



UN
DP

Pro-Poor Land Governance: Exploring Opportunities for Concerted Action

WORKSHOP SUMMARY REPORT

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Disclaimer: The views expressed in this report are those of the participants in the workshop and do not necessarily represent those of their organizations, the United Nations including UNDP or UN Member States.

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Executive Summary

A diverse group of experts and practitioners gathered in Oslo on January 2007 to explore common understandings of pro-poor and gender-sensitive land governance and opportunities for cooperation. From the outset, the group agreed on the centrality of land for human development, and on the need to provide security of tenure for the poor. They acknowledged the multidimensional nature of land and its importance for human and economic development of individuals, peoples, societies and countries.

The diverse nature of the group was quickly reflected in the different approaches and understandings of the very concept of "land". Some advocated for a broad approach to natural resources. Others challenged this position by referring to people living in urban areas, whose land related rights and needs will fall out of a natural resources approach. The urban-rural dichotomy was very present throughout the discussions reflecting the different focuses and mandates of the participants. Dissent on issues such as the virtues of registration, the use of information technologies, the role of professionals, market based and productivity oriented approaches, the effect of titling or the need for regulation arose frequently in the discussions. Despite differences of opinion on these matters, participants agreed that land governance and reform address power relations within (and sometimes outside) societies, and to be pro-poor a redistribution of power must occur. By its very nature pro-poor land governance will be conflictive and politically sensitive.

Despite these diverging views, participants reached consensus on the main **principles** that should inform pro-poor and gender sensitive land governance. A human rights based approach with its associated principles – participation, equity, transparency, accountability, gender equality and non-discrimination, subsidiarity, relevance and decentralization are all principles that should inform land governance.

Legal pluralism was mentioned as the biggest **challenge** faced by practitioners. How to reconcile all the legal systems (international law, statutory law, customary law, religious law, etc.) in such a way that the rights and interests of the vulnerable are protected and promoted appeared as a considerable obstacle. Lack of political will, lack of capacity of public administrations and communities, the impact of the new aid effectiveness agenda and corruption also appeared as strong challenges.

The fact that land as a development objective is back on the international agenda, partly due to a number of global and regional initiatives such as the **Commission on Legal Empowerment of the Poor**, was seen as an **opportunity** to promote a pro-poor and gender sensitive approach to land governance. The rights-based framework provides a broader understanding than a property rights/entitlements approach, and this combined with an increased understanding of the workings of locally based customary systems could bolster land governance systems that benefit the poor and disadvantaged. The increase in support for women's empowerment and wellbeing should also be streamlined in land policies. Underlying all these developments is the increased space for political participation and democracy.

It was broadly acknowledged that the complex and multidimensional nature of land requires a **concerted approach** by UN agencies and other actors. More research is needed to acquire yet a better understanding of land and its relation to other natural resources as well as to how resources can best be utilized in favour of poor men and women. The UN reform process that calls for a more effective and coordinated action at country level offers a unique opportunity to search for the complementarities between agencies' mandates and strengths. It was generally agreed that civil society organizations at local, national and international level need to be included in the policy making processes, although there is a disturbingly growing trend in the opposite direction. The Global Land Tool Network and ILC were mentioned as examples of cooperation with civil society at international level. Representatives of UN Agencies agreed to prepare a joint Mission to assess and learn from country experience and explore how cooperation can be enhanced and replicated elsewhere.

1. Introduction

This report offers an overview of the workshop on “**Pro-poor land governance: exploring opportunities for concerted action**” hosted by the UNDP Oslo Governance Centre (OGC) in January 2007. The workshop was organized in collaboration with the UNDP Drylands Development Centre (DDC). The workshop gathered representatives from the following institutions:¹

- **UN specialized agencies:** IFAD, FAO and UN-Habitat;
- **Research Institutions:** Noragric-Norwegian University of Life Sciences, the Institute for Women’s Law of the University of Oslo, Saint Mary’s University in Halifax, the Human Sciences Research Council of South Africa and the International Institute for Environment and Development
- **Civil society:** Norwegian People’s Aid, the Centre for Housing Rights and Evictions and the International Land Coalition
- **Donors:** the Norwegian Ministry of Foreign Affairs and Sida
- **UNDP:** Democratic Governance Group, Gender Unit, Benin Country Office and of course OGC and DDC.

The **rationale** behind gathering this heterogeneous group of expert practitioners was to discuss possible features of pro-poor land governance, bearing in mind that land is a multidimensional concept. The aim of gathering agencies implementing programmes at country level was also to identify opportunities for a more concerted approach to pro-poor land governance. The concept note for the workshop annexed to this report presents a more detailed explanation of the rationale for the meeting.

The **objectives** of the workshop were:

- To obtain an overview of perspectives on land governance activities from the participating agencies and organizations;
- To explore a common understanding among participants on pro-poor and gender sensitive land governance principles;
- To debate and identify how agencies can enhance their collective potential at country level to effectively assist countries – not only state institutions but also civil society and grass root groups - in developing pro-poor and gender sensitive land governance policies.

The **agenda** was planned towards achieving these objectives. During the **first day**, representatives of multilateral agencies donors and civil society presented their organizations’ perspectives on why land governance is an important development objective, a quick overview of their related activities and countries where they work, and identified emerging issues in this area.

The **second day** was devoted to achieving a common understanding of the principles informing pro-poor land governance. Experts from academic institutions presented empirical studies on human rights, gender, poverty reduction and institutional arrangements. An example of a regional land reform facility was also introduced. Later, participants were asked to break into groups and discuss **principles, challenges and opportunities** in achieving land governance sensitive to gender, human rights and poverty reduction.

During the **third day** different methods for ensuring pro-poor land governance were explored, including an empirical study on participation in land policy design and the use of indicators and guidelines. The workshop ended with a plenary discussion about the existing opportunities and challenges for concerted action on pro-poor land governance.

This report summarizes the presentations, which are available on OGC’s website, and the discussions of the working groups.

¹ The full participants list is annexed to this report.

2. Perspectives on land governance: multilateral agencies, civil society and donors

a. Multilateral agencies' perspectives on land governance: Who is doing what?

Bjørn Førde, Director of the Oslo Governance Centre (UNDP), welcomed the participants and explained the overall role of OGC as a global thematic centre on democratic governance primarily serving UNDP Country Offices (COs). He discussed the intersection between land governance and democratic governance principles and values. He emphasized that control over resources is crucial to overcome poverty. Furthermore, democratic governance leads to greater participation in decision making, reduces chances of elite capture and empowers people to participate in democratic processes and demand greater accountability from their governments. He illustrated this through the following examples:

Box 1. Applying democratic governance principles to land	
Participation	provide discretion to communities to design their land tenure systems within a broader policy framework
Equity	the fruits reaped from resources should equally benefit all individuals in society
Gender equality and non-discrimination	men and women have equal rights to access, to occupy, and to use land
Human rights	<ol style="list-style-type: none"> 1. striking a balance between the prohibition of arbitrary dispossession and policies that ensure access to resources by all – recognizing the importance of individual as well as collective property rights 2. Identifying who is responsible for what and how to hold them accountable

Eric Patrick and Mylene Kamara (UNDP DDC) presented the Results and Analysis of UNDP's Bureau For Development Policy Cross Practice Initiative (CPI). The CPI is headed by DDC with support from OGC to determine how significant land governance is to UNDP and to identify the types of resources which would be required for UNDP to systematically engage in this area. The rationale behind the project is the discrepancy between the involvement of UNDP in various aspects of land governance in many countries on one hand, and the lack of an explicit system-wide programme on land governance on the other. A core activity of the CPI, and the focus of the presentation, is a UNDP- wide global survey on CO interests, demands, capacities and needs. The presentation introduced regional comparisons but mostly focused on Africa.

The survey shows that globally, there is a widespread interest in engaging in land governance issues. The lack of capacity of public administration structures and the lack of a legal framework were identified as the two most important issues by all regions. While respondents from Africa COs revealed higher interest, Latin America is the region implementing more projects.

UNDP COs in Africa stated that land issues need to be addressed in order to achieve the MDGs, with MDGs 7, 1 and 3 scoring highest. The survey further showed that UNDP can contribute with experience, physical presence, neutrality, and its UN coordinator role. UNDP COs also expressed the need for human resources, training, supporting materials and external support.

The conclusion is that land is perceived as a highly widespread and complex issue which needs the involvement of a wide range of institutions. UNDP is engaged through projects, advocacy and other activities. Joint activities could result in significant synergies; especially in Africa where resource-based conflicts are hampering development. A significant amount of work can be done under the political umbrella of the African land policy framework put in place by the AU, ADB and UNECA.

Box 2. Possible joint activities suggested by the CPI

- Identify the **comparative advantages of each UN agency** in this area and design joint programmes through UNDAF
- At the **country team level**, identify ongoing and planned projects, collate best practices, and develop a collective framework for engagement on key issues for that country.
- Promote an **adequate recognition and understanding** of land governance in the UNCT
- Identify **lead agencies as champions**
- Agree on **needs**; then chart out **common strategies** and share out roles and responsibilities. Subsequent adoption by internal institutional processes and joint programmes.

Jean Jacob Sahou (UNDP Benin) presented UNDP's experience in Benin with land governance and poverty reduction. He briefly introduced the situation in Benin, stressing the alarming increase in poverty rates due to the deteriorating situation in the rural areas which leads to migration to urban centres. The poor inhabitants of rural areas lack access to land, capital or strategies. In addition, land tenure regimes in Benin are diverse, i.e. in the north, land is held collectively and cannot be sold.

UNDP has supported the inclusion of land in the PRSP process and has provided technical assistance to the Parliament in passing new land legislation which consolidates land mapping, registration/titling and certification projects implemented by the Government and GTZ. The International Land Coalition (ILC) is a key partner in Benin and has been supporting the establishment of a national roundtable resulting in a common vision for joint action and helped form an inter-ministerial committee on land governance. ILC and UNDP are both committed to the future development and a qualitative study to be presented at the national roundtable is a next step in the project.

