

A workshop hosted by:

The Government of Uganda's
Ministry for Lands, Housing and Urban Development
International Fund for Agricultural Development
United Nations Office of Project Services

Land Tenure Security for Poverty Reduction in Eastern and Southern Africa

WORKSHOP REPORT

Kampala, 27-29 June 2006



Enabling the rural poor
to overcome poverty



Ministry of Lands, Housing
and Urban Development
Government of Uganda

Acronyms

ESAFF	East and Southern Africa Farmers Forum
FAO	Food and Agriculture Organisation
GIS	Geographic Information System
IFAD	International Fund for Agricultural Development
KLA	Kenya Land Alliance
LSSP	Land Sector Strategic Plan
MLHUD	Ministry of Lands, Housing and Urban Development
NGO	Non-governmental organisation
NLPFP	National Land Policy Formulation Process
PCDP	Pastoral Community Development Project
UNOPS	United Nations Office for Project Services

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Introduction

"Land tenure is not just about economic development, but about the social and cultural fabric of a society."

Dr. Rexford Ahene, Senior Technical Advisor, MLHUD.

Poverty in Africa has a primarily rural face. Access to land and security of tenure, especially for rural poor people, are central to poverty reduction in rural areas. Land is one of the most important economic assets rural poor people have, but it also has political, social and cultural dimensions. For most African people, land is owned on behalf of their ancestors and future generations. Very poor people tend to be landless or have limited access to land. Rural women, in particular widows and women-headed households, often have weaker land rights and as a result are among the most vulnerable in a society. Land tenure insecurity has been a major cause of social instability and conflict in Eastern and Southern Africa at local, regional and national levels. Disputes and conflicts over land have also had a significant impact on the level of investment in land and on agricultural yields. Growing populations, declining soil fertility and increasing environmental degradation, the impact of HIV/AIDS and new opportunities for commercial agriculture have all increased demands and pressures on land resources.

In this context, a workshop on land tenure security was co-hosted by Uganda's Ministry of Lands, Housing and Urban Development (MLHUD), the International Fund for Agricultural Development (IFAD) and the United Nations Office for Project Services (UNOPS) in Kampala from 27-29 June 2006. Drawing on the experience gained from poverty reduction projects and programmes and policy development in the region, the objectives of the workshop were to deepen understanding of land tenure security and land access issues, and to identify what more the various stakeholders could do in partnership with each other to improve land tenure security, particularly of the rural poor and marginalised groups in Eastern and Southern Africa. More than 100 people from 15 countries in the region participated in the workshop – from Angola, Burundi, Eritrea, Ethiopia, Kenya, Lesotho, Madagascar, Mozambique, Rwanda, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe. Participants represented land and other government ministries, non-governmental organisations (NGOs), farmers' organisations, international development agencies, land experts working in the region and IFAD-supported project and programme staff.

Summary of the Workshop Proceedings

Day 1

Opening Session

The workshop was opened by the Permanent Secretary for Lands, Housing and Urban Development, Engineer B.K. Kabanda, followed by opening remarks from the representatives of the three host institutions. The Honourable Minister for Lands, Housing and Urban Development, Daniel Omara Atubo, in his opening remarks, expressed his hope that “the views and recommendations from the workshop will be translated not only into land policy formulation but sustainable implementation for rural poverty reduction in the region as well”. He added: “There are many challenges in the area of formulation of sustainable policies, and it will therefore be your task to encourage the development of robust policies which will serve Africa for several years. The process will require the building of consensus around issues which will have a profound effect on our national economic, social and political development.”

“We want this workshop to improve our understanding of the land tenure security issues faced by poor rural people. And we want this to result in better-focused, more effective projects that bring real and sustainable benefits to them. But that is only part of the story. Ultimately, we want to bring about positive change at the national level. For IFAD, the key question is how we and our partners can work with the governments of the region to make this happen. I hope our deliberations will help us collectively to answer that question.”

Edward Heinemann, Regional Economist, IFAD.

Keynote Address and Country Case Studies

Following the keynote address on land rights and policy development in Africa, given by Professor Okoth-Ogendo, case studies were presented on land policy formulation and implementation in Uganda, Kenya and Mozambique. The case studies highlighted the different challenges faced by each country and the importance of multi-stakeholder collaboration to address them. After plenary discussion, a presentation was given on the African-led (African Union Commission/Economic Commission for Africa/African Development Bank) formulation of an Africa-wide Land Policy Framework and Guidelines. The importance of land tenure security for Africa’s social and economic development was emphasised. Following the presentations, participants formed small groups to share experiences from other countries in the region.

Day 2

The second day of the workshop was devoted to land tenure security challenges and activities with respect to poverty reduction programmes and projects. An overview presentation was given, followed by case studies on projects and programmes in Uganda and Rwanda. Following plenary discussions, presentations were given on three themes: decentralisation of land administration – integrating statutory and customary systems in Madagascar; common property regimes and pastoralists' rights in Ethiopia; and women's land rights and the impact of HIV/AIDS on the rights of widows and orphans in Western Kenya. In the afternoon, presentations were given on the roles and actions of different stakeholders supporting pro-poor land policy formulation and implementation. The panellists included representatives of the government, farmers' organisations, NGOs and international development agencies.

Day 3

The final day of the workshop focused on lessons learned and recommendations for policy formulation and for mainstreaming land tenure security into poverty reduction strategies, programmes and projects. Following the discussions, the workshop participants reached consensus on the key lessons learned and actions to be taken (Appendix 4).

Structure of the Report

The sections that follow provide summaries of the presentations and the main discussion points of the workshop agenda:

- A review of land policy formulation and implementation in the region (day one).
- Land tenure challenges in poverty reduction programmes and projects (day two, morning).
- Land tenure activities in poverty reduction programmes and projects (day two, morning and afternoon).
- Different stakeholder' perspectives of their possible roles and actions in supporting pro-poor land policy formulation and implementation (day two, afternoon).
- Lessons learned and recommendations for mainstreaming land tenure security in poverty reduction in Eastern and Southern Africa (day three, morning).
- Summary findings from the workshop and the way forward (day three, afternoon).

It is important to note that the contents of the following sections do not necessarily constitute statements of fact, consensus on the part of the workshop participants or formalised positions of IFAD or any other organisation present. Rather, they are meant to represent the diversity of views, of concerns and of perspectives that emerged during the course of the workshop.

The full agenda for the workshop is provided in Annex 1. A complete list of presentations given, and links for accessing them, is provided in Annex 2. The list of participants is provided in Annex 3. The Summary Report presented at the end of the workshop is provided in Annex 4.

DAY 1:

A Review of Land Policy Formulation and Implementation

The focus of the initial session of the workshop, chaired by Dr. Rexford Ahene, Senior Technical Advisor, MLHUD, was on a review of land policy formulation and implementation in the region. The session began with an overview of the current debate on land tenure in Africa presented by Professor Okoth-Ogendo, followed by presentations of three case studies.

Keynote Address

Land Rights in Africa – Interrogating the tenure security discourse

By H.W.O. Okoth-Ogendo, Professor of Public Law, University of Nairobi.

Professor Okoth-Ogendo began his overview by tracing the origins of the land tenure *problematique* back to the colonisation of Africa when colonial powers promulgated decrees that converted land in the colonies, ownership of which

“...Thus by a mere stroke of the pen radical title to all of the land in undocumented Africa, was appropriated to colonial invaders.”

could not be proved by documentary evidence, into the property of their respective sovereigns. “This imposition, which was everywhere enforced by a complex system of foreign property law that now forms part of the legal system of independent Africa, set in motion a process of transformation in land relations, the consequences of which lie at the root of the land (tenure) rights debate in Sub-Saharan Africa.

“Efforts to understand the nature of that transformation and to assess its impact on Africa’s political economy have yielded an unwieldy debate about the character of African land rights systems, their viability as instruments for agrarian development, their relations to imposed property law, whether those systems should be reformed to reflect the contemporary needs of the ‘modern’ economy, and how the wider political dimensions of the land question can be resolved...”

However, Professor Okoth-Ogendo explained that there has been no success in identifying a framework for the design of land rights systems since land in Africa “is not simply a factor of production, but a multiplex social, cultural and political phenomenon on which the process of production and reproduction of social relations depends”.

According to Professor Okoth-Ogendo, one of the main issues is that from the beginning of the 20th Century until relatively recently, property economists and lawyers considered land in Africa as *terra nullius* because customary land tenure systems have no juridical content and therefore no property rights existed over these lands.

He argued that “although the foregoing perspective is no longer seriously propagated, state ideology and law in post-independent Africa have retained aspects of that history. Thus... (in most countries in Africa)... land is still vested in the president or the state... (V)ery little advance has been made towards the recognition of the essential character of African land rights systems”.

However, “land in Africa remains a multiplex phenomenon in that as an **economic resource** land is central to the organisation of sustainable livelihoods...As a **social, cultural and ontological resource**, land is an important factor in the construction of social identity, the organisation of religious life, and the production and reproduction of culture... As **environmental media**, land supports more than just human livelihoods; on it depends all biotic matter, hence the sustenance of terrestrial life as we know it. And, finally, and not of the least significance, land is an **enormous political resource**. It defines power relations between and among individuals, families and communities under established systems of governance.

“...The point to emphasise is that African land rights systems provide a flexible framework for a wide range of functions which support more effective utilisation of land resources...”

“African land rights systems, therefore, confer ‘property’ in as much as they empower individuals and communities to appropriate or execute a determinate range of use or other functions in respect of the land resources controlled by the territorial community.

