parks, schools, roads and drilling wells, health centers and religious land in rural areas	1 out of 5
State government through the relevant ministry and legal affairs (courts) for state and investor	2 out of 5	Residential, hospitals, markets, schools, industries, play grounds and religious land in urban areas	1 out of 5
Local authority for investors and community	1 out of 5	Rural areas need not be surveyed	1 out of 5

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