Box 3. Lessons learned in Benin are coherent with the CPI findings

- The complexity of land issues requires alliance among multiple stakeholders
- Poverty is one of the key causes of landlessness
- A common vision for joint action is needed

Paul Mathieu (FAO) presented FAO's experience and current work in land governance and rural poverty alleviation. He also underlined the complexity and diversity of the issue. The

Box 4. FAO's areas of focus

1. good governance in land tenure and land administration
2. low cost land tenure security
3. post-emergency land institutions
4. accessible and usable land information for the poor.

ICCARD conference² showed that land governance is a highly political area where political will is needed. He underlined the value of dialogue, negotiation and compromise when implementing specific projects to counter the diverging interests arising. Access to land and security of tenure are the foundation for food security, social stability, economic growth and poverty reduction. Governance is the gatekeeper to development efforts.

FAO's land tenure and management unit is producing a study on good governance in land administration (to be published in Spring 2007) looking at the consequences of weak governance and how to improve it. In addition, FAO is increasingly implementing projects with significant land governance implications with partners such as the World Bank in China and Cambodia. FAO also works on post-

conflict situations such as in Sudan, Angola and Mozambique.

Szilard Fricska (UN-Habitat) presented UN-Habitat Issues and Perspectives on Land Governance. UN-Habitat is the UN focal point for MDG 7 on achieving significant improvements in the lives of slums dwellers and for early recovery in the sectors of housing, land and property.

² International Conference on Agrarian Reform and Rural Development - new challenges and options for revitalizing rural communities", Porto Alegre from 7 - 10 March, 2006

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The **international context** is marked by the MDGs, the Paris Declaration on Harmonization, the UN reform and the Commission on Legal Empowerment of the Poor (CLEP). There is a growing acknowledgement that land issues can stimulate development and cause new windows of opportunity to emerge. On the other hand, the **national context** shows that systems are not pro-poor and it is not clear what the incentives for change are. Forced evictions, multiple land regimes, inaccessible registries and corruption are some examples of the national realities. For UN-Habitat the challenge is to reconcile reality and goodwill and to scale up from policy to implementation. User centred approaches, and integrating the role of land professionals in the implementation of policies, are crucial for success.

Box 5. UN-Habitat and Land Governance	
UN-Habitat Approach	Land Governance principles
Technical solutions are insufficient	Sustainability
Pro-poor tools are few	Subsidiarity
Continuum of rights	Equity
Systematic and large scale	Efficiency
Transparency	Accountability
Process and product	Civic engagement
Actors and institutions	Security

UN-Habitat activities on land include advocacy and research (Global Campaign for Secure Tenure), monitoring and reporting (Indicator development), capacity building (EGM on Transparency in Land Administration), tool development (the Global Land Tool Network) and country-level activities (Africa, Arab States, Asia and Latin America).

The **Global Campaign for Secure Tenure** advances the principles of security of tenure, improved access to land and finance, and promotion of partnerships. The required conditions are: political will; organized slum dwellers groups; cooperation between

government and slum dwellers; and finance. The **Global Land Tools Network (GLTN)** is an attempt to create a comprehensive global focus to move the land agenda forward. It aims to establish inter alia, a continuum of rights, and to develop pro-poor land management and land tenure tools, etc. GLTN has identified a number of themes on land tool development e.g. land rights and records, land law and enforcement, etc.

Harold Liversage (IFAD) presented IFAD's perspectives on Land Tenure Security for Rural Poverty Reduction in Eastern and Southern Africa. IFAD's mission is to empower the rural poor to overcome poverty. It provides loans to governments, CSOs and CBOs. It is a founding member of ILC and has provided support to ICCARD and to the AU/ADB and UNECA initiative on land governance.

Access to land and tenure security are central to poverty reduction. Equitable access to land and natural resources is one of IFAD's corporate objectives. IFAD has a number of projects in Eastern and Southern Africa addressing land tenure security, which point to the need to link land tenure security with sustainable management and participatory processes. IFAD's strength lies in its flexibility to provide innovative funding and the high level of government ownership. An uneven understanding and commitment to land tenure security, as well as limited in-country presence are its main weaknesses.

Box 6. IFAD Challenges.....	Way Forward
How to raise the profile, political will and investment in land reform?	Continue to strengthen support to governments and civil society
How to strengthen the role of civil society, in particular farmers' organizations?	Continue to support the development of AU/ADB/UNECA Africa-wide guidelines
How to scale up pilot experiences into nationwide programmes?	Continue to build in-house capacity.
How to strengthen lesson sharing –	Strengthen in-country presence through country programme teams and direct supervision of projects and programmes.
	Identify partners, comparative advantages and complementarities for pilot collaboration.
	Take stock of all existing initiatives
	Continue to support international initiatives that raise

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in-country, regionally and internationally?	the profile of pro-poor land reform.
How to build partnerships between international development agencies?	Use the current process of UN reforms to raise the profile of land reform - 3 out of 8 pilot countries identified as pilots are in ESA (Rwanda, Tanzania and Mozambique).

Discussion highlights

Inclusion of civil society organizations

The plenary reached a strong consensus on the need for civil society participation in land governance processes. However, in practice civil society is increasingly being excluded.

Shared vision and understanding

Participants highlighted that different agencies may have different interpretations of the term land governance. How to separate/link rural, peri-urban and urban areas? Do we include rights to water, fisheries, grazing, etc. in land tenure discussions? Several participants noted the apparent bias towards rural areas and argued that funding was driven by anti-urbanization sentiments within the donor society. Individual titling was mentioned as another example where the existence of a consensus was questioned. Is individual titling a solution? The possible conflict between poverty reduction and environmental conservation was also mentioned.

Domestic institutional context

International actors are often not well equipped to understand the complexities of the institutional context and the power and interest relations that impregnate state bureaucracies. They often have to work with paralyzed institutions unable to pass legislation, or with other land administration professionals who are not necessarily helpful. Benin inter-ministerial commission and PRSP processes were pointed to as success stories but it was underlined that everything strongly depends upon political will.

b. Civil society perspectives on land governance

Bruce Moore (ILC) spoke on the theme "Putting a Pro-Poor Land Agenda Into Practice". He briefed the audience about ILC's origin at an IFAD conference in 1995. ILC is a hybrid of civil society (with 60 % of decision making power) and intergovernmental organizations working to secure the access of the rural poor to natural resources.

Decision makers are trapped by the idea that economic growth will trickle down and ultimately benefit the poor. The assumption is that investment should be promoted through de-regularization but the results are that land grabbing by elites continues. Experience shows that legal systems are absolutely necessary to achieve pro-poor growth. International organizations and bilaterals are not always coherent in what policy approach they promote.

ILC is experiencing a growing interest from its members in land governance issues. It strongly supports the participation of civil society when addressing land governance. This process has added value when the UN delivers as one and IFAD lends its credibility and influence. The strength of ILC is that the organization does not represent any particular interest. Many national roundtable discussions are ineffective because the participants are only seen as supporting the agenda of the host. The tripartite alliance in Benin is providing good results and proves the comparative advantage of UNDP as a broker at country level.

The way forward for ILC is to encourage member countries to strengthen their land policies, but concern with order and regulations leads to a focus on land administration alone, ignoring the social and political implications of land governance. For ILC, the question is how to integrate governance issues such as elite capture, popular control, livelihoods, etc. into the land dimension.

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Elin Enge (NPA) spoke on Civil Society Perspectives on Land Governance. NPA's strategic objective focuses on rural people's capacity "to fight for their rights to natural resources on which they depend". NPA is also concerned that, once these rights are secured, the ability to live off the land must continually be protected and enhanced through the sustainable use of these resources. NPA understands land policy and reforms in a wider context that includes both women's and men's rights to productive resources. securing the long term ecological sustainable use thereof.

NPA works in 14 countries at local, regional and national level. In Tanzania their programme focuses on land access/security of tenure and land use while at the regional and national levels it focuses on policy processes: PRS, Local Government Reform Programme and Mkurabita. At the global level NPA builds partnerships and lobbies international organizations and the Norwegian authorities.

In NPA's view, market based formalization undermines poor people's rights, affecting in particular women. The way forward for NPA is to strengthen civil society organizations, enhance participatory land planning, mapping and conflict management. NPA will fight land evictions and demand due compensation. NPA will further encourage decentralization and district development.

She emphasized that including civil society organizations is absolutely crucial for the success of land governance projects, especially on the conceptualization and legal levels. Land governance has increasingly become a technical issue and failed to include the political perspective.

Speaking on Legal Empowerment she reminded participants that UNDP has critical views on the formalization agenda although it is hosting the Commission's Secretariat. She believes that it is important that CLEP adopts (not co-opts) a pro-poor discourse in land and property reform.

Malcolm Langford's (COHRE) presentation "Beyond Tokenism: Human Rights and Land Governance" introduced the Centre on Housing Rights and Evictions (COHRE) view on land governance. Human rights are at the core of governance. They are both the end and the means as they demand accountability, participation, equality and good service delivery. Corruption and administration are also related to land governance.

COHRE focuses on forced evictions and land grabbing. Both problems receive a disproportionately low level of attention and the consequences are underestimated. They are issues related to urban and para-rural areas, often slums, which are difficult to accommodate to a typical land governance project due to their chaotic structures and unclear ownership issues.