“The creation of a dual system of property as a result of colonial rule has generated fundamental distortions and disequilibria in African land rights systems. That duality had two important characteristics. The first was in the juridical content of land rights – one flowing from foreign law and the other from indigenous law. The second and more fundamental characteristic was the way in which the state related (or treated) either category... (I)t was always (and remains) the policy that land governed by foreign law should receive the full protection of the state. Thus, apart from being accorded statutory recognition, an elaborate public infrastructure for the creation, ascertainment and management of rights over it was always in place, not to mention other forms of protection through the criminal justice system. Land governed by indigenous law, however, was systematically denied those privileges.

“The result is that while land under imposed law thrived and was able to generate substantial benefits to national economies, the indigenous sector remained stunted and in perpetual crisis. The system of land rights, especially as it related to allocation, management and dispute resolution, essentially broke down in most jurisdictions. The conventional view, however, was that such a breakdown was an inevitable stage in the evolution of, and clear evidence of, inherent defects in the African land rights system.”

Professor Okoth-Ogendo explained that it has often been asserted that African land rights are complex and diffuse, thus creating a high degree of uncertainty for

land users about the risks involved when taking decisions with regard to different land uses. It is then usually argued that individual property is necessary to remove this uncertainty. However, this is not necessarily so since "...no land rights system can confer security unless the state or the community has the ability to enforce the entitlements it confers in the specific circumstances to which they relate...(S)ecurity depends, most essentially, on the manner in which public institutions administering the land rights system perform their functions. Where these institutions are inefficient, opaque, obsolete or corrupt, the land rights system, irrespective of the nature of its juridical incidents, will not provide the security which decision-making requires... (W)hat is needed is an assurance that the specific functions which the state or community authorises an individual or group to exploit out of land resources, will be fully executed and the benefits thereof retained.

"Because African land rights systems address a wide range of social, cultural economic and political issues, they clearly confer adequate security in respect of the various functions for which access is granted by the state or respective communities. Indeed more recent ...studies now acknowledge that African land rights systems are indeed secure... Consequently these systems do not seem to be in need of wholesale replacement with foreign (or any new) property rights regimes."

Professor Okoth-Ogendo explained the reasons behind the current shift from reforming tenure to the development of a comprehensive land policy. These include the following:

- Despite enormous resources directed at the reform of land tenure, these had had little impact, leaving the agrarian sector almost unchanged;
- As long as foreign property law remains de-linked from the social and economic aspirations of the majority of the land-using public, its legitimacy will continue to be questioned;
- The extension of foreign property law to land resources held under indigenous law has failed to eradicate the basic principles of the latter law;
- Policy neglect of land resources governed by indigenous law continues to rob this sector of essential development needs;
- Lack of enforcement of laws, particularly in respect of land held under indigenous rules, continues to perpetuate the underdevelopment of the entire land sector;
- Public institutions administering land resources have failed to energise the development of that sector;
- Growing structural and systemic inequality and gender discrimination in the allocation, transmission, distribution and enjoyment of land rights continue to constrain development in the land sector. This has become particularly critical as a result of the debilitating impact of HIV/AIDS throughout rural Africa;

- Inter-sectoral policy and legal fragmentation remains a serious impediment to the rational development of the land sector. Failure to harmonise law and policy has tended to perpetuate the delivery of conflicting messages to the general land-using public.

“Governments across Africa are now convinced that these and other symptoms cannot be addressed without the development of comprehensive policy for the land sector... (V)irtually all the countries of Sub-Sahara Africa have developed or are in the process of completing the development of national land policies... Although policy development methodologies, processes and targets vary from country to country depending on the nature and complexity of the land question, the political factors driving it, the availability of capacity and resources, external pressure, and the scope of land policy development across the region is broadly similar.

“Among the issues being dealt with are:

- The role of the state in the determination of land rights and control and administration of land resources in general.
- The juridical status of land resources governed by indigenous law.
- The viability and interactivity of the multiple tenure regimes which continue to exist in the land sector.
- The nature and efficiency of land rights administration systems.
- The protection of the land rights of women.
- National implementation of regional and international land policy commitment.

“The role of the state in land relations is being questioned for several reasons. First, there is abundant evidence that the state has proved to be not only a poor trustee of public land resources but also a very bad manager. The widespread complaints about the ‘grabbing’ of public land throughout the region are a serious indictment of the ability of the state to protect public trust over land. Further, the widespread neglect of land and environmental management regulations is a clear indication either of lack of capacity and resources or sheer unwillingness to take effective enforcement measures.

“Policy options being considered across the region therefore include:

- The vesting of radical title in land directly in community organs.
- Divestiture and/or decentralisation of state authority over land.
- Empowerment of local communities to plan and manage land resources.

“An important concern of land policy development is the protection and strengthening of the land rights of women and children. This concern arises from

the fact that not only does land use in Africa depend primarily on women's labour but also that their access and control of land resources remains seriously constrained by important aspects of indigenous and statutory law. The most important of these are the rules of transmission which everywhere require that women receive land rights predominantly through their male relatives. More recently those rules have become an arena of contestation especially in the context of the HIV/AIDS pandemic.

“Finally, as most of Africa falls under regional economic and political groupings, domestic land policy must respond to land issues of a trans-boundary nature. The most important of these relate to shared natural resources, environmental regulation and population movements...

“It is important to emphasise, however, that the development and approval of a national land policy **document** will not solve the problems bedevilling the land sector. That policy must be translated into a comprehensive programme of land sector reform involving **inter alia** realistic costing and budgeting, dissemination, internationalisation through sustained public dialogue, the design of implementation strategies, institution and capacity building, and legislating. Few countries in the region have gone this far. Indeed, land policy implementation is quickly becoming the main policy bottleneck in land sector development.”

Country Case Study Presentations

"Ghana plays football like we prepare our land policy...We start well, but fail to finish." – Odenda Lumumba, Kenya Land Alliance, while watching the World Cup game between Ghana and Brazil.

Following the keynote address by Professor Okoth-Ogendo, case studies from Kenya, Mozambique and Uganda that reflected different stakeholders' perspectives were presented. After the three case studies, the current process for the formulation of an Africa-wide land policy framework and guidelines (conducted jointly by the African Union Commission, the Economic Commission for Africa and the African Development Bank) was also presented to spur debate on the theme of the session.

Kenya's Land Policy

By Odenda Lumumba, National Co-ordinator of the Kenya Land Alliance.

Mr. Lumumba described Kenya's National Land Policy Formulation Process (NLPFP), which seeks to develop a policy document and harmonised legislation which will provide a policy and institutional framework for implementation. He pointed out a number of challenges in the process, including: a top-down approach with lack of ownership of the process by the people; policy formulation running parallel with other sectoral policies without seeking convergencies; and the lack of full political commitment for implementation. He also described the role that civil society can play, particularly in advocating a land policy that secures rights to land and territorial resources for both rural and urban poor, and reaching out to mobilise the disadvantaged to exercise and defend their rights against competing interests.

Currently, the NLPFP roadmap is stalled, with the draft National Land Policy of December 2005 not yet officially released for public debate. However, Kenya Land Alliance, in collaboration with six CSOs networks, has started an audit of the draft.

Progress and challenges in the formulation and implementation of Mozambique's land policy

By Simon Norfolk, Director of Terra Firma Ltd (Mozambique).

Mr. Norfolk outlined Mozambique's post-conflict land tenure reform process and enumerated a number of key lessons to be learned from it, including:

- The importance of a nationally-driven process with specialised technical assistance from international development organisations.
- The strong role of civil society in creating awareness, disseminating information and monitoring policy impact and feeding back to policy makers.

- The inclusion of a wide range of actors in developing and consolidating the policy development and implementation, thus leading to legitimacy and ownership.
- The highly functional partnership between the government, civil society and international organisations.
- The importance of capacity building for government and service providers, as well as research by different actors.

Formulation of the National Land Policy for Uganda – Land Sector Strategic Plan (LSSP) 2001-2011

By Richard Oput of MLHUD.

Mr. Oput described the evolution of the LSSP, which was designed to provide the operational, institutional and financial framework for implementing sector-wide reforms and land management. One of its key strategic objectives is the development of a National Land Policy that is pro-poor and the establishment of a systematic framework for addressing the role of land in national development. He underscored the importance of the National Land Policy Working Group in steering the process – the group was composed of public- and private-sector institutions, government departments, NGOs and other stakeholders – as well as the key study areas that were identified to develop the draft National Land Policy. Study areas included:

- Integration of traditional land administration and common property resources.
- Resettlement, landlessness and internally displaced persons.
- Privatisation and divestiture of land services.
- HIV/AIDS, property rights and agricultural productivity.

A second draft of the National Land Policy has been completed and regional and national stakeholder consultations will be held in order to complete a final draft for submission to Uganda’s Cabinet.

Land Policy in Africa: a framework of action for land rights, enhanced productivity and secure livelihoods

By Dr. Brave Ndisale, Head of the Rural Economy Division of the African Union Commission.

Dr. Ndisale began her presentation by describing the main features of the initiative, which include long-term commitment; capacity building and institutional strengthening; empowerment and social justice, transparency and accountability, partnership, inter-generational equity and inclusiveness; and policy harmonisation and coherence. She also enumerated the benchmarks of good practice, which include: protection of land rights; transparency in land management; improvements in land administration systems and services; greater equity in land access and distribution; attention to and management of conflict and post-conflict situations; and prioritisation of land issues in national development planning. Dr.

