



UPHOLDING PEACE FOR A PROSPEROUS AND INTEGRATED REGION SINCE 1986  
AU SERVICE DE LA PAIX POUR UNE REGION PROSPERE ET INTEGREE DEPUIS 1986

# LAND GOVERNANCE IN IGAD REGION



## OVERVIEW

Assessment of Land  
Governance Framework,  
Training & Research Land  
Governance Institutions

# EXECUTIVE SUMMARY

This report was commissioned by the Intergovernmental Authority on Development (IGAD) Secretariat through the Land Policy Initiative (LPI), to review land governance in the IGAD region. The report provides land governance profiles of IGAD member countries; identifies land administration and assesses their capacities and identifies gaps and challenges that affect achieving good land governance practice. Specifically, it reviews the land policies and laws in IGAD member countries, including identification of land administration that are relevant to land governance. It also assesses the strengths and gaps in the policy and legal framework, and the capacities of institutions in addressing land governance.

IGAD region is made up of 8 countries namely: Djibouti, Ethiopia, Kenya, Somalia, South Sudan, Sudan & Uganda. Unfortunately, IGAD member states such as Somalia and South Sudan are going through political strife and this could negatively affect land governance issues in these countries.

The IGAD region is diverse with abundant natural resources. Land is not only a source for livelihoods in the region. It is a valuable economic asset. Therefore mismanagement of land resources could result into loss of economic potential and jeopardize peace and security.

Countries in the IGAD region have varying land governance systems due to different colonial histories. All countries in the IGAD region with the exception of Ethiopia have a history of having been colonized by the Western European administration, which left an imprint on the land tenure systems in the concerned countries. Most of the countries have juristic, or diffuse plural legal systems governing land, in other words, legal pluralism. Consequently, there are, de jure, or de facto, coexisting multiple sources of property rights broadly categorized as customary and modern tenure, where statutory legal structure and customary practices interface. Within IGAD countries, there are

different legal systems, institutions and enforcement mechanisms that may determine how different people access, control and transfer land for agricultural and other livelihood functions. This, leads to “forum shopping” and can be a source of conflicts. Conflicts over land are due to arable and range lands. Triggers of land conflicts in the region include: increased pressure on land and natural resources from both human and animal population; drought; floods and landslides; global warming and climate change; land and natural resources degradation; demarcation/reservation of land for national parks, game reserves, conservation; vague understanding/definition in existing laws, of traditional rights of access to land and natural resources; poor land governance systems; harvesting of natural resources such as timber, minerals, and water (e.g. for irrigation); and armed conflict and political instability. None of the countries in the region is rated ‘low risk’. Instability has resulted in both internal and external refugees with the resultant conflicts over access to and use of land, and environmental degradation.

A recent concern over access to land in the region comes from the growing commercial pressure over land including large scale land acquisition by both internal and external investors. The latter is sometimes referred to as the land rushes or land grabbing. The IGAD region has a number of recent investments.

The region’s experience in the formulation of National Land Policies and laws is developing, for example in Kenya, Uganda and in Ethiopia there is land certification. Djibouti has developed laws but no supporting policies. South Sudan has developed a land Act, but it is not implemented. Eritrea, Sudan, Somalia are yet to develop their National Land Policies and this should be a matter of urgency. In the process of developing or revising their land policies and laws, countries in the region have at their disposal, the African Union (AU)-adopted Framework and Guidelines (F&G) on Land Policy in Africa, which was approved and adopted by the Assembly of the Heads of State and Government in July 2009. Lessons drawn from countries that have developed National Land Policies and Laws include: the essence of sequencing; the need to be comprehensive and taking cognizance of local conditions; reliance on local resources

and making adequate budgetary allocations for implementation; public consultations; and the need for incorporating dispute resolution mechanisms, including Alternative Dispute Resolution (ADRs).

The study provides findings on: the policy and legal framework for land governance, land institutions and administrations, land tenure systems, training and research institutions in IGAD member states and and finally provides conclusions and recommendations on how to improve land governance.

More specifically, key findings documented in the report include:

## 1. Common land governance issues

Land is very crucial resources to secure livelihoods for peasant farmers and pastoralists. However, land governance is characterized by insecure land/natural resources rights and tenure, unequal distribution of land, the duality of the property system, (colonial legacy) legal pluralism and there are land conflicts especially between agricultural farmers and pastoralists.

## 2. Policy and legal framework for land governance

Contrary to what one might expect given a group of 8 countries with diverse ethnic, linguistic, geographic and climatic diversity, one would expect diverse policies and laws. However, due to colonial legacy there are dual tenure systems (statutory and customary) which has continued into the era of independence and to the present day. Although there is a real distinction between the legal and administrative approach of Djibouti, Somalia, Sudan with Islamic background compared to Kenya and Uganda as well as a diversity of post independent legal experimentation regarding land tenure and natural resource management policies, the fundamental duality that has long characterized tenure and resource management remains a defining characteristic of current regimes throughout the region.

It is important to note that the level of development of policy and legal frameworks in the IGAD region is at different levels. Kenya and Uganda have recent comprehensive land policies and laws, while Ethiopia has no land policy but, has land laws that address urban and rural land. In South Sudan, the Land Act has been developed but, it is not implemented due to political instability, while in Sudan the land laws are outdated and are heavily based on colonial principles and this is causing land conflicts between the pastoralists and agricultural farmers. In Somalia, there is almost no policy or law on land governance.

### 3. Land Institutions and Administration

At the international and regional levels, policy and institutional frameworks have been developed that create opportunities for enhancing land governance in the IGAD region. At the national levels, there are gaps, especially in Somalia where is almost no institutional structure, in Djibouti, where there is no single national land institution and South Sudan and Sudan national institutions were established under the law and they are not operational. In other countries such as Kenya and Uganda have developed institutional framework but there are also gaps related to conflicts of mandates, inadequate transparency and low level of land information system that still affect land governance.

The table below shows recommendations made at both the IGAD and National Levels to address land governance issues:

Recommendations at the IGAD Level	Recommendations at the National Level
<p>Strengthen IGAD Secretariat capacity on coordination/technical assistance of land governance;</p> <p>Strengthen IGAD Land governance by developing regional frameworks and related protocols for cooperation;</p> <p>Develop regional platform for dialogue, exchange and learning among states;</p> <p>Develop IGAD land governance training and research program;</p> <p>Coordinate implementation of a monitoring and evaluation framework for land governance.</p>	<p>Develop land policies and laws and reform institutions especially in Somalia, South Sudan and Sudan;</p> <p>Improve tenure security - communal &amp; individual lands especially in Sudan;</p> <p>Increase access to land and tenure security for the poor and vulnerable people in all IGAD member countries;</p> <p>Increase efficiency and transparency in land administration especially in Kenya and Uganda;</p> <p>Strengthen land disputes mechanisms for both statutory and customary land in all IGAD member countries;</p> <p>Increase scope and effectiveness of land use planning in all IGAD member countries;</p> <p>Improve public land management;</p> <p>Develop post-conflict land administration in South Sudan and Somalia.</p>

# LIST OF ACRONYMS