Box 7. NPA recommendations	
What do the poor demand?	How to ensure pro-poor land governance?
Tenure/property security (both communal and individual) Decentralize and devolve land demarcation, registration and administration to local government or land boards	How are the poor brought into the formalization process (at all levels)? What is to be formalized – private land, commons etc?
Legal security (incl. register) for their assets	The poor's access to information
"Formalize" their informal rights" focusing on" <i>how the legal system can be adjusted to "accommodate" other systems.</i>	The poor's decision making authority
	A legal system the poor can trust
	Accountable government and institutions
	Access to inputs in agriculture (incl. credit)

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Box 8. COHRE and land rights
Prevention and remedy of forced evictions
Access to land and security of tenure
Restitution of land/housing for refugees and IDPs
Women's inheritance rights and women's land rights
Combating discrimination in land and housing

He provided several examples of land governance projects where COHRE has discovered faulty governance and indicated that this could be due to non-inclusion of civil society organizations in the development of the project. He referred to one particular case in Kenya where the government built apartments to compensate

for the demolition of one area only to set the rent so high in the new apartment building that none from the demolished area could afford to live there. Lack of investment in participation and emphasis on individual tenure are common undermining features of land projects.

Discussion highlights

Aid harmonization: impact on civil society

The current trend towards aid harmonization/effectiveness is pushing civil society away because the mechanisms are targeting governments only. Civil society requires capacity and resources as do governments but the UN, the WB and the donors are increasingly coordinating with governments and sidelining civil society. Accountability and indicators for progress at all government levels need to be established.

Decentralization

It was argued that decentralization may create local elites as opposed to central elites. Others argued that local governments are more responsive to local communities. It was also argued that decentralization could facilitate the acknowledgement of local communities' group rights by securing those, before securing individual tenure rights within the particular community. Civil society groups would also gain access more easily at the local level and can better participate. However, one participant warned that land owners are often a more fragmented group than one may think and coalitions can be formed at the local, regional and national level.

Natural resources

It was generally agreed that land does not stand alone from other natural resources. There is a strong relation between land and extractive industries (logging, mining etc.). It was also mentioned that access to water is an important factor in determining the value of land.

Economy and land

Although land is more than a mere economic asset, people need social and capital assets. Land is related to productivity. There is a difference in value depending on where the land is located (urban, rural, close to water sources, etc.), the need for investment in infrastructure, the relation between land and labour, etc. As a very important economic asset it will also attract predators and the poor's right to land is de facto a weak defence. In this context, it was also mentioned that land is a local issue embedded in a globalized economy.

c. Donors' perspectives on land governance

Ambassador Mona E. Brøther (Norwegian MFA) presented the Norwegian Ministry of Foreign Affairs' perspectives on the Legal Empowerment Agenda. She briefed participants about the last meeting of the Commission on Legal Empowerment of the Poor that took place in New York in the second week of January. She introduced the participants to the modus operandi of the Commission (national/regional consultations, thematic working groups and deliberations) and concentrated on the working groups on access to justice (rule of law) and property rights. The Commission is engaged in collecting sets of criteria on what modalities are working for the poor and she encouraged the participants to get in touch with the working groups, which can be accessed [here](#).

Seen from the Norwegian side, the work of this Commission can make a difference in the approach to mobilizing local resources and entrepreneurship at the grassroots level. Formalization might be one important tool in lifting people from poverty and giving secure frameworks as well as securing

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tenureship and assets. Norway advocates a specific view to secure women's access to property rights and indigenous peoples' rights in these kinds of processes, and collective and users' rights as a basis to achieve security and protection of property.

The **working group on access to justice and the rule of law** has underlined that the rule of law is not automatically a tool for poverty reduction as laws may be unfair and anti-poor. In addition, poor people often regard the law as an obstacle due to costs, illiteracy or inaccessible language, length of proceedings, etc. Customary law may be closer to the poor but is not pro-poor or gender sensitive per se. Mediation is also being explored as a way of bridging the gap between the informal and the formal sector.

Box 9. Three highlights about the Commission on Legal Empowerment
It has placed formalization and poverty reduction higher on the agenda
Generates and codifies data about the informal sector through an inventory
Governments are the main target for the Commission's recommendations that shall constitute a Tool Kit for governments as to formalisation processes that work for the poor.

The **working group on property rights** is focusing on access to credit and access to property rights as good governance issues. It has become sensitive to a notion of property rights that goes beyond individual rights. For the group, collective rights should be a tool, not an obstacle, when property rights are formalized. As an example, collective rights have been vital for Norway and other European models should be considered.

The Norwegian Commissioner is advocating rights based approaches. As a result the working group on property rights has also adopted the term "rights-holders" as opposed to "land owners" and views legal empowerment as the platform for securing property rights for the poor. Formalization will not solve the problem of homelessness and landlessness. This has to do with access to land and housing.

Lastly, the Ambassador wanted to focus upon the fact that formalization will not solve all problems - the problem of homelessness and landlessness is one example. Anyhow, it is a major task to bring the results of the Commission's work both to institutions like UNDP and UN-Habitat for their follow-up, as well as the IFIs. Donors will have a responsibility to see that such follow-up happens.

Margareta Nilsson (Sida) presented Sida's position on natural resources tenure. The position is still being developed. Sida has chosen to move away from the terms "land governance" or "land tenure" to adopt the broader concept "natural resources tenure" that reflects better the complexities of the issue. Accordingly, Sida is looking at agricultural and urban land, water, wetlands, grasslands, forests and genetic resources.

Box 10. Sida's position on land
Secure access first priority
Tenure issues are complex
Solutions must build on local conditions and participation
Long term commitment and financial resources required

Natural resource tenure should be pro-poor and based on human rights and contribute to an environment supportive of poor people's own efforts to improve their quality of life. The solutions need to have multidimensional, integrated, conflict sensitive and practical approaches. A clear understanding of power relations is needed as well as accountable and transparent institutions.

Titling and access to collateral will remain important features on the agenda of the Commission on Legal Empowerment, as well as on the agenda of specific countries. The issue is in what circumstances titling and collateral is relevant for legal empowerment and poverty reduction and not to question it as such.

Discussion highlights

Commission on Legal Empowerment of the Poor

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One participant highlighted that in countries not abiding by the rule of law it is contradictory to advocate for the implementation of rule of law-based mechanisms such as registration of land titles and businesses. Another participant highlighted the importance of creating structures of power for the poor and to address power relations as well as accountability. The Ambassador committed to bring these issues to the attention of the Commission and encouraged the participants to enlist in the online Centre of Practitioners to share their experiences and opinions.

3. Human rights, gender and pro-poor principles in land governance

Poul Wisborg(NORAGRIC) presented his research on "Land as a human rights issue: experiences from a tenure reform process in South Africa". Secure tenure interlinks with a variety of human rights, but secure tenure or "the right to land" is not a human right per se.

Box 11. Connections between tenure security and human rights
Tenure security may increase enjoyment of human rights: livelihood, work, food etc.
Respect for human rights (e.g. ban on discrimination) contributes to tenure security.
Human rights provide arguments and standards for changing unfair land institutions
Human rights may guide land reform: non-discriminatory, democratic and law-based.

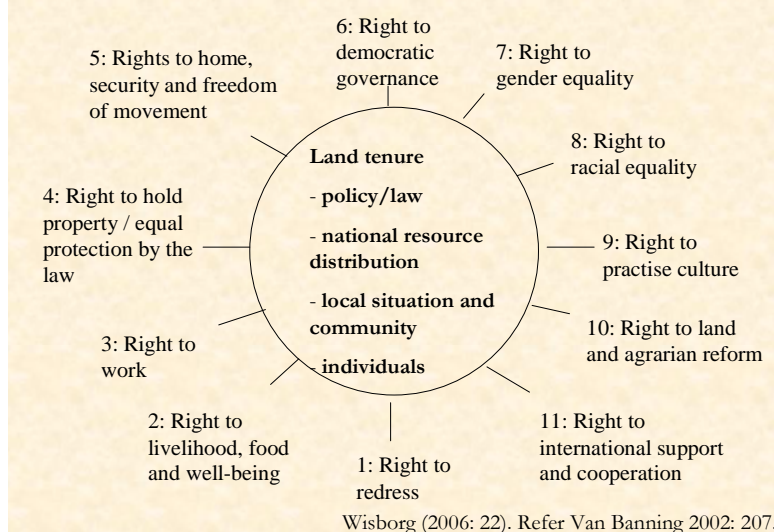
His research studied the land reform process in the province of Namaqualand, South Africa in 2001-2002 from a human rights perspective. Particular attention was given to local referendums on the tenure reform process determining whether ownership should be held by municipalities or communal property associations. Communal property associations and other forms of collective

tenure were preferred to transfers into municipal ownership.

Conclusions:

- Land reform is time consuming
- Consultation was appreciated
- Individualization of land is generally resisted
- Women's land rights were neglected
- The time span required may conflict with other human rights i.e. livelihood education and economic participation
- The state's policy of supporting the tenure reform through assistance with credit, training etc. was not implemented

Box 12. Land tenure is a human rights issue



Ingunn Ikdahl presented her research titled “Go home and clear the conflict – gender perspectives on human rights and land titling”. The speaker presented the research she has conducted in the informal settlement of Hanna Nassif, Dar Es Salaam, Tanzania. The research examined the relationship between titling and security of tenure in the human rights discourse, and assumptions about the impact of joint titling on women’s land rights.

While the legislation provided for joint titling, the case study revealed that the

Box 13. Conclusions from the research in Hanna Nassif, Dar es Salaam
<ul style="list-style-type: none"> ➤ Because of the gap between formal law and titling practice, there is a need to: <ul style="list-style-type: none"> - focus on actual non-discrimination and impacts, rather than only legislation on paper - pay attention to local politics of change, “translation” by actors and procedures involved in titling ➤ Joint titling is no panacea: <ul style="list-style-type: none"> - While potentially useful for wives, joint titling does not address the situation of sisters, mothers or tenants - Titling can increase security against some threats, but increase vulnerability to other - Attention should be paid to women’s own understandings of their interests and situation

implementation of this was ineffective. For example, the officials registering the properties would visit during daytime when many residents were away for work. When asking neighbours on ownership of the property, the man’s name was usually given and accepted as the owner of the property. Efforts by wives to later correct this and add their own name to the title was often viewed as a result of a domestic conflict and women

were told to “**go home and clear the conflict**”. Thus, joint titling was in practice transformed from a public policy matter to a household matter. In addition, few women were aware of the possibility of joint titling, and research on 1300 licenses showed that 65% of the titles were issued to a man, 30 % to a woman and 5 % to men and women/family members. Thus, adding a joint titling provision in legislation is clearly not sufficient to secure women’s land rights.