Ndisale explained the “critical path” toward finalising the framework, which is expected to be presented to Heads of State in July 2007. She then described some of the key constraints, which include:

- Inappropriate policy and institutional frameworks that are not well informed by relevant knowledge and a participatory process.
- Lack of skilled human resource capacity.
- Shortage of financial resources within national budgets and donor aid allocations.
- Competition over the increasing use of land resources among various stakeholders.
- Uncertainties about what type of policies are needed to deliver the right balance between improving livelihoods, protecting the poor and increasing opportunities for economic growth and investment.

Group Discussions

Following the presentations, participants formed groups to share experiences from their countries. Group 1 looked at experiences from Uganda, Eritrea, South Africa, Zambia and Zimbabwe; Group 2 looked at experiences from Burundi, Ethiopia and Madagascar; Group 3 looked at experiences from Lesotho, Rwanda and Kenya; and Group 4 looked at experiences from Angola, Mozambique, Swaziland and Tanzania. Each group addressed the following questions:

1. What are the main land tenure and land access issues affecting people in your country?
2. What is the present situation regarding the land policy and land laws in your country?
3. Do the land policy and land laws address the land tenure and land access issues of the rural poor and vulnerable groups? If not, why not? What needs to happen for these issues to be addressed?
4. What are some of the challenges for implementation of the land policies and laws?

The group discussions showed that despite the diversity of experiences there are common challenges and issues.

Key Issues

Based on the case studies and subsequent group discussions, the following key issues emerged regarding the importance of land tenure for rural poverty reduction:

Customary vs. statutory systems. The legal structure inherited from the colonial era has been used to weaken customary systems and incorporate formal systems

that are exploitative and not pro-poor. There is a tension in the relationship between customary and statutory tenure systems that needs to be addressed.

Women's rights. As long as gender rights and the question of land inheritance is not fully addressed through policy and legislation, oppressive customary rights of succession may continue to sabotage the access rights of women and other vulnerable groups. This is a very sensitive issue since it implies modifying cultural values embedded within customary systems. Moreover, the issue is exacerbated by the social and economic strain caused by the HIV/AIDS pandemic, which is dramatically increasing the number of female-headed households and orphans.

Indigenous rights. Experience has shown that there are indigenous approaches that allow statutory recognition of customary land rights, including communal resources rights. These approaches have been based on genuine demand from land users and rural communities and such approaches should be embraced by policy makers.

Land titling. The entire doctrine of radical titling being vested in the state is being questioned and in some cases (e.g. Uganda) is being removed. Land tenure security is not simply an issue of title, and land tenure reform requires more than donor technical assistance for land registration and surveys. It is also an issue of social welfare and equity. Therefore, security of tenure and access rights need to be addressed in land policy, and land administration systems must encourage sustainability.

The challenge of decentralisation. Decentralisation in itself is generating rivalries that can make processes of land reform more difficult. Tensions arise between customary bodies and new official bodies. There is a need to remodel customary tenure rights and the redistribution of land access rights in consonance with rising decentralisation of land governance and contemporary political imperatives; and there is a need to achieve both a more equitable distribution of land resources and to resolve persistent social injustice.

Rural areas with high population densities. In highly populated areas with limited resources, it was questioned whether any policy could be effective – for example, in countries such as Rwanda and Burundi, where in certain rural areas eight million people are trying to survive on 20,000 km² of land (around 400 inhabitants/ km²). This implies that land reform often needs to be linked to other policies that promote urbanisation and the development of off-farm activities.

Financial resources. African governments frequently talk about poverty reduction and security of land tenure as being strategically linked. However, the financial resources allocated do not permit the concept to be transformed into concrete agricultural activities that would make a difference. The average national budget allocation of less than three per cent is far from sufficient.

"If you get the state out of the system, does the system actually work? It may not put food on your table, but it will prevent someone else from taking food away." – Professor Okoth-Ogendo.

DAY 2:

The focus of the morning and part of the afternoon of day two of the workshop was on land tenure challenges and on activities aimed at strengthening land tenure security in poverty reduction programmes and projects. The session was divided into two parts with the first focusing on challenges and the second on activities. Presentations were preceded by a brief overview by Mr. Harold Liversage of IFAD.

Review of land tenure security challenges and activities in poverty reduction programmes and projects – an IFAD perspective

By Harold Liversage, Land Tenure Programme Manager, IFAD.

The overview presented by Mr. Liversage emphasised the need for IFAD to strengthen its investment in strengthening land tenure security of rural poor and vulnerable people, particularly since land tenure insecurity can have a negative impact on poverty reduction initiatives. Mr. Liversage explained that in recent years IFAD's Eastern and Southern Africa Division has increased its focus on land tenure security, producing a set of operational guidelines, and he described a number of IFAD-supported projects and programmes in the region with land tenure security activities. Among them are: piloting of local land administration systems in Rwanda, Madagascar and Tanzania; pastoralists rights in Ethiopia and Tanzania; national-level support for policy reform in Madagascar; women's land rights in Kenya; and strengthening the role of civil society in policy research and dialogue in Uganda.

DAY 2 (morning):

Land Tenure Challenges in Poverty Reduction Programmes and Projects

During the morning session two case studies were presented to generate discussion on this theme.

Presentations

Vegetable Oil Development Project, Uganda

By Connie Masaba, Project Coordinator.

Ms. Masaba described this pioneer project in which palm oil is being produced in Uganda for the first time. The main objective is to substitute imports of palm oil with domestically grown palm oil, thereby increasing rural incomes and food security and reducing rural poverty. Exporting the oil is also envisioned. She emphasised that land tenure security and access were amongst the most important

factors to be addressed by the project. She noted that the legal framework governing land is favourable toward land acquisition and use. One of the main challenges for the project is the fact that contiguous land cannot be readily acquired because many tracts of available land are separated by protected areas. Moreover, access from one piece of land to another through the protected areas is a complicated and expensive process. Hence the management, cultivation and harvesting of the fragmented pieces of land has become very difficult. Land ownership is another challenge to land acquisition as documents are often in the names of deceased owners, or owners do not know where the land is located (often due to absentee landlords). Technical challenges to this land acquisition process include the complex system for inspecting and evaluation of all lands purchased and the loss of many land titles during the 1979 war. Moreover, the fact that the project is being implemented in partnership with the private sector created fear among many potential project participants that their land was going to be taken from them and that they would be displaced. It has also violated their sense of agriculture as a way of life and not a business. In spite of these challenges, the project has been successful, and the quality of life at the project location (Bungala island) has improved through the increase in commercial activity, the construction of new permanent housing and hospitals and new ferry services.

Umutara Community Resource and Infrastructure Development Project, Rwanda – key challenges in poverty reduction

By Eric Rwabidabi, IFAD's Country Officer in Rwanda.

Mr. Rwabidabi described the land scarcity and over-fragmentation of land caused mainly by Rwanda's high population density in the rural areas. The project aims to increase land tenure security for poor and vulnerable rural households through a number of activities, including: strengthening land-use planning capacities at the district and provincial levels through training, mapping techniques and geographic information system (GIS) equipment; ensuring that the land rights of poor men and women are not excluded or disadvantaged as the National Land Policy is implemented; and developing local land dispute resolution mechanisms. He also described some of the main land-related challenges in the area:

- Smallholders lack clear land rights and suffer from uncertainty in terms of the duration, protection and robustness of their rights. This, in turn, imposes additional constraints on agricultural sector growth and rural development.
- Lack of long-term tenure security limits smallholders' willingness to adopt new technologies or to make long-term investments in cropping, soil conservation, etc. It also restricts or limits their ability to access credit from rural finance institutions or collateral-based instruments.
- As population pressure increases and land supply declines it is likely that land disputes, further fragmentation with land holdings becoming increasingly smaller, and widespread environmental degradation will all increase in the area.

Key Issues

Based on the two case studies and subsequent plenary discussions, the following key issues emerged:

Sustainability of activities. Concern was expressed about the sustainability of activities once a project – and its accompanying financial support – is completed. In the case of Uganda, Ms. Masaba emphasised the involvement of the private sector in the project as a means of ensuring sustainability. She also described a trust fund that was established and owned by the farmers, and which pioneers and protects their interest. Part of the proceeds from their yields will be used to run the trust.

Reaching the poorest and most vulnerable. The ability of projects to reach the poorest and most vulnerable groups was seen as a major challenge. Many projects are predicated on the assumption that beneficiaries have at least a small parcel of land, and do not include landless people or those who do not have the initial capital required by some projects in order to participate.

Land fragmentation and succession. An overarching concern was the issue of land fragmentation and succession. Land is divided from generation to generation. Ultimately, individual parcels of land become so small as to be virtually negligible in terms of productivity. In many cases, these small parcels of land are then sold to wealthier farmers and small farmers find themselves with no assets whatsoever.

Environmental impact. It was noted that larger sustainable development projects must be linked to sound environmental practices and that this should be achieved through participatory environmental impact assessments. These assessments must also monitor the use and impacts of fertilizers and any processing activities of secondary products.

“Women have been marginalised through stereotypes. It is often said a woman has no voice on land matters. Land belongs to the clan. But it is the women who work the land.”

Dorothy Owino, Southern Nyanza Community Development Project (Kenya).

DAY 2 (morning and afternoon):

Land Tenure Activities in Poverty Reduction Programmes and Projects

"Land tenure and access issues should be addressed as part and parcel of development projects with provisions made for supporting people to access land. There is also a need to balance conservation and development objectives to achieve a win-win situation."