Saturnino Borrás Jr. (Canada Research Chair in International Development Studies St. Mary’s University of Halifax) spoke on “Redistributive land reform and the rural poor – a critique and contribution from the Philippines”. Property rights are about relations between people, groups, classes, and the state. Land reform is about reforming such relationships.

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Thus, it is inherently a 'governance' issue. Hence, despite enormous diversity between settings, general principles of 'pro-poor land reform/policy' can and must be established.

Box 14. The notion of 'governance' around 'pro-poor land reform' policies

- a) assumption of pre-existing distribution of land-based wealth and power in society that needs to be reformed,
- b) entails 'state power' to enforce and make authoritative in society reform rules/laws (laws are not self-interpreting/not self-implementing), and
- c) Requires careful tracing of the actual flow of the transfer of such wealth and power – from the landed elite to the poor.
- d) But that land is understood as having a multidimensional function (economic, political, social, cultural, geographical...)

The conventional notion of redistributive land reform implies a pro-poor bias. Land reform should go beyond change and emphasize the 'cross-classes' net transfer of wealth and power: from private large farms to landless peasants. Land reform implies reforming social relations, taking into account the multiple interlinked dimensions of land reform.

However, the conventional notion wrongly excludes public land from reform processes, hence excluding certain forms of exploitation and ignoring that they can be controlled by elites. Often a legal-technical solution is applied (i.e. formalization) which can be anti-poor. Also, it has inconsistently included – or excluded – real redistributive land reform achieved via share tenancy or leasehold reform. Last, it has inadvertently included land transfers involving private lands that do not constitute real redistributive land reform.

If the perspective is to be truly pro-poor, redistributive land reform must address 'non-private lands', must reject land transactions in private lands that do not entail real net transfer of wealth and power from the elite to the poor and must include a progressive and truly redistributive complementary share tenancy/leasehold reforms. The bottom line is 'effective control' by the poor, whether individually or collectively. Such a re-framing can facilitate better cross-national exchanges of experiences and comparative analysis and can help to trace causality between land property rights, poverty eradication and agrarian transformation that is clearly pro-poor. Finally, he stated that other human rights are often considered more important by the poor themselves, for example labour rights.

Box 15. Four pillars for redistributive land reforms

1. Autonomous rural poor people's movements (autonomous from the state and non-state/NGO actors)
2. Critical mass of reformist state actors
3. Systematic and large scale public support services
4. Growth-oriented macro socio-economic policies that provide better chances for small family farms and rural proletariat.

Discussion highlights

Human Rights and efficiency

The usefulness of a human rights approach to land governance reforms was questioned by one participant because a broad human rights approach will not result in action. On the other hand, the right to free association was mentioned as a key to organizing groups representing the poor, as demonstrated by the study in Namaqualand, South Africa. The study showed that the perceived relevance of human rights was watered down as the reform got closer to implementation, but human rights were part of the discourse and claimed from below by the user groups. Finally it was mentioned that too much talk about property leads to focusing on titling, but human rights broadens the discussion beyond a technical/legal context.

Gender, joint titling and customary law

One participant mentioned the impact of customary law and exemplified this by referring to an African female professor of law who, despite the presence of a law protecting inheritance rights for both genders, stated she had no confidence that her daughters would inherit her property. The

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blood lines of inheritance and the deeply internalized beliefs in many communities should be taken into account. The presence of formal laws has no value when the bureaucracy implementing the law adheres to the informal laws.

Ingunn Ikdahl accepted these realities but reaffirmed that if formal law is adopted in conformity with human rights standards, it provides one basis for contesting such practices. Customary law, practices and beliefs are dynamic and change is uneven. It is crucial to create room for discussions, space that can be used by individuals and groups from below to challenge and modify existing discrimination.

In the case of polygamous families where the property is not perceived as part of the marriage, for example given by a father prior to marriage, the land is registered in the name of the female. Normally, if the family has two properties, both are registered in the name of the male in order not to split up the family.

Pro-poor approach to land governance

South Africa was mentioned as a country where land reform was used to correct the inequality of ownership based on race, and many of the blacks that benefited would not qualify as poor. Others argued that governments favour more technical approaches to land reform that are conflict-free and more easily perceived as pro-poor. However, true pro-poor land reform is in fact a highly political process - even among like-minded and progressive organizations, for example within the UN-umbrella or civil society. A non-conflictive redistribution of power is an unrealistic expectation. It was also mentioned that rural and/or poor people are themselves very differentiated groups. One example mentioned was when land represents territory for a group and land is not only land, but a cosmos – the entire world.

4. Institutions and processes of land governance reform

Lorenzo Cotula (IIED) presented the results of his research on “Can Land Registration Work for the Poor? Lessons from Ethiopia, Ghana and Mozambique”. The three countries have very different approaches to land registration. This research shows that land registration is not inherently anti-poor in its impacts and that the distributional consequences of land registration depend on the design of the process and on the institutions responsible for its management. Land registration systems can be designed so as to address the risk of bias against poorer and marginalised groups. To protect and secure the land rights of these groups, attention needs to be paid to registration processes with regard to language used, registration fees, geographical accessibility; to recognising and recording "secondary" land rights; to establishing effective accountability and oversight mechanisms for the institutions implementing registration programmes; as well as to inclusive dispute settlement institutions. The research shows the need to avoid "one-size-fits-all" solutions, and documents considerable in-country experience from which to learn.

Box 16. Can Land Registration Work for the Poor?	
Key findings	Conclusions
People seek to secure land claims regardless: e.g. written/witnessed transactions; chiefs' records in Ghana	Registration not inherently anti-poor when designed to serve poorer groups: low cost, accessible and well governed (decentralised with oversight) – but does not cater for landless
Tigray and Amhara - Registration locally-managed, low-tech, low-cost and local language => accessible	Governance is broader than government (CLS, NGOs, etc)
Ghana – Registration process inaccessible to poor (cumbersome, costly, language, distance) => little land registered, mainly by the better-off (e.g. medium to large producers)	Transparency and accountability crucial (e.g. in setting boundaries; public access to records; oversight mechanisms)
Collective land registration in Mozambique:	Title is a piece of paper – the legal and

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effective in securing group rights vis-à-vis outsiders but does not tackle intra-“community” issues	institutional framework (courts, govt admin, etc) must be trusted to enforce it; governance and capacity of land administration bodies are key
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Helge Onsrud (Centre on Property Rights and Development) spoke on “Strategic Issues for Land Governance Reforms – experiences from projects in former socialist countries in South East Europe”. He presented his experience after being involved in several land governance projects in the Balkans and Eastern Europe.

Security of tenure does not always require titling and alone it will provide some sort of economic development, but if focusing on economic development only, land registration is an essential condition combined with other related services. Naturally this will target businessmen and the middle class. The poor usually lack access to these services. However, efforts to reform systems and make them more accessible to everybody in society usually find resistance from professionals and bureaucrats. Often reform implies internationally driven mass registration and titling responding to image and visibility requirements rather than achieving effective pro-poor systems.

He furthermore argued that titling never works alone, but has to be accompanied by personal identification through population and business registers and the use of conflict resolution mechanisms. The minimum requirement for an efficient functioning land registration system is defined and identified parcels of land. Professional surveyors are not always needed. He referred to the United Kingdom and Norway as countries where precise mapping is not needed to register land, and where the system works fine without the involvement of trained professionals. Mr Onsrud also advocated strongly for the use of new technology and was confident that the introduction of such technology would lower the cost of land registration.

Verity Nyagah (UNDP DDC) presented the Southern Africa SADC Land Reform Facility.

The project was initiated at the 2001 SADC summit and a first proposal was endorsed by the Council of Ministers in 2003. Five states took the lead, and by September 2007 a final study on the institutional requirements of the Facility will be presented to the SADC Council of Ministers. The Facility has strong links to the AU/UNECA/ADB land policy initiative. DFID, the WB, UNDP, EU and FAO are providing support.

It has taken quite some time to establish, but it is now focusing on review of land policy, identifying capacity needs within civil society organizations, developing best practice lessons and researching the areas within land governance such as gender and land rights.

Box 17. Land problems in SADC countries
Land Distribution (inequitable access, costly transfers)
Land Use (no classification, lack of infrastructure)
Land Tenure (discrimination against minorities and indigenous peoples)
Land Administration (weak capacity of governments, little participation by civil society institutions)
Land Adjudication (weak capacity of the judiciary which is elite centred, length of proceedings, lack of legitimacy)

The Facility counts upon political support in the region and seeks to broaden participation through a board range of stakeholders. The challenge is to translate political will into action. In order to do so, the facility requires support to launch kick-off activities such as a land database, a centre of excellence or land policy training courses.

Discussion highlights

Land administration bureaucracy

The questions centred on the cost and the bureaucracy involved in land registration. Several commented on the resistance from local experts and employees who may be benefiting from the status quo through corruption etc., and will be strong defenders of the existing system. Some argued that no direct correlation exists between cost and effectiveness of the system, but the success is based on user focus and implementation.

Registration and poverty reduction

Others commented on the possible impact on poverty reduction of the land registration reforms the speakers had been involved in. No conclusive answer was given, but there was no evidence to suggest an increase in use of land as collateral in the countries concerned.

5. Principles, challenges and opportunities

Participants were divided into three groups to identify principles, challenges and opportunities informing land governance from a human rights, gender equality and poverty reduction perspective. The groups met for two hours and produced detailed material, annexed to this report. This section synthesizes the group discussions, highlighting commonalities arising from them, and paying especial attention to certain specificities of each theme.