Connie Masaba, Vegetable Oil Development Project (Uganda).

The session focused on land tenure activities in poverty reduction programmes and projects. To pave the way for discussion, three case studies were presented, each corresponding to a different theme within the broader theme of land tenure security for poverty reduction. The three themes addressed were:

1. Decentralisation of land administration: integrating statutory and customary systems (Madagascar case study).
2. Common property regimes and pastoralists' rights (Ethiopia case study).
3. Women's land rights and the impact of HIV/AIDS on the rights of widows and orphans (Kenya case study).

Land Security Sustainable Development Project, Madagascar

By Zo Ravelomanantsoa, Chief, Decentralisation of Land Administration in the Directorate of Property and Land Tenure Services in Madagascar.

Mr. Ravelomanantsoa described the low capacity of the Land Administration in issuing land titles – only 1,000 titles are issued each year. He also highlighted the complex, time-consuming and costly process for registering land, which requires 24 steps and the intervention of many administration bodies. The process takes more than three years to complete and costs US\$350 per parcel. As a consequence, many small farmers continue to use traditional systems, or have invented their own system of recording transactions on *petit papiers* which are not recognised by existing land laws.

He then showed a film on the creation of decentralised land management offices, which issue land certificates and provide land management services. The self-financed local offices also mean that farmers do not have to travel long distances to take care of formalities related to their land. The film outlined the entire process of land certification from the information campaign for farmers, to the request for certification, to the mapping and delineation process, to the conflict resolution mechanisms, to the granting of the certificate. He emphasised that having local land management offices reduces the cost of land certificates to US\$10.

Pastoral Community Development Project, Ethiopia

By Dr. Mohamed Hagos, Project Coordinator, Pastoral Community Development Project in Ethiopia.

Dr. Hagos explained that the project has three objectives: improving sustainable livelihoods of pastoralist communities; reducing vulnerability to risks such as drought; and building capacity at the local level to ensure sound decentralised governance. He emphasised the bottom-up approach of the project which focuses on building the capacity of community workers and providing local authorities with necessary equipment to undertake the project activities. More than 1,000 micro projects have been implemented that address sustainable livelihoods, and almost 400 community-based risk management projects are under way that provide alternative sources of income.

Dr. Hagos explained the land tenure challenges in this context. He described the land use law, under which the state is responsible for administering the land on behalf of all people, and recognising equity and social justice. However, in the lowland communities, clan members have collective ownership and use rights, and the government policy is difficult to put into practice. The challenges include: border conflicts between clans; grazing and watering conflicts; private ownership conflicts (for example irrigation and water schemes); and the difficulty of buying land because of collective ownership. Dr. Hagos pointed out that the pastoral population, which comprises seven per cent of the population, continues to use 50 per cent of the land. This situation creates a challenge when it comes to achieving economic productivity while assuring rights. He highlighted the need for studies to be conducted in a number of critical areas, in particular land use productivity versus mobile pastoral rights and the future of clan-owned land tenure and its ability to bring about sustainable livelihood improvements. He remarked that such studies would enable the government to formulate socially and politically realistic and accepted pastoral land use policies.

Southern Nyanza Community Development Project – Land Tenure Security for Widows and Orphans

By Ms. Dorothy Owino, Community Development Officer in the Ministry of Planning and National Development in Kenya.

Ms. Owino described the land tenure systems and profile of the area, particularly the provisions for land inheritance and succession regarding women. She highlighted that women and girls are the most affected by the HIV/AIDS pandemic. They face destitution after the death of their husbands, partners or parents. Examples of women dispossessed of land by in-laws are rife throughout the region. Women are left without recourse. Lack of knowledge about their rights, fear of violence and the social stigma of pursuing a claim prevent many women from taking action. She explained that the issue of widows' and orphans' land rights has brought to the fore the lack of resilience of age-old customs and traditions to cope with emerging stresses resulting from HIV/AIDS.

In particular:

- The uncertain tenure rights for widows and orphans are negatively impacting on livelihoods and well being.
- Since customary norms and practices and prevailing social attitudes are heavily weighted against women's inheritance rights, the women who suffer from HIV/AIDS or lose their husbands to HIV/AIDS are further marginalised in the inheritance equation.
- The adjudication and land titling process is being conducted in favour of the already established male inheritance patterns, thereby denying women their share in family land.

To address these issues, she outlined a number of key areas on which projects need to focus, including:

- Training of project staff and local leaders on advocacy, gender and land rights, land administration and management, and conflict resolution.
- Raising community awareness of women's land rights through local fora and educational theatre.
- Developing and disseminating materials to local learning centres and community-based groups that explain the roles of statutory bodies (for example, the land tribunal and land control board) in land transactions and dispute resolution.
- Intensifying and diversifying enterprises for women.

Key Issues

The three presentations were followed by plenary discussions, during which the following additional issues emerged:

Reducing project costs. It is important to involve community members as much as possible in project activities; for example, in the land administration and management, the involvement of community members in the daily tasks of the office workers could significantly reduce costs. It would also increase ownership and sustainability of the initiative.

Risk of elite capture. It was stressed that those who are less poor, particularly those who are the "elite" members of the community, have more power to abuse initiatives and capture benefits that are meant for the poorer community members. Attention must be paid in the design and implementation of all projects to minimise this situation.

Absentee landowners. One significant problem that needs to be addressed is the ownership of large tracts of lands by absentee landowners in possession of title deeds from periods of colonisation. These deeds can cover hundreds of square hectares and the land remains unused and inaccessible by those who could make productive use of it. In cases where people do use the land, they cannot do so with any sense of security which often leads to unsustainable or environmentally unsound practices.

Tension between pastoralism and modernity. Concern was expressed about the western view of pastoralism as a “backward” system and the lack of understanding of its significant contributions. In this context, the question arose as to how to introduce modern agricultural systems without destroying the pastoralist system, and if indeed it is possible without creating conflict.

Weakening customary systems. Some participants were of the view that customary systems inherently discriminate against women and oppress them and to try to introduce a more equitable treatment of women would inevitably destroy many customary systems. At the same time, it was pointed out that many customary systems do have laws of succession that provide for wives and children to inherit rights and titles. The problem is that socio-cultural factors hinder them from enjoying their rights, and the traditional control mechanisms – particularly those that support women and children – are weakening because of high poverty rates and the prevalence of widowhood due to HIV/AIDS. For women to seek redress under these conditions is a daunting challenge. If the customary system is to prevail, governments must make clans accountable for protecting women, especially when it concerns land grabbing.

DAY 2 (afternoon):

Stakeholder Perspectives of Their Roles and Actions in Supporting Pro-poor Land Policy Formulation and Implementation

"We grassroots communities have done so much research. We have been doing it since God created this world. But we are at a disadvantage in that things are being done from the top. The money being brought to Africa by donors for many years has not changed Africa. When things are done from the top, they go the wrong way."

Mr. Justus Mololo, Kenya Small Scale Farmers Forum.

In this session, four presentations were given by panellists representing different stakeholders (government, farmers' organisations, NGOs and an international development agency). They were preceded by an overview presentation given by Dr. Michael Taylor, Programme Manager in Land Policy for the International Land Coalition (Italy).

An Overview - Stakeholder Analysis: identifying possible roles and actions.

In his presentation Dr. Taylor described some of the main stakeholders in the process of land policy formulation and implementation. He identified the stakeholders as being all citizens of the region (especially the poorest and most vulnerable groups), relevant government ministries, civil society organisations, the private sector, the African Union Commission and Regional Economic Communities, international development partners and research institutions.

He then presented the core principles for defining roles and actions under a framework of broad-based partnership. First, we need to ensure community ownership of the land policy formulation process by involving stakeholders in the different formulation stages. Technical expertise and advice will also be needed and experts should be brought to support government during the process. Adequate funding is also needed to support the process and to ensure enforcement of appropriate laws. Second, the emphasis should be on building partnerships throughout the process with the different stakeholders. Third, it is important to recognise the value of diversity, and while there is no blueprint solution, the point of departure of each process should be the local systems of governing land, with consideration given to the economic, political, socio-cultural and ecological contexts. Lastly, a broad based and long term approach is essential to the development of comprehensive land policy.

Presentations

Possible Roles and Actions of Government in Supporting Pro-poor Land Policy Formulation and Implementation

By Ms. Naome Kabanda, Principal Land Officer, Governance, MLHUD, Government of Uganda.

Ms. Kabanda emphasised that land policy reforms take a long time and can be costly, and that governments must therefore have long-term commitment both in terms of resources (human and financial) and political will. She then described the more specific commitments and actions that governments must spearhead, including:

- Putting in place the policy framework at formulation stage and during implementation.
- Putting in place the infrastructure for carrying forward the policy development processes (for example, research institutions, monitoring and evaluation mechanisms).
- Building capacity of technical people and the public to be involved in the process.
- Sensitising communities on the importance of land reforms and programmes.
- Harmonising other policies and laws related to land.

Throughout her presentation, Ms. Kabanda underscored the importance of establishing meaningful partnerships with the donor community, civil society organisations, NGOs, banking institutions and all land users; and the necessity of consulting with all stakeholders, especially during formulation, to ensure ownership and ease of implementation.

NGOs' Perspectives on Land Policy Formulation and Implementation

By Mr. Odenda Lumumba, National Land Coordinator for the Kenya Land Alliance.

Mr. Lumumba described the three major roles that NGOs can play in land policy formulation and implementation: advocating pro-poor land reform; empowering disadvantaged groups to become agents of change; and building networks and social movements to serve as watchdogs over the land policy reform processes. He also described some of the major prerequisites in order for NGOs to effectively fulfil their role. These include: solidarity among NGOs at local, national, regional and global levels; secure financial support during the implementation phase of any land redistribution efforts; an institutional framework that enables NGOs to actively participate in land policy reform processes; well-functioning networks for advocacy and lobbying, along with

adequate funding to maintain them; and a common vision among NGOs with a diversity of interests, priorities and approaches.

Mr. Lumumba highlighted the political sensitivity associated with land policy reform processes and the importance of a tripartite protocol between the state, NGOs and development partners. He also underscored the importance of national, sub-regional, regional and global networks for sharing experiences and expertise.

Mr. Lumumba described the specific role that NGOs play in advocacy, lobbying and campaigning for pro-poor land reform. He said the best advocacy is based on research that provides facts and figures, adding that there are many competing interests with respect to land policy and formulation, and the negotiating process is strengthened by facts and figures. He emphasised networking as the most effective way of conducting lobbying campaigns, citing LandNet and the Pan African Programme on Land Users' Rights as examples. He described the growing tendency of the Public-Private Partnership approach, in which farmers' organisations are being somewhat marginalised, and the need for NGOs to make themselves visible in order to move the issues on the ground forward. He also called on IFAD to include in its agreements the stipulation that farmers participate as the main stakeholder in policy and land act discussions from the outset.

In closing, he cited Professor Issa Shivji's (of Tanzania) call for a Grand Coalition around the issues of land, food and democracy as a guide for moving forward.

The Role of Farmers' Organisations

By Ms. Elisabeth Mpofo, Regional Chairperson of the East and Southern Africa Farmer Forum (ESAFF) in Zimbabwe.

Ms. Mpofo described the creation of ESAFF as an outcome of the 2002 World Summit on Development and Sustainable Development held in Johannesburg, reflecting the need to form a regional farmers' forum able to speak as a united voice. ESAFF includes farmers, fishers and pastoralists from Kenya, Uganda, Tanzania, Zimbabwe, Zambia, Lesotho, Rwanda, Botswana and South Africa.

She described how ESAFF, albeit without a specific land programme, has been engaged in land rights issues. Some specific land tenure and access issues have been identified, such as lack of knowledge among farmers on current land laws and policies; lack of participation of the majority of land users in land policy formulation; contradictions in land laws and land governing authorities, leading to confusion for farmers when dealing with their land rights; prohibitively bureaucratic and highly expensive processes for getting land titles to small scale farmers; low land productivity due to climatic and soil fertility constraints; and discriminatory land rights between men and women in some cultures.

Several key initiatives have been undertaken by individual members of ESAFF, including: capacity building of farmers with respect to land tenure, laws and

ownership systems; fora to bring together farmers and pastoralists; and developing links with specialised organisations working on land issues.

Finally, Ms. Mpofu outlined specific actions that need to be taken: allocate funds to support programmes inside farmers' organisations; include farmers as main stakeholder in policy and land act discussions within IFAD-supported programmes; support farmers' organisations to grow and become true negotiating partners with the state and other actors; provide support for agricultural productivity in ecologically fragile environments and marginal land in order to reduce migration of farmers and pastoralists.

The Role of FAO in Pro-poor Land Policy Development and implementation

By Mr. Paul de Wit, Land Policy Advisor, FAO.

Mr. de Wit explained that FAO focuses on three main issues – securing, exercising and protecting land rights – which take place within institutional and policy frameworks. In order to implement a pro-poor policy, he said there needs to be a package of mechanisms and principles that work together and have a rights-based approach as their foundation. Securing land rights for poor people should be based on existing livelihood strategies and communities should be in a position to take a more pro-active attitude towards development rather than undergoing development. He emphasised the need to strengthen community structures and create negotiating platforms for them, as well as develop mechanisms to share resources between different land users.

Mr. de Wit described FAO's three principal activities: (a) normative activities, including the production of training materials and the provision of guidance on developing policies; (b) technical advisory support, research and studies on pro-poor land policy development, as well as strategy and programme development and lobbying for funds; and (c) direct technical assistance, including the development of policies and legal frameworks, institutional strengthening, capacity building of service providers and public institutions and support to the engagement of civil society. He emphasised FAO's significant role as a broker between civil society and government.

Key Issues

After the presentations, plenary discussion focused almost exclusively on the need to strengthen the participation of farmers' organisations and other civil society organisations in the policy formulation and implementation processes. The main issues that emerged were:

- Affirmative action on behalf of farmers' organisations must be put forth at the institutional level so that they are included in every aspect of the process, including their participation in oversight institutions.
- Civil society (NGOs, farmers' organisations, etc.) has a critical role to play in providing services to the community that governments find difficult to do, for example conflict resolution and facilitation. Civil society is not merely about advocacy. Civil society can also play a critical role in monitoring and evaluating how policy provisions are working on the ground. The role of civil society often diminishes with respect to the process of land policy implementation. Development partners need to create more space for civil society.
- Research efforts are often top-down, and indigenous knowledge and research are not taken into consideration. Farmers have a wealth of knowledge that needs to be captured and considered as part of all research efforts to assure that government-proposed processes are indeed pro-poor.

DAY 3:

Lessons Learned and Recommendations for Mainstreaming Land Tenure Security in Poverty Reduction

The focus of this session was on lessons learned and recommendations for mainstreaming land tenure security in poverty reduction. In this session, two presentations were given to capture and summarise key lessons learned in the course of the workshop. They were prepared by two pre-selected groups formed by participants.

Presentations

Lessons Learned in Land Policy Formulation

By Mr. Maurice Tankou, Economic Affairs Officer, Sustainable Development Division, of the Economic Commission for Africa.

Mr. Tankou provided an overview of the regional perspectives across Africa and then discussed lessons learned under four broad categories: securing land rights; avoidance of social conflict; policy and institutional reform processes; and capacity building. Among the major issues presented were:

- The absence of systematic analysis of the status of land, changes to tenure and the integration of these insights into policy formulation.
- Linear and legalistic approaches to social change.
- Weak laws that give procedural rights but little in the way of real rights to land.
- Conservative, anti-poor courts.
- No serious effort at implementing land policies.
- No proactive, long-term development solution.

Mr. Tankou said there is a need for proactive approaches to face the legal dualism, allowing customary law and tenure to evolve and adapt to the changing economic, social and political environment. He also highlighted the need for land policy reform to be integrated into the broader context of sustainable development, with particular attention given to liberalisation and globalisation. In this process, institutions will need to be strengthened and public-private partnerships will need to be promoted. He emphasised the critical issues of enforcing women's land rights and introducing measures to cope with the very real and dramatic land issues related to HIV/AIDS, as well as the imperative of democracy and good governance.

Lessons Learned for Rural Poverty Reduction Projects, Programmes and Other Initiatives

By Dr. Mwatima Juma, IFAD's Country Officer for Tanzania.

Dr. Juma said that modest investments in strengthening land tenure security and access could have a significant impact, especially when integrated with other activities aimed at pro-poor development and poverty reduction. She described the importance of decentralising land administration systems in order to strengthen the integration of statutory and customary tenure systems. At the same time, she cautioned that this decentralisation needs to be linked to broader national decentralisation policies and strategies. She said the fact that land tenure systems are often location-specific, and therefore land tenure arrangements – *who* has access to *what* land and natural resources – needs to be done at the local level. In this regard, local-level traditional authorities and community-based organisations can play a critical role in addressing the land tenure needs of poor people and vulnerable groups. The challenge is to strengthen the links between local-level civil society organisations and national-level processes through public-private partnerships within projects and programmes. She added that the lessons learned from various initiatives needed to be shared.

Following the presentations, the workshop participants broke into two groups to discuss lessons learned and concrete actions to be taken in terms of policy formulation and implementation as well as projects and programmes. Group discussions were presented and discussed in plenary. The key lessons and actions identified are presented in the box below.

1. Land policy formulation and implementation.

Lessons learned.

- **Securing land rights.** Formal titling is difficult and expensive to do. It fails to capture the range of established customary rights and does not necessarily lead to improved security or greater investment. Decentralised land registration processes are better able to recognise and protect customary rights and can address inheritance practices and the rights of vulnerable groups, including women, orphans, pastoralists, and marginalised ethnic groups. These processes should also take into consideration those who are disadvantaged due to demographic land pressure. Secure access to land by youth must not be overlooked.
- **Avoidance of social conflict.** Land is a key factor in conflict situations and post-conflict reconstruction efforts. Registration alone will not prevent conflict, and formal courts alone are not able to resolve land disputes. Important prerequisites for avoiding social conflict include recognising the diverse and often overlapping claims of different resource users. Negotiated resource-use frameworks represent one approach for reconciling these different interests. Dispute resolution mechanisms need to recognise the role of both customary and adjudicated dispute resolution systems in resolving land-related conflicts.
- **Policy and institutional reform processes.** Land tenure reform is a long-term process requiring reform and regulation of formal land institutions; decentralisation of the roles, responsibilities and authorities; and sustained support (both human and financial) and political will. Broad stakeholder participation at all levels, particularly rural people and their organizations, is critical, as is a coherent cross-sectoral approach and effective sequencing.
- **Capacity building.** Home-grown leadership at all levels is a prerequisite for meeting the complex challenges of land reform processes for poverty reduction. State land institutions need to strengthen their human resource capacity, cadastral coverage and user orientation. Similar capacity is needed at local government and community levels for decentralised delivery of land services. The advocacy role of civil society also needs to be strengthened as does its capacity to partner with government in delivery. Investments are needed in higher education and training to meet the technical and developmental skill demands in the longer term.