The discussions showed a high degree of consensus about the need to ensure **a human rights based approach** to land governance, despite the fact that land rights are not human rights per se. Concrete rights (to food, to property, to housing) were mentioned as examples of the relevance of land for fulfilling human rights.

A **set of principles**, coinciding to a large extent with those proposed by human rights based approaches, was identified by the working groups (see Box 18). Relevance, accessibility and subsidiarity added extra value to the human rights framework.

Consensus was reached around the need to achieve **gender equality** in land governance. Gender equality impregnates all principles and is intertwined with the challenges and opportunities identified by the participants. The gender group identified a catalogue of interventions to advance secure access of women to land and property rights. The following are some examples: eliminating barriers linked to customary law, promoting women's participation beyond quotas, measuring socio-economic progress of women, using research, etc.

Dealing with **legal pluralism** stands as the highest challenge identified by the participants. The conflict between customary law and statutory law, whether domestic or international (i.e. human rights) is crucial in many societies, in particular regarding gender equality. However, acknowledgement of the pro-poor features of customary law systems is increasing, alongside a deeper understanding of the matter. Lack of political will in developed (e.g. diverging policies in ODA and trade) and in developing countries (e.g. corruption, changing power relations) were also mentioned. The focus of the aid effectiveness agenda in working primarily with governments is excluding women and civil society groups from receiving support.

Ongoing **international initiatives** (i.e. UN Reform, CLEP, AU/ADB/ECA policies, GLTN, etc.) are bringing land higher up the agenda and were perceived as opportunities. Supporting ongoing initiatives to improve the economic wellbeing of women and the need to engage with civil society, in particular community based organizations and popular movements, were also identified as opportunities.

Box 18. Summary of working groups results

PRINCIPLES	CHALLENGES	OPPORTUNITIES
Human rights based approaches	Land rights are not human rights, they are contextualized	HRBAs provide a broader perspective than a narrow property rights-entitlements approach
Minimum standards	Lack of political will to address inequalities	Better understanding of the pro-poor features of customary practices
Gender equality	Diversity of understanding leading to incoherence and inconsistency	Support initiatives to improve socio-economic wellbeing of women
Non/discrimination and equality	Legal pluralism, contextual frameworks	Eliminate gender barriers in customary law and statutory law
Empowerment	Disadvantaged socio-economic conditions for women, limited participation, internalized discrimination, etc.	Mainstreaming of support to CBOs and civil society
Participation	Divergent policies in the developed countries between ODA and trade for example	Use of new technologies
Accountability	Impact of aid effectiveness	Growing democratic space, improved participation
Transparency	Corruption	Growing international expertise on land governance
Accessibility	Lack of capacity (weak judiciary and bureaucracy)	Prominence of land issues in the development agenda
Subsidiarity/devolution to the local level	Lack of capacity of CBOs	International initiatives: UN Reform, CLEP, AU framework, GLTN, SADC, APRM
Sustainability	Lack of alternatives	
Relevance	Linking land and MDGs	
	User centred approaches	

6. Methods for enhanced cooperation

Michael Aliber (HSRC of South Africa) presented a study on “The Gulf between Policy and Reality in South Africa’s Land Reform Programme”. The purpose of the study is to consider land reform policy in relation to people’s needs, aspirations and attitudes as part of an international initiative on developing survey methods to study democracy, governance, and human rights, and to promote evidenced-based policy-making (‘Metagora’).

The study explores whether people’s needs and aspirations were met by the three “branches” of land reform in South Africa: tenure reform, land restitution as a result of past injustices (apartheid) and land redistribution. The study found interesting divergences in the perceptions of the authorities and the will of the population. Some divergences could be explained by the lack of access to information and/or understanding of the content and scope of the land programme. Literacy and belonging to communal land associations appeared to be crucial to how citizens would understand and benefit from the reform programmes.

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He presented no conclusions based on the study, but argued that the methodology used provides a means of understanding “what people want” without relying on interest groups. The methodology consisted of using sample questionnaires targeting four different settlement types: farm dwellers, communal areas, urban formal and urban informal. Furthermore, it provides an entry point for a debate among stakeholders and will enhance cooperation at the national level. “If applied regionally, for instance by SADC, it can enhance regional cooperation.” and pointed to SADC as a possible forum for such cooperation.

Bruce Moore (ILC) introduced the upcoming Guidelines on Facilitation of Pro-Poor Land Governance Reform that ILC will be developing with UNDP support. He warned the participants not to lose sight of the objectives and claimed that no one disagreed with the objectives themselves, but the subject of discussion should be how to reach the objectives. What are the main principles? What are the means and tools? He suggested that UNDP should play a central role in future with its extensive country-wide network and other organizations should help UNDP to seek the higher level mandate to address the global community effectively. Finally, he advocated for the need for empirical evidence and translating this evidence into pro-poor guidelines, and committed ILC to participating in this process.

Noha El-Mikawy (UNDP OGC) presented the “Governance Indicators Project: Methodologies and Stakeholder Involvement”. The *Governance Indicators Project* supports a holistic approach to measuring governance, based on eight central features of an effective indicator system:

1. The democracy/governance assessment system is anchored in the national development plan or other political commitment such as the PRSP or, for example in the African continent, the African Peer Review Mechanism.
2. Indicators are selected and generated through a transparent, participatory and inclusive process and are pro-poor and gender sensitive. A framework has been developed to guide national processes in the formulation and application of gender and poverty sensitive indicators. See <http://www.undp.org/oslocentre/docs06/Framework%20paper%20-%20entire%20paper.pdf>
3. There is an institutionalized procedure to collect data from a variety of sources (surveys, administrative data, national statistics, Civil Society) and an institutional base for storing this information and making it publicly accessible.
4. The data sources are politically acceptable to all key stakeholders.
5. The data sources enable disaggregation in terms of the poor, and also in terms of gender.
6. National institutions including academia are used to develop the system so that national capacity is strengthened.
7. There is a targeted approach to developing the capacities of national stakeholders including government policy makers, Civil Society, the media, parliament, political parties as well as the national statistics agency or office.
8. Resources are available to ensure the sustainability of the system through repetition of the assessment to enable monitoring of improvements in democratic governance

The *Governance Indicators Project* provides support to UNDP Country Offices to enable them to assist national partners in building an effective monitoring system for their national development plans. Assistance focuses on (i) developing the capacities of national stakeholder groups including government, CSOs, the media and of course Civil Society, in the use and development of

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governance indicators; (ii) facilitating processes for developing indicators around national development plans, and (iii) enhancing existing and new governance indicators through a greater focus on poverty and gender disaggregations.

Box 19. Governance indicators: A framework for engagement

The Oslo Governance Centre's framework for engaging and supporting county offices and their partners in governance indicators includes two phases: a pre-planning and preparation phase and a second phase focused on facilitating multi-stakeholder dialogues. The pre-planning and preparation phase includes an OGC mission to the country to undertake consultations with key stakeholders, a desk-study democracy assessment using available data, facilitating the establishment of a task force comprised of key stakeholders, and the identification of a national institution for coordinating the national democratic governance indicators. Phase Two includes multi-stakeholder dialogues around the identification of priority governance issues and indicators related to them, relationship building and dialogue between governance data collectors and governance data users and establishing a timeframe for collection, generation and dissemination.

7. Opportunities for concerted action

In the last session of the workshop, the participants discussed how agencies could act together in the field of land governance. The session was chaired by **Bjørn Førde** who asked participants to refer to the following points in their interventions.

- The target group is the same for all organizations.
- Increase understanding of what is feasible and reach out to those above and beyond in the different organizations. The push is to deliver as one due to the perception of the large UN bureaucracy.

Participants proposed steps to be taken in order to build up concerted collaboration leading to a more pro-poor and gender sensitive land governance.

- 1) A definition of land governance
- 2) A clear distinction between different land contexts: urban vs. rural, state vs. private, etc.
- 3) Improve knowledge management and experience sharing. Example: the ILC guidelines funded by DDC or the planned OGC workspace.
- 4) Translate the consensus around gender equality in land governance into concrete tools
- 5) Address the conflict dimensions of land
- 6) Outreach to host governments and highlight ongoing initiatives such as SADC
- 7) Focus on implementation and concrete opportunities for joint action
- 8) Utilize UNDP's role as coordinator of the UNCT and image of an honest broker in dialogue with governments, but visible
- 9) Focus on poor women and men and their relation to land and not vice versa.
- 10) Land governance, as opposed to land administration, is the way forward. Land needs to be addressed through popular control and public decision-making processes for people centered land governance.

The discussion also highlighted some of the **tensions** that underline the different positions and discourses around the concept of **pro-poor and gender sensitive**. For some, land governance can be viewed in a broader perspective untied from poverty. The World Bank policies may not be agreeable to all, but what degree of agreement is necessary to work together? The exclusion of civil society organizations from the policy-making process was also mentioned. Last, the plenary debate showed that the discussions could not cover all the complexities surrounding land governance and agreement could be difficult to reach about a policy applicable to different contexts.

8. Conclusions

Participants departed with a good overview of the perspectives and activities of the various organizations and institutions representing multilaterals, civil society and donors. The studies on principles and institutions of land governance were useful to anchor the conceptual level in real life experiences and processes.

a. Need for further research

To a high degree, participants had advanced their adherence to pro-poor and gender sensitive principles in their presentations and the working group discussions provided an opportunity to search for common ground in the specific meaning and scope of those terms. This was achieved to a large extent (see pages 15 and 16) but questions about the definition of pro-poor (i.e. is it based in income or in race?) or the real needs of the poor (is it land or labour?) still need further exploration.