Actions to be taken.

- Regional institutions must consult with non-state actors and a bottom-up approach must be used in taking decisions on land issues. In this regard, the capacity of communities must be strengthened to enable them to participate in decision-making processes.
- All land should be registered in order to reduce conflicts. Registration services need to be decentralised in order for them to be closer to the communities and thus less expensive. Local government will need capacity building to enable it to efficiently manage land registration and certificate delivery process. In addition, all states should have legal provision that prohibits the eviction of communities without compensating them or providing them with alternative land. Government must incorporate all of their international obligations related to land rights, especially those concerning minorities and avoidance of evictions, into domestic law. These laws must then be enforced.
- Community programmes need to be designed to help communities manage and resolve land-related conflict.
- Communities must be actively involved in policy formulation processes. These processes must also be informed by their experiences, which need to be systematically documented.
- Focused capacity-building strategies and activities of state and non-state actors need to be a part of the entire policy formulation process. They must be incorporated at the outset of the various stages of the process to ensure continuity, ownership and sustainability.

2. Rural poverty reduction programmes and projects.

Lessons learned.

- In all considerations of pro-poor land tenure security, land should not be viewed only from the perspective of its asset value, but also as an integral part of the cultural and social fabric and dignity of a community. Customary tenure is usually better able than statutory to respond to these critical social and cultural dimensions.
- There is growing agreement that without addressing issues of land tenure security the impact of a range of investments in rural development is likely to be weakened. Understanding land tenure systems – both customary and statutory, and including the laws, values, principles and institutions associated with them – is critical to understanding the broader livelihoods of poor rural people; and it is thus a prerequisite for designing effectively targeted

programmes and projects for rural poverty reduction.

- Since land tenure systems are often in large part location-specific, any understanding of land tenure arrangements – who has which access to what land and natural resources – has to be developed *in situ*, as part of the programme design process. Doing so can help to ensure that the land rights of poor rural people and vulnerable groups are protected and that they do not lose out as a result of programme interventions.
- Modest investments in strengthening land tenure security and land access can have a significant impact, especially when integrated with other activities aimed at pro-poor rural development and poverty reduction. Strengthening collective tenure, particularly in pastoralist areas, may provide a critical safety net to poor resource users. Explicit linking of efforts to strengthen land tenure security and access both to complementary investments in areas such as pasture improvement, and to improved management of community-based natural resource management systems, can be particularly effective and an important way of strengthening the livelihoods of poor rural people.
- The decentralisation of land administration systems under way in many countries provides an important opportunity for strengthening the integration of statutory and customary tenure systems. Wherever possible, this should be linked to a broader national decentralisation policy and strategy.

Actions to be taken.

- Research into land tenure should be conducted during the programme design process and can help to reduce potential delays during subsequent programme implementation.
- Ensure the incorporation of land tenure security in PRSPs.
- All projects that have an impact on land should have a component addressing pro-poor land tenure security.
- There needs to be a system of checks and balances to ensure that laws are enforced to protect the tenure rights of poor land users. In addition, capacity building for land users can help them to assert their rights.
- People with land that is idle should be assisted in putting it into productive use.
- Land funds should be established to facilitate the access to, and purchase and titling of land for project beneficiaries.
- Studies should be undertaken to clarify land rights and land tenure issues, in

particular customary rights.

- The certification process should be simplified and made more accessible to poor land users.
- Pastoralists' land rights should be secured and areas should be provided with appropriate technology and infrastructure to enable them to improve their livelihoods.
- Clear indicators need to be developed to measure impact of project and programme interventions on pro-poor land tenure security.
- There is a need for women, as well as other stakeholders, to be sensitised about women's land rights and the link to social and economic empowerment.

3. General.

Lessons learned.

- There is a critical need for experiences and information to be extensively and systematically shared, both horizontally and vertically – and through media that are appropriate to the different stakeholders.

Actions to be taken.

- Conduct workshops and seminars and disseminate information through newsletters, websites and exchange visits in order to share experiences.

Closing Session

"It is my hope that the recommendations of the workshop will assist in moving the land reform process forward. It is also my hope that IFAD will continue to mainstream land tenure issues into its projects and programmes."
Bamidele Ilebane, Portfolio Manager, UNOPS.

The closing session began with the presentation and discussion of the summary findings of the workshop. The documents were endorsed by the participants and presented to the Minister of State for Lands, Government of Uganda, after closing remarks were made by representatives of UNOPS and IFAD. The summary findings are presented in their entirety in Annex 4 of this report.

The Honourable Minister of State for Lands, Kasirivu-Atwooki Kyamanywa, closed the workshop by saying that "the fact that we had participants from 15 countries in the region, participating fully in the deliberations, is reassuring and an indication that the region is determined to address land tenure security issues". He added: "I am glad that the workshop brought together participants with vast experience in land policy formulation and administration, to draw on lessons learned and recommend mainstreaming land tenure security into poverty reduction strategies, programmes and projects... I have no doubt that the workshop has realised its main objectives, having participated in the proceedings personally."

The Honourable Minister voiced one important concern: moving from formulation to implementation. He said: "My sincere hope is that all stakeholders in this endeavour will ensure that we have meaningful achievements to ensure that land tenure security is realised to the benefit of all our peoples in the region, especially the rural poor, who are the majority."

"This workshop could not have happened ten years ago. There was very little interaction between people working on issues of land tenure security with those working on poverty reduction. The fact that we are all here together is immensely positive. IFAD certainly has a role to play – and you have a role to play in helping us to play our role."
Edward Heinemann, Regional Economist, IFAD.

Evaluation of the Workshop

At the end of each day, participants evaluated the workshop in terms of content and organisation. Overall, the workshop was evaluated as “very good”. In particular, participants valued the selection of themes and corresponding presentations and found the information provided to be useful, informative and well articulated. They also found the discussions to be relevant, fruitful and participative. Many participants considered the time allocated for discussion to be insufficient.

The relevance of exchange of knowledge and experiences, as well as the opportunity to meet a wide variety of colleagues at all levels, were highlighted as two of the major benefits of the workshop, as was the need for a follow-up workshop and practical actions.

Comments from the evaluation forms

- “Generally the conference was good and an eye-opener on some on the intricacies of land tenure.”
- “The way the workshop was conducted was extremely attractive, systematic and a big lesson for all ESA countries. In general, all the presentations and papers presented were important for future policy formulation and implementation processes. Well done!”
- “The participants were able to share their experiences and acquire knowledge from different experiences presented by experts in a variety of fields.”
- “The next workshop should have less time allocated to presentations and more time to discussions. After all, this is a session to share experiences and learn from each other.”
- “If you add a field tour in your programme, it would be helpful.”
- “A follow-up workshop is recommended after clear actions to move forward are identified.”
- “IFAD should seek to fund country-level workshops so that more participants can be involved at the country/regional level.”
- “The food was simple, good and sweet.”

Appendix 1: Workshop Agenda

Time	Activity	Speaker
Tuesday 27 June		
8.00 – 8.45:	Registration	
8.45 – 10.00:	Opening Session	
	<i>Chair:</i>	<i>Permanent Secretary</i>
8.45 – 9.15:	<ul style="list-style-type: none"> Welcome Addresses: <ul style="list-style-type: none"> - Ministry for Lands, Housing and Urban Development - IFAD - UNOPS 	Permanent Secretary Ed Heinemann David Rendall
9.15 – 9.30:	<ul style="list-style-type: none"> Workshop purpose, objectives and desired outcomes Agenda review 	Harold Liversage
9.30 – 10.00:	<ul style="list-style-type: none"> Opening Address 	Hon. Minister for Lands, Housing and Urban Development
10.00 – 10.30:	<i>Group Photo, Coffee Break and Press Conference</i>	
10.30 – 5.30:	A review of land policy formulation and implementation in the region	
	<i>Chair:</i>	<i>Dr. Rexford Ahene</i>
10.30 – 11.10:	<u>Presentation:</u> <ul style="list-style-type: none"> Overview of land tenure in Africa Review of land policy formulation and implementation in the region Key issues of debate regarding land tenure security and rural poverty reduction 	Prof. Okoth-Ogendo
11.10 – 11.30:	<ul style="list-style-type: none"> Plenary discussion on the presentation 	
11.30 – 12.00:	<ul style="list-style-type: none"> <u>Case study presentation:</u> Uganda (20 min presentation & 10 min discussion) 	Richard Oput
12.00 – 12.30:	<ul style="list-style-type: none"> <u>Case study presentation:</u> Kenya (20 min presentation & 10 min discussion) 	Odenda Lumumba
12.30 – 1.00:	<ul style="list-style-type: none"> <u>Case study presentation:</u> Mozambique (20 min presentation & 10 min discussion) 	Simon Norfolk
1.00 – 2.00:	<i>Lunch</i>	
	<i>Chair:</i>	<i>Dr. Rexford Ahene</i>
2.00 – 2.30:	<ul style="list-style-type: none"> Presentation on African-led (AUC, ECA, ADB) formulation of an Africa-wide Land Policy Framework 	Dr. Brave Ndisale
2.30 – 3.00:	<ul style="list-style-type: none"> Plenary discussion on presentations 	
3.00 – 3.30:	<i>Coffee break</i>	
3.30 – 4.30:	<ul style="list-style-type: none"> Country group discussion 	
4.30 – 5.30:	<ul style="list-style-type: none"> Country group report back and plenary discussion 	
5.30 – 6.00:	<ul style="list-style-type: none"> Summary, conclusions and housekeeping 	
6.30 – 8.00	<i>Welcome Reception</i>	

Time	Activity	Speaker
Wednesday 28 June		
	<i>Chair:</i>	<i>Bofete Bondele</i>
8.15 – 8.45:	<ul style="list-style-type: none"> Day 1 review Agenda for Day 2 	Richard Oput Harold Liversage
8.45 – 4.00:	<ul style="list-style-type: none"> Review of: - Land tenure security <u>challenges</u> in poverty reduction programmes and projects - Land tenure security <u>activities</u> in poverty reduction programmes and projects 	
8.45 – 9.00:	<ul style="list-style-type: none"> Overview presentation 	Harold Liversage
9.00 – 10.00:	<ul style="list-style-type: none"> Case study presentations land tenure security <u>challenges</u> in poverty reduction programmes and projects - <u>Case study 1: Vegetable Oil Development Project, Uganda</u> - <u>Case study 2: Umutara Community Resource and Infrastructure Development Project, Rwanda</u> (20 min presentation & 10 min discussion per case study) 	Connie Masaba Eric Rwabidabi
10.00 – 10.30:	<i>Coffee Break</i>	
	<i>Chair:</i>	<i>Bofete Bondele</i>
10.30 – 1.00:	<ul style="list-style-type: none"> Case study presentations on land tenure security <u>activities</u> in poverty reduction programmes and projects - Theme 1: Decentralisation of land administration – integrating statutory and customary systems <u>Case study 1: Land Security Sustainable Development Project, Madagascar</u> - Theme 2: Common property regimes and pastoralists’ rights <u>Case study 2: Pastoral Community Development Project, Ethiopia</u> 	Zo Ravelomanantsoa Dr. Mohamed Hagos
1.00 – 2.00:	<i>Lunch</i>	
2.00 – 3.30:	<ul style="list-style-type: none"> - Theme 3: Women’s land rights and the impact of HIV/AIDS on widows’ and orphans’ rights <u>Case study 3: South Nyanza Community Development Project, Kenya</u> 	Dorothy Owino
3.30 – 4.00:	<i>Coffee break</i>	
4.00 – 5.30:	Review of different stakeholders perspectives of their possible roles and actions in supporting pro-poor land policy formulation and implementation	
	<i>Chair:</i>	<i>James Baira</i>
4.00 – 4.15:	<ul style="list-style-type: none"> Overview presentation 	Michael Taylor
4.15 – 5.00:	<ul style="list-style-type: none"> Panelist presentations: - Government: Uganda - Farmers Organisation: ESAFF - NGO: KLA - International Development Agency: FAO (10 minutes per panelist) 	-Naome Kabanda -Elisabeth Mpofu -Odenda Lumumba -Paul de Wit
5.00 – 5.30:	<ul style="list-style-type: none"> Plenary discussion 	
5.30 – 6.00:	<ul style="list-style-type: none"> Summary, conclusions and housekeeping 	

Time	Activity	Speaker
Thursday 29 June		
	<i>Chair:</i>	<i>Dr. Brave Ndisale</i>
8.15 – 8.45:	<ul style="list-style-type: none"> • Review of Day 2 • Agenda for Day 3 	Bofete Bondele Harold Liversage
Lessons learnt and recommendations for mainstreaming land tenure security in poverty reduction in Eastern and Southern Africa		
8.45 – 9.00:	<ul style="list-style-type: none"> • Presentation: Lessons learnt on land policy formulation and implementation in ESA 	Maurice Tankou
9.00 – 9.15:	<ul style="list-style-type: none"> • Presentation: Lessons learnt for poverty reduction projects and programmes 	Mwatima Juma
9.15 – 10.00	<ul style="list-style-type: none"> • Group discussions on lessons learnt 	
10.00 – 10.30:	<i>Coffee Break</i>	
10.30 – 11.50:	<ul style="list-style-type: none"> • Group discussions on lessons learnt (cont.) 	
11.50 – 1.00:	<ul style="list-style-type: none"> • Group report backs 	
1.00 – 2.00:	<i>Lunch</i>	
2.00 – 3.00:	<ul style="list-style-type: none"> • Presentation and discussion of summary findings from the workshop and recommendations on the way forward 	
3.00 – 4.00:	<i>Coffee break</i>	
4.00 – 5.00	Closing Session	
	<i>Chair:</i>	<i>Permanent Secretary</i>
3.30 – 4.00:	<ul style="list-style-type: none"> • Presentation of summary findings from the workshop and recommendations on the way forward • Closing remarks by UNOPS • Closing remarks by IFAD • Closing remarks by the Ministry for Lands, Housing and Urban Development 	Dr. Siame Bamidele Illebani Ed Heinemann Minister of State for Lands
6.00 – 8.00:	<i>Closing cocktail</i>	

Appendix 2: List of Presentations

0. WORKSHOP FINAL REPORT

PRESENTATIONS

1. *Workshop purpose, objectives and desired outcomes* by Harold Liversage

Importance of land tenure security for rural poverty reduction & review of land policy formulation and implementation in the region:

2. *Land Rights in Africa* by Prof. Okoth Ogendo

3. *Background Land Policy in Uganda* by Richard Oput

4. *Uganda Land Sector Strategic Plan 2001-2011* by Richard Oput

5. *Kenya land policy* by Odenda Lumumba

6. *Progress and challenges in the formulation and implementation of Mozambique's land policy* by Simon Norfolk

7. *Land policy in Africa: a framework of actions for land rights, enhanced productivity and secure livelihoods* by Dr. Brave Ndisale (power point presentation)

8. *Land policy in Africa: a framework of actions for land rights, enhanced productivity and secure livelihoods* by Dr. Brave Ndisale (paper)

Review of land tenure security challenges and activities in poverty reduction programmes and projects:

9. *Review of land tenure security challenges and activities in poverty reduction programmes and projects – An IFAD perspective* by Harold Liversage

Case studies on land tenure security challenges in poverty reduction programmes and projects:

10. *Impact of land tenure issues on project implementation: the case of Vegetable Oil Development Project, Uganda* by Connie Masaba

11. *Umutara Community Resource and Infrastructure Development Project, Rwanda – Key challenges in poverty reduction* by Eric Rwabidabi

Case studies on land tenure security activities in poverty reduction programmes and projects:

12. *The land tenure reform in Madagascar: improving and decentralizing land tenure management* by Zo Ravelomanantsoa

13. *Pastoral Community Development Project, Ethiopia* by Dr. Mohamed Hagos

14. *Southern Nyanza Community Development Project, Kenya – Land tenure security for widows and orphans* by Dorothy Owino

Review of different stakeholders perspectives of their possible roles and actions in supporting pro-poor land policy formulation and implementation

15. *Stakeholder analysis: Identifying possible roles and actions* by Dr. Michael Taylor

16. *Possible roles and actions of Government in supporting pro-poor land policy formulation and implementation* by Noame Kabanda

17. *Farmers Organization perspective* by Elisabeth Mpofu

18. *NGOs perspective in land policy formulation and implementation* by Odenda Lumumba

19. *Role of FAO in pro-poor land policy development and implementation* by Paul de Wit

Lessons learnt and recommendations for mainstreaming land tenure security in poverty reduction in Eastern and Southern Africa

20. *Land policy formulation and implementation in Africa: Lessons Learnt* by Maurice Tankou

21. *Lessons learnt for poverty reduction projects, programmes and other initiatives* by Dr. Mwatima Juma

22. *Lessons learnt and actions to be taken on land policy formulation and implementation in ESA and on mainstreaming land tenure security in poverty reduction strategies, programmes and projects – Group report back*

23. *Summary findings from the workshop and recommendations on the way forward* read by Dr. Siame

24. *Questions and Answers from the plenary discussions*

25. *Breakout into groups*

WORKSHOP PROCEEDINGS

26. *Workshop Agenda*
27. *Day 1 Agenda Review*
28. *Day 2 Agenda Review*
29. *Day 3 Agenda Review*
30. *Day 1 Review* by Rexford Ahene (presented by Richard Oput)
31. *Day 2 Review* by Bofete Bondele
32. *List of participants*
33. *IFAD Welcome address* by Edward Heinemann
34. *UNOPS Welcome address* by David Rendall
35. *Opening Address by the Hon. Minister for Lands, Housing and Urban Development, Daniel Omara Atubo*
36. *UNOPS Closing remarks* by Bamidele Illebani
37. *Ministry for Lands, Housing and Urban Development closing remarks* by Minister of State for Lands, Hon. Kasirivu Atwoki
- 38-39. *Photos*
40. *Newspapers' articles on the Workshop*

BACKGROUND DOCUMENTS

41. *Guidelines for the incorporation of land tenure issues into IFAD-supported operations in Eastern and Southern Africa*
42. *Women's Access to Land in Eastern and Southern Africa Region – An Analysis of IFAD-Supported Operations and the Existing Literature*
43. *Questionnaire on the importance of land tenure issues*

OTHER DOCUMENTS

44. *The impact of land tenure issues on the utilization of rangeland resources in the western lowlands of Eritrea* (ppp) by Mesghena Ghilay Hagos
45. *The impact of land tenure issues on the utilization of rangeland resources in the western lowlands of Eritrea* (paper) by Mesghena Ghilay Hagos
46. *Land-tenure and land-use legislation issues in natural resource management* by Ally Saidi Matano
47. *Letter for land tenure policy* by the Directorate of Public Property and Land Tenure Services, Madagascar
48. *Lettre de politique foncière* du Ministere de L'Agriculture, de l'Eleavage ed de la Peche, Secretariat General, Madagascar