There were also debates on the scope of the term "land governance" and several participants referred to "natural resources governance" as a more acceptable term. This was again questioned by others as an inadequate term when applied to urban areas. Some argued that land governance reform is essentially land reform, as in re-distribution of land and consequently power – all other reforms which do not redistribute land will merely perpetuate inequality. Similarly, many participants warned of a tendency to regard land governance as a technical issue involving surveying, registration and arbitration. Participants were introduced to several approaches to land registration reform and titling projects, but the impact of such projects on poverty eradication requires further research.

b. Possible partnerships

The workshop did debate the enhancement of the collective potential at country level and identified some methods of developing pro-poor and gender sensitive land governance policies. Representatives from civil society organizations voiced their concern for a greater inclusion of civil society in land governance policies and processes and participants agreed on the benefits that will arise from establishing such partnerships.

The complexity of land governance and the need for political will to address the issue was acknowledged. However, a practical approach to creating such political will was not explored. The Governance Indicators Project was mentioned as a tool to measure governments' performance and create consensus about reform priorities. The Commission for Legal Empowerment of the Poor (CLEP) was also mentioned as an arena where political will could be created, but no concrete measures were agreed in this respect. SADC was also mentioned as an arena where collective efforts could be beneficial.

The failure to identify concrete measures to enhance the collective potential can most likely be attributed to the complexity of the issue and the early stage of the coordination process. Several participants pointed to the need to raise the issue on the global development agenda as well as internally in multi- and bilateral organizations.

After the workshop, representatives of UN agencies had an opportunity to meet and discuss how some of the ideas could be put into practice. It was acknowledged that inter-agency collaboration has been ongoing for quite some time in some quarters and it is time to highlight success stories and try to upscale cooperation. A joint mission to a country presenting favourable conditions (presence of various UN agencies, political will of the host government, etc.) was proposed as a pilot initiative. Madagascar was identified as a suitable candidate and preparations for the joint mission are already ongoing.

Appendix 1. Resources on land governance

"Agrarian Reform, Land Policies and the Millenium Development Goals: FAO'S interventions during the last decade"

"[Papers on Land Reform](#)" UNDP/Institute of Social Studies, multiple authors

"[The Unresolved Land Reform Debate: Beyond State-Led or Market-Led Models](#)" Saturnino M. Borras Jr. and Terry McKinley. IPC Policy Research Brief # 2. November 2006.

"[Land Rights for African Development: From Knowledge to Action](#)" Capri and Drylands Development Centre Policy Briefs.

"[Land Rights Reform and Governance in Africa How to make it work in the 21st Century?](#)" Liz Alden Wily, OGC and DDC Discussion Paper, March 2006

"The Philippine Land Reform in Comparative Perspective: Some Conceptual and Methodological Implications" Saturnino M. Borras Jr. Journal of Agrarian Change, Vol 6 No. 1. January 22006

"Land, Empowerment and the Rural Poor: Challenges to Civil Society and Development Agencies *Issues for Discussion*" Saturnino M. Borras Jr. Rome, IFAD, March 2006

"Making Land Rights Accessible: Social Movements and Political-Legal Innovation in the Rural Philippines" Jennifer C. Franco Forthcoming *Journal of Development Studies*

"Legal Empowerment: A Way Out of Poverty" anthology of articles published by the Norwegian MFA, December 2006,

International Institute for Environment and Development publication on land governance:

- On land rights in general:
<http://www.iied.org/NR/drylands/themes/landrights.html>
- On land registration
<http://www.iied.org/NR/drylands/projects/landregistration.html>
- On legal empowerment
<http://www.iied.org/NR/drylands/themes/legalempowerment.html>

'It is our land': Human rights and land tenure reform in Namaqualand, South Africa. **Poul Wisborg**, Ph.D. Thesis 2006:10. Noragric/Norwegian University of Life Sciences, [\(Abstract\)](#)

Is Land a Human Rights Issue? Approaching Land Reform in South Africa. [No. 24](#): Wisborg, P. (2002). Noragric Working Papers, Noragric/Agricultural University of Norway.

[Auditing the realisation of democracy and human rights in the context of rural land reform in South Africa: a component of the Metagora pilot project: final technical report. \(Commissioned by the Metagora Project, managed by the OECD, October\).](#) Aliber, M., Roefs, M. & Reitzes, M. (2005)

[The Right to Land and a Livelihood: The Dynamics of Land Tenure Systems in Conda, Amboim and Sumbe Municipalities](#) study commissioned by Norwegian People's Aid Angola and has been headed by Paulo Filipe. (October 2005)

[Administering Land Rights: Alternatives to Individual Property Ownership](#) ILC Panel Presentation at the International Conference on Agrarian Reform and Rural Development (ICARRD) Porto Alegre, Brazil (7-10 March 2006)

'Forced Evictions and Human Rights Law', M. Langford and J. du Plessis, COHRE Working Paper, June 2005, available at www.cohre.org/kenya

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'*Slum Upgrading and Human Rights*' (Geneva: COHRE Kenya Housing Rights Project), M. Langford, L. Quitzow and V. Roaf available at www.cohre.org/kenya

Natural Resource Tenure, Sida position paper, (in progress and soon available at this link [The Government's guidelines and Sida's policies](#))

["To Have and to Hold: Women's Property and Inheritance Rights in the Context of HIV/AIDS in Sub-Saharan Africa,"](#) Richard S. Strickland, ICRW Working Paper, June 2004.

["Human rights, formalisation and women's land rights in southern and eastern Africa"](#) by Ingunn Ikdahl, Anne Hellum, Randi Kaarhus, Tor A Benjaminsen and Patricia Kameri-Mbote Studies in Women's Law No. 57 Institute of Women's Law, University of Oslo Revised version of Noragric Report No. 26 June 2005, Norwegian University of Life Sciences

"Bringing equality home. Promoting and protecting the inheritance rights of women. A survey of law and practice in Sub-Saharan Africa", COHRE (Centre of Housing Rights and Evictions) 2004: <http://www.cohre.org/store/attachments/COHRE%20Bringing%20Equality%20Home.pdf>

"Women and adequate housing", report by the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and the right to non-discrimination (E/CN.4/2006/118,27February2006) <http://daccessdds.un.org/doc/UNDOC/GEN/G06/111/66/PDF/G0611166.pdf?OpenElement>

[Rural women's access to land and property in selected countries](#) - Progress Towards Achieving the Aims of Articles 14, 16 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Produced by FAO (Gender and Population Division), IFAD (Technical Advisory Division) and the International Land Coalition - authored by Maria Hartl, (June 2004)

[Progress Report on Removing Discrimination Against Women in Respect of Property and Inheritance Rights - Tools on Improving Women's Secure Tenure Series 1, Number 2](#), UN-Habitat, (August 2006)

Web sites

Commission on Legal Empowerment: <http://legalempowerment.undp.org/>

Is formalisation the answer or a question?: www.landrightswatch.net

Oxfam UK's 'Land Rights in Africa' web site: http://www.oxfam.org.uk/what_we_do/issues/livelihoods/landrights/index.htm

Global Coalition on Women and AIDS' web site on "Property and inheritance rights": http://womenandaids.unaids.org/themes/theme_3.html

Global land tool network: www.gltn.net

Women's land link Africa: <http://www.wllaweb.org/>

Appendix 2. Participants list

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Appendix 3. Working groups on human rights, gender and pro-poor land governance

HUMAN RIGHTS AND LAND GOVERNANCE

PRINCIPLES

Limited recognition of property rights with international law: mostly freedom from arbitrary interference.

Land rights can be derived from many human rights in certain situations: right to secure tenure, right to housing, right to land for agriculture for right to food/work, right to non-discrimination in inheritance systems, cultural rights i.e. indigenous peoples' rights to a territory as part of a culture, right to self-determination, etc.

Land and property rights are **not international**. They are **contextualized rights, not fundamental rights**.

Different value system to economic approach but can overlap. Economic values according to cost/benefit. Human rights values according to meeting of fundamental interests/needs of individuals and communities.

Human rights can **affect existing land uses and ownership** in three ways:

- protecting unfair interferences;
- changing discriminatory allocation of land rights;
- positive interference with land rights to benefit human rights of marginalized;

Fivefold human rights approach:	Minimum standards
	Participation rights
	Accountability
	Non-discrimination and Equality
	Empowerment (does it enable the marginalized)

There will be **conflicting** rights and interests. e.g. property vs. housing rights.

Rights can be **limited**. But must be justified and there must be process.

Human rights can create a **culture of justification and due process**.

CHALLENGES

Lack of a clear statement of land and human rights

Conflict in the South between customary approaches and human rights.

Different professions have **different understanding** of what human rights and property rights are.

Unclear impact of human rights based approaches.

No priority between rights (though some aspects within rights) but in a context it can give priority to one claim over another (e.g. indigenous rights to a forest vs. poor settlers would in many circumstances be stronger. But still need to address poor settlers.)

Bifurcated approach of developed countries on human rights. In one context, a country promotes human rights in development corporation, but then votes another way in WTO and World

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Bank/IMF.

Doesn't provide specific technical answers but human rights needs to be built into all phases of policy and implementation processes. Constantly need to ask the human rights questions along the way

OPPORTUNITIES

Prevention of homelessness and displacement **preventing** forced evictions in urban and rural areas.

Needs **more standards and protection at national level**, international support and empowerment of civil society to work on issue.

Focus on marginalized groups, e.g., tenants and landless labourers as well as small farmers and other occupiers in need of land.

Strong support for **civil society engagement and grassroots participation**.

Greater **accountability for land policies and programmes** and ability of those affected to raise concerns.

Climate change is an opportunity. That crisis might stimulate human rights thinking which is broader than economic thinking. But responses have to be human-rights consistent.

Provide **broader perspective** to 'land solutions' by measuring against human rights approach.

Opportunities arising from international standards:

CLEP proposed Convention/charter. Or handbook bringing it the principles and approaches together.

Proposed **regional charter on land tenure in West Africa**. What will be the added value?

AU/Adb/UNECA Africa land guidelines/framework may provide political cover for sympathetic government officials.

General Comment on Land and ESC rights by UN Committee on Economic, Social and Cultural Rights

GENDER AND LAND GOVERNANCE

PRINCIPLES

There was recognition by the working group that there are existing international instruments that highlight commitments that either concern directly or may be brought to bear on gender equality in the area of land rights. Some of them are mentioned below.

International instruments and commitments

International Instruments and Commitments Relating to the Rights of Women to Own and Inherit Property:

- **Universal Declaration of Human Rights, 1948: Article 7:** All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination **Article 17 (1)** Everyone has the right to own property alone as well as in association with others.; **(2)** No one shall be arbitrarily deprived of his property.
- **Convention on the Elimination of All Forms of Discrimination Against Women, 1979. Article 2:** Eliminate discrimination - 2F: To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

- **Article 14:** Rural women: 2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: - (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

- **Article 16:** 1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women, including - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration

o **Protocol to African Charter and Human and People's Rights, 2005.**

- **Art 6 (Marriage):** States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that: - j) during her marriage, a woman shall have the right to acquire her own property and to administer and manage it freely.

- **Article 7 (Separation, Divorce and Annulment of Marriage):** States Parties shall enact appropriate legislation to ensure that women and men enjoy the same rights in case of separation, divorce or annulment of marriage. In this regard, they shall ensure that: - d) in case of separation, divorce or annulment of marriage, women and men shall have the right to an equitable sharing of the joint property deriving from the marriage.

- **Article 15 (Right to Food Security):** States Parties shall ensure that women have the right to nutritious and adequate food. In this regard, they shall take appropriate measures to: - a) provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food;

- **Article 19 (Right to Sustainable Development):** Women shall have the right to fully enjoy their right to sustainable development. In this connection, the States Parties shall take all appropriate measures to: - c) promote women's access to and control over productive resources such as land and guarantee their right to property; **Article 21: Right to Inheritance: 1.** A widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it.; **2.** Women and men shall have the right to inherit, in equitable shares, their parents' properties.

o **UN Economic and Social Council Resolution 1997/19: 'Women and the right to adequate housing and to land and property'** Encourages states to comply fully with all their international and regional obligations and commitments concerning the legally recognized rights of women to land, property, inheritance, adequate housing including security of tenure, an adequate standard of living and the continuous improvement of living and housing conditions and to create opportunities for women to acquire training, education and information in all matters related to these rights;.

o **Beijing Declaration, 1995 (35).** Ensure women's equal access to economic resources, including land,...as a means to further the advancement and empowerment of women and girls, including through the enhancement of their capacities to enjoy the

benefits of equal access to these resources, inter alia, by means of international cooperation.

- **International Covenant on Civil and Political Rights, 1976.** Article 26: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

MDGs, esp 1 (Poverty Reduction), 3 (gender equality), 6 (stop spread of HIV/AIDS), 7 (Ensure environmental sustainability):

MDG 1 *Reduce extreme poverty*: Women's poverty is directly related to the absence of economic opportunities and autonomy, and lack of access to economic resources, including land ownership and inheritance.³ Lack of property and inheritance rights increases the socio-economic dependence of the woman and consequently reduces her participation in the process of human development, by limiting her production possibilities, as well as indirect opportunities such as access to credit, microfinance, and employment. It has further been found that women allocate their money in a more judicious way – they are not only better savers, but they spend major part of their incomes on health and nutrition of their family members and schooling of their children. This has a positive impact on human poverty as it helps overcome deprivations in areas of health and education.⁴

MDG 3: *Promoting gender equality and empowering women.*: The United Nations Millennium Taskforce has stressed guaranteeing women's inheritance and property rights as a strategic priority toward the achievement of *MDG 3*. Proposed indicators to monitor progress toward this priority include land ownership by male, female or jointly held and housing title, disaggregated by male, female, or jointly held.

MDG 6 *Stop the spread of HIV/AIDS*: There is a strong link between the spread of HIV/AIDS and women's right to own and inherit property. A study conducted by the International Centre for Research on Women (ICRW) in collaboration with the Global Coalition on Women and AIDS found that women with secure property rights are better able to cope with and mitigate the effects of HIV/AIDS, such as illness or widowhood, on themselves and their children. For example, such women can better maintain their family's income and bear the economic shocks associated with HIV/AIDS with a resource base that can generate income. Further, upon widowhood, they are better able to retain their secure property rights and avoid having their property or land taken from them as the result of the stigma of HIV/AIDS, forcing themselves and their children into destitution. Second, when women own property it also helps to prevent them from contracting the disease, by increasing their bargaining power within the household, including their power to negotiate safe sex. Moreover, women who hold property are less likely to turn to transactional sex to support their families.⁵ Reducing the spread of HIV/AIDS will of course also necessarily promote MDG 5: Improve Maternal Health.

MDG 7 *Ensure environmental sustainability* As in their role as family caretakers, obtaining food and medicines, and gathering water and fuel wood are primarily the responsibility of women in much of the developing world, women have a special stake in ensuring environmental sustainability. Drought and forest degradation make it increasingly difficult for women to obtain food, water, and fuel wood for their families.⁶ Women also

³ Beijing Platform for Action, A/CONF.177/20, 17 October 1995 at par. 51.

⁴ Reorienting Development : Towards an Engendered Employment Strategy. Selim Jahan. <http://www.undp.org/poverty/docs/sppr/gender-employment-delhi.doc>

⁵ Richard S. Strickland, "To Have and to Hold: Women's Property and Inheritance Rights in the Context of HIV/AIDS in Sub-Saharan Africa," ICRW Working Paper, June 2004.

⁶ Women, Land Rights and the Environment: The Kenyan experience. By Patricia Kamari-Mbote. (Society for International Development, 2006). <http://www.ielrc.org/content/a0605.pdf>

responsible for saving seeds for the planting season, and seed management is of great significance to biodiversity.⁷ Ensuring women's right to inheritance increases their say in ensuring the sustainable use of land.

Other considerations:

- Gender equality central to land governance – titling, inheritance – link must be made explicit in each area

What is not working – reinforce principles and enforcement mechanisms – how do we help governments to monitor, set standards?

CHALLENGES

Despite the existence of international instruments supporting equal rights of women in regard to land governance, many challenges exist. They are not easily addressed, since they are linked to social inequalities and accepted discriminatory practices as well as economic and legal challenges. Additionally, the particular challenges to women's land and property rights exacerbated by the HIV/AIDS pandemic are of special concern.

Some of the most important issues, to consider highlighted by the group or referenced are mentioned below:

Barriers linked to the socio-economic well-being of women

- *High female illiteracy rates*
- *Ignorance of land rights*
- *Lack of resources to claim their rights*
- *Internalized discrimination*
- *Limited participation of women in decision-making bodies on land tenure issues*

Barriers under Customary Land Tenure Systems

- *Limited rights of women to own land due to patriarchy*
- *Land allocation administered by traditional leaders*
- *Traditional leaders do not know about land laws that provide for women's rights*
- *Daughters cannot inherit land*
- *Limited participation of women in traditional community decision-making*

Barriers under Statutory Land Tenure Systems

- *Land law lacks a clause promoting women's land rights*
- *Land law is nondiscriminatory but is not harmonized with other laws in the system (e.g., laws on inheritance or marriage)*
- *Lack of capacity or knowledge among implementers of the law*
- *Some legal codes do not allow joint ownership of land*
- *Women who marry may become legal minors depending on the type of marriage and the property law applied (for instance, in Lesotho and Zimbabwe).*

- Source UNECA, 2003

Specific challenges:

HIV/AIDS – Women w/o inheritance rights, when they lose their partner, are more likely to contract HIV/AIDS, as without property they are vulnerable to exploitation. Women whose husband dies of AIDS may be blamed for their husband's death, due to lack of understanding of the disease, and driven from the property when they are unable to claim their rights. The practice of widow inheritance may also spread AIDS.

There are many questions that need to be asked in the context of ensuring that gender equality concerns are put forth in the debate on land governance. The identification of these questions largely surpasses the task of a one-hour working group. However some of the questions and issues that emerged are listed below.

⁷ SD Dimensions. FAO Sustainable Development Division. <http://www.fao.org/sd/WPdirect/WPre0105.htm>

Customary and Statutory Law – and Enforcement - Considerations:

- o How should government relate to customary practices in land reform? How can customary law practices be updated to reflect changing social realities.
- o Laws should protect women in both statutory and customary law marriages.
- o **Joint titling** – must formalize relationship btw man and woman, set formal criteria for recognition of customary or de facto marriages.
- o The issue of **polygamous marriages** (where polygamy continues to exist) is important in inheritance – how to divide inheritance in this case. Some proposed legislation divides percentage of inheritance based on years a couple has lived together as man and wife, and, where spouse dies intestate, allocates the house to the surviving spouse that has been living in that house with intestate. It is recommended that discretion should be allowed in the provision where good conscience and equity would dictate otherwise, taking into account inter alia the economic contribution of multiple spouses. – SEE: Fordham International Law Journal, *PROMISE UNFULFILLED: LAW, CULTURE, AND WOMEN'S INHERITANCE RIGHTS IN GHANA*, December, 2001.
- o Gender is cross-cutting, different laws apply to one problem – family law, inheritance laws, titling, and land tenure. Change one law, it affects others, must then review these
- o **The most critical issue is the enforcement of the law** – procedural part – judiciary, customary dispute resolution mechanisms
- o Some existing practices and legislation are designed to protect women. We are bound to promoting equality under MDG 3, not just protection, but the transition process must be well managed.

Promoting women's political participation

- Challenge - Even with quotas, there are problems of capacity building - illiteracy, finding women to run for office
- Who is speaking on behalf of women? i.e. rural and urban women may have different views – urban women professionals may not always be sensitive to plight of poor, rural women.