Appendix 3: Workshop Participants

COUNTRY	PROJECT / ORGANISATION	PARTICIPANT	POSITION	ADDRESS	TEL	FAX	E-MAIL
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Appendix 4: Summary of Findings and the Way Forward

**SUMMARY DOCUMENT PRESENTED TO
THE MINISTER OF STATE FOR LANDS,
GOVERNMENT OF UGANDA
AT THE MLHUD/IFAD/UNOPS-HOSTED WORKSHOP
ON
*LAND TENURE SECURITY FOR POVERTY REDUCTION
IN EASTERN AND SOUTHERN AFRICA***

A three-day workshop on *Land Security for Poverty Reduction in Eastern and Southern Africa* was held in Kampala, Uganda from 27 to 29 June 2006. The workshop was hosted by the Uganda Ministry for Lands, Housing and Urban Development (MLHUD), the International Fund for Agricultural Development (IFAD) and the United Nations Office for Project Services (UNOPS). Drawing on the experience gained from poverty reduction projects and programmes and policy development in the region, the objectives of the workshop were to deepen understanding of land tenure security and land access issues, and to identify what the various stakeholders could be doing more in partnership with each other to improve land tenure security, particularly of the poor rural people and marginalised groups in Eastern and Southern Africa. More than 100 people from 15 countries in the region participated in the workshop – from Angola, Burundi, Eritrea, Ethiopia, Kenya, Lesotho, Madagascar, Mozambique, Rwanda, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe. Participants represented land and other government ministries, non-governmental organizations (NGOs), farmers' organisations, international development agencies, land experts operating in the region and IFAD-supported project and programme staff.

The workshop was opened by the Honourable Minister of Lands, Housing and Urban Development, Daniel Omara Atubo. The Honourable Minister expressed his hope that “the views and recommendations from the workshop will be translated not only into land policy formulation but sustainable implementation for rural poverty reduction in the region as well”. He added: “There are many challenges in the area of formulation of sustainable policies, and it will therefore be your task to encourage the development of robust policies which will serve Africa for several years. The process will require the building of consensus around issues which will have a profound effect on our national economic, social and political development.” The Honourable Minister and the Regional Economist for IFAD then attended a press conference held by journalists from Uganda.

Following the keynote address on land rights and policy development in Africa, given by Professor Okoth Ogenko, case studies were presented on land policy formulation and implementation in Uganda, Kenya and Mozambique. The case studies highlighted the different challenges faced by each country and the importance of multi-

stakeholder collaboration to address them. After plenary discussion, a representative of the African Union Commission gave a presentation on the African-led (African Union Commission/Economic Commission for Africa/African Development Bank) formulation of an Africa-wide Land Policy Framework and Guidelines. The importance of land tenure security for Africa's social and economic development was emphasized.

The second day of the workshop was devoted to land tenure security challenges and activities with respect to poverty reduction programmes and projects. An overview presentation was given, followed by case studies on projects and programmes in Uganda and Rwanda. Following plenary discussions, presentations were given on three themes: decentralisation of land administration – integrating statutory and customary systems in Madagascar; common property regimes and pastoralists' rights in Ethiopia; and women's land rights and the impact of HIV/AIDS on the rights of widows and orphans in Western Kenya. In the afternoon, presentations were given on the roles and actions of different stakeholders supporting pro-poor land policy formulation and implementation. The panellists included representatives of the government, farmers' organisations, NGOs and international development agencies.

The final day of the workshop focused on lessons learned and recommendations for mainstreaming land tenure security into poverty reduction strategies, programmes and projects. Following the discussions, the workshop participants reached consensus on the key lessons learned and actions to be taken, which were submitted for consideration by the Minister of State for Lands, Government of Uganda. These are presented below.

Lessons learned – land policy formulation and implementation

Securing land rights. Formal titling is difficult and expensive to do. It fails to capture the range of established customary rights and does not necessarily lead to improved security or greater investment. Decentralised land registration processes are better able to recognise and protect customary rights and can address inheritance practices and the rights of vulnerable groups, including women, orphans, pastoralists, and marginalised ethnic groups. These processes should also take into consideration those who are disadvantaged due to demographic land pressure. Secure access to land by youth must not be overlooked.

Avoidance of social conflict. Land is a key factor in conflict situations and post-conflict reconstruction efforts. Registration alone will not prevent conflict, and formal courts alone are not able to resolve land disputes. Important prerequisites for avoiding social conflict include recognising the diverse and often overlapping claims of different resource users. Negotiated resource-use frameworks represent one approach for reconciling these different interests. Dispute resolution mechanisms need to recognise the role of both customary and adjudicated dispute resolution systems in resolving land-related conflicts.

Policy and institutional reform processes. Land tenure reform is a long-term process requiring reform and regulation of formal land institutions; decentralisation of the roles, responsibilities and authorities; and sustained support (both human and financial) and political will. Broad stakeholder participation at all levels, particularly rural people and their organisations, is critical, as is a coherent cross-sectoral approach and effective sequencing.

Capacity building. Home-grown leadership at all levels is a prerequisite for meeting the complex challenges of land reform processes for poverty reduction. State land institutions need to strengthen their human resource capacity, cadastral coverage and user orientation. Similar capacity is needed at local government and community levels for decentralised delivery of land services. The advocacy role of civil society also needs to be strengthened as does its capacity to partner with government in delivery. Investments are needed in higher education and training to meet the technical and developmental skill demands in the longer term.

Lessons learned – programmes and projects for rural poverty reduction

In all considerations of pro-poor land tenure security, land should not be viewed only from the perspective of its asset value, but also as an integral part of the cultural and social fabric and dignity of a community. Customary tenure is usually better able to respond to these critical social and cultural dimensions.

There is growing agreement that without addressing issues of land tenure security, the impact of a range of investments in rural development is likely to be weakened. Understanding land tenure systems – both customary and statutory, and including the laws, values, principles and institutions associated with them – is critical to understanding the broader livelihoods of poor rural people; and it is thus a prerequisite for designing effectively targeted programmes and projects for rural poverty reduction.

Since land tenure systems are often in large part location-specific, any understanding of land tenure arrangements – who has which access to what land and natural resources – has to be developed *in situ*, as part of the programme design process. Doing so can help to ensure that the land rights of poor rural people and vulnerable groups are protected, and that they do not lose out as a result of programme interventions.

Modest investments in strengthening land tenure security and land access can have a significant impact, especially when integrated with other activities aimed at pro-poor rural development and poverty reduction. Strengthening collective tenure, particularly in pastoralist areas, may provide a critical safety net to poor resource users. Explicit linking of efforts to strengthen land tenure security and access both to complementary investments in areas such as pasture improvement, and to improved

management of community-based natural resource management systems, can be particularly effective, and an important way of strengthening the livelihoods of poor rural people.

The decentralisation of land administration systems under way in many countries provides an important opportunity for strengthening the integration of statutory and customary tenure systems. Wherever possible, this should be linked to a broader national decentralisation policy and strategy.

Actions to be taken – land policy formulation and implementation

- Regional institutions must consult with non-state actors and a bottom-up approach must be used in taking decisions on land issues. In this regard, the capacity of communities must be strengthened to enable them to participate in decision-making processes.
- All land should be registered in order to reduce conflicts. Registration services need to be decentralised in order for them to be closer to the communities and thus less expensive. Local government will need capacity building to enable them to efficiently manage the land registration and certificate delivery process. In addition, all states should have legal provision that prohibits the eviction of communities without compensating them or providing them with alternative land. Government must incorporate all of their international obligations relating to land rights, especially those concerning minorities and avoidance of evictions, into domestic law. These laws must then be enforced.
- Community programmes need to be designed to help communities manage and resolve land-related conflict.
- Communities must be actively involved in policy formulation processes. These processes must also be informed by their experiences, which need to be systematically documented.
- Focused capacity-building strategies and activities of state and non-state actors need to be a part of the entire policy formulation process. They must be incorporated at the outset of the various stages of the process to ensure continuity, ownership and sustainability.

Actions to be taken - programmes and projects for rural poverty reduction

- Research into land tenure should be conducted during the programme design process and can help to reduce potential delays during subsequent programme implementation.
- Ensure the incorporation of land tenure security in PRSPs.

- All projects that have an impact on land should have a component addressing pro-poor land tenure security.
- There needs to be a system of checks and balances to ensure that that laws are enforced to protect the tenure rights of poor land users. In addition, capacity building for land users can help them to assert their rights.
- People with land that is idle should be assisted in putting it into productive use.
- Land funds should be established to facilitate the access to, and purchase and titling of land for project beneficiaries.
- Studies should be undertaken to clarify land rights and land tenure issues, in particular customary rights.
- The certification process should be simplified and made more accessible to poor land users.
- Pastoralists' land rights should be secured and areas should be provided with appropriate technology and infrastructure to enable them to improve their livelihoods.
- Clear indicators need to be developed to measure impact of project and programme interventions on pro-poor land tenure security.
- There is a need for women, as well as other stakeholders, to be sensitised about women's land rights and the link to social and economic empowerment.
- There is a critical need for experiences and information to be extensively and systematically shared, both horizontally and vertically – and through media that are appropriate to the different stakeholders.



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