Socio-economic well-being of women

- Time and financial costs are an issue for women
- Human rights of non-citizens must also be protected
- The performance based lending system is based on how comparable things are – but some must be context specific – CIDA developed some gender sensitive indicators, possibly a start.

Using research to inform practice/policy:

- Research identifies complexities, development looks for quick solutions
- There is no one approach – but what are the broad principles to ensure that women's empowerment is taken up in a more meaningful way – academics may bring empirical views within region, development agencies identify basic principles for advocacy purposes, while also developing leading issues within regions, try to decide which countries may be ripe for implementation of research recommendations – bring it down to country level
- We may need basic principles for advocacy purposes, but devil will be in details for implementation.

Policy/Programming Cycle:

- Identification of entry points, review of institutional options, monitor the impact of our efforts.

Challenge of Aid Effectiveness Agenda:

Donors are more reluctant about small scale projects with new aid effectiveness agenda – support to innovative civil society projects may be compromised with the new focus on the overall PRSP strategy – many womens’ organizations representatives may need to find their ground in this new atmosphere, they may not be able to speak about Paris Principles, etc.

OPPORTUNITIES

The working group recognized that there are many cross-cutting issues related to the protection of women’s rights in land governance. Initiatives to promote gender sensitive land governance policy and practice must necessarily involve the improvement of socio-economic well-being of women as well as the improvement of the drafting and application of equitable laws.

Initiatives to improve the socio-economic well-being of women

- *Education and literacy campaigns*
- *Legal education for women*
- *Economic empowerment of women through provision of credit and market access*
- *Affirmative action (waive fees for land registration, land quotas for women)*
- *Improved participation of women in decision making bodies on land tenure issues*

Initiatives to address barriers linked to customary/traditional law

- *Disseminate new land laws and build capacity and knowledge of traditional leaders to avoid discriminating against women*
- *Educate all members of society on women’s land rights*

Initiatives to address barriers related to statutory law

- *Ensure land law has a clause that promotes land rights of women*
- *Harmonize land laws with other laws in the system (marriage laws, inheritance laws)*
- *Disseminate new land laws and build capacity and knowledge of implementers*
- *Translate laws into effective programmes for implementation*

Activities that advance public awareness, understanding, and application of women’s rights

– including activities that promote women’s access to legal resources.

- Source: UNECA (2003)

In terms of specific actions that may be taken, some of those suggested by the working group include:

- **Bring parliamentarians, judges, traditional leaders together to discuss these issues.**
The ILC has partnership with Canadian Parliamentary Center that focuses on how to help women parliamentarians bring their issues to the table.
- **UNDP/UNIFEM’s Leadership Development Programme and Community Conversations Initiative on Fighting HIV/AIDS through Guaranteeing Women’s Inheritance and Property Rights**, which was piloted in Ethiopia, is a good practice that should continue to be replicated in other countries. Under this programme, UNDP and UNIFEM in collaboration with Ethiopia’s Ministry of Women’s Affairs and Ministry of Capacity Building’s - Justice Sector Reform Programme and Federal HIV/AIDS Prevention and Control Office brought together leaders from the justice sector, regional HIV/AIDS prevention and control offices, law enforcement programmes, civil society, media and associations of people living with HIV/AIDS across Ethiopia to identify the underlying drivers that perpetuate inequalities in access for women, and to generate actions and partnerships in order to break down current barriers and uphold women’s rights to own and inherit land and property.
- **Promote women’s political representation**
 - o In Tanzania, land rights decentralised to village councils – quotas for participation enforced to increase women’s voice in village – but internalization of patriarchal structures must still

be addressed.

- o In W. Africa, womens' organizations are powerful, but when you put a woman on all male committee, she may not have a strong voice – we should strive for **equal representation**.
- **Look at behavioural change in history** – Ingredients of change process change usually comes about where there is confluence of good ideas with economic incentives, champions are needed, often come from outside of constituency. Conflict/crisis may also provide opportunities/higher receptiveness to change: i.e. the civil war and genocide of 1994 in Rwanda spurred women to demand rights to inheritance. The debate and discussions were successful thanks to a very important women lobby, both in the NGOs and the caucus of women parliamentarians. Women's inheritance rights were guaranteed for the first time in the 1999 *Law on Matrimonial Regimes, Liberalities, and Successions*. In 2004, Rwanda became the world leader in gender parity, with the **highest political representation of women in any parliament worldwide**. One of the first actions of the newly elected women parliamentarians was to successfully advocate for gender equality in the new land law adopted in 2005, which formalizes land rights through official titling. According to UNDP Rwanda, **the big challenge now is to educate communities and women themselves about these rights and how to claim them**.
- Need **indicators to capture empowerment** – but these may need to be country specific – must look at historic forces that led to womens' empowerment in different contexts – what may be most applicable to country in consideration
- Have gender implications of land reform been well identified and mainstreamed? – it has been heavily researched, but has research been used to develop policy?
- **Aid effectiveness agenda**
 - o Donors may join together to advocate countries to address gender dimensions of land governance - but also, this can complicate matters when some countries not willing to sign on the gender equality measures and consensus is being sought.
 - o There are a lot of women's networks, organizations fighting for principles of equality – I.e., the Tanzania gender networking programme. Before the aid effectiveness agenda, these groups had a direct line to government. Now they must go through donors. Work must be based on local principles, initiatives.
- If you can at least get good cornerstones of good legislation approved by heads of state, you can use these for advocacy - maybe for women we need to develop key ingredients – what elements are critical in any good land policy? 99% will be in translation, however – we need country specific information, local partnerships
- What can we learn from successes where women have made progress in other areas – ILC/FAO project on conflict resolution – gender empowerment agenda may have some commonalities for successful approaches. Maybe we are looking at it too narrowly as land rights agenda: Perhaps we can **make women's land rights issues part of the overall women's empowerment agenda to give them more prominence**.
- Promote **south/south cooperation**: Let women share successful practices amongst each other. *Opportunity: UNIFEM/UNDP International Knowledge Network of Women in Politics*, to be launched in February 2007, will bring together women political leaders from the South to discuss issues of common concern.
- We can require **gender specialists that work on land in each project** – this may be regulated – There is no mention of gender in technical expertise under SADC, though it seems they are thinking about it – specific issues must be made explicit so that later on it is not forgotten or left off the agenda.

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- Must show **development effects of empowering women to claim their land rights** – impact on economic development, poverty reduction – this may be more politically persuasive in some contexts – i.e. leverage studies illustrating how women tend to spend in ways that promote economic development, tend to have higher repayment rates on microfinance loans – it may be advantageous to promote women’s land rights as economic development issue rather than human rights issue – strategically to broaden constituency of support – use diplomacy, know your audience and tailor your message according to what they will respond to. In show case, this may entail showing that it may be politically costly *not* to promote women’s land rights.
- In Arab States, UNDP has tried to mainstream gender analysis within country offices in programme cycle – we have the toolkits, but do we have critical mass of foot-soldiers to take on the implementation of gender sensitive programming, sit with national counterparts and speak their language – **we need to become more comfortable with gender sensitive analysis to be more creative/flexible in how we speak about it with governments.**
- Put together package of resources from various agencies and development partners (including academia).
- Form interagency group to work on issues of land governance.

How can BDP Gender Team provide follow up? Maybe brown bag, knowledge product, coordination of cross-practice activities relating to gender sensitive land rights (Governance, HIV/AIDS, Poverty, Environment).

PRO-POOR LAND GOVERNANCE

PRINCIPLES

Ensuring broad-based **participation**

Improving the **accessibility of institutions** involved in land governance

Human rights based approach to land governance

Actively promote **gender equality**

The need to search for a **common vision** at national level

Find an appropriate **balance between customary and statutory** frameworks

Land policy should link clearly to a **poverty reduction strategy and MDGs**

Land policy must recognise the **differentiation of needs** among different groups of poor

Principle of subsidiarity– responsibility should be devolved to local level with information provided accordingly

Transparency and accountability

Promote **user-based** and **user-oriented land administration** systems and tools to ensure **affordability, accessibility and suitability**

Proper planning to ensure large investments in creating/improving tenure systems or land administration system are backed up with provisions for maintenance

Situating land governance within a broader development framework

CHALLENGES

Costs of mainstream tools and policies

Limited capacity in administration at different levels

Limited capacity in communities and civil society

Inconsistencies and incoherencies in policies promoted by external partners

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Lack of common vision among national stakeholders, partly because of competition or discrepant interests

Different perspectives on who are the poor and what is a pro-poor policy

Historical complexities, competing claims among 'the poor'

Reluctance among agencies to address '**redistributive land reform**' as opposed to '**land governance**' - relates to management of political risk; sometimes fear among local NGOs and CBOs to speak of land rights, safer to speak of 'land use'

How to link land issues to the international agenda, e.g. MDGs

The absence of general development and alternatives to land-based livelihoods - increases pressure on land with growing population

Difficulty of adapting externally proposed approaches and sharing lessons between contexts

Lack of political will and democratic space where the poor can express their concerns

Complicated administration and procedures

Fragmentation of responsibility within governments for land

Professional self-interests – promotion of complicated approaches

Corruption

Weak judicial systems

Legal and normative **pluralism**

OPPORTUNITIES

New **affordable** technologies

UN reform and opportunities for concerted effort at country level (co-ordinating role of the Res Rep; 'delivering as one')

Current **prominence of land issues and the question of pro-poor land policy**

Mainstreaming of **community-based and grassroots approaches** (e.g. enumeration, dispute resolution)

Growing democratic space in many countries

African Peer Review Mechanism

Regional and sub-regional initiatives

Recognition that some traditional land approaches (e.g. *waqf*) are pro-poor and can be promoted

Innovative legislation (e.g. City Statute in Brazil)

Regional and international networks of expertise and knowledge

More mutually respectful and productive engagement been various civil society and NGO actors and international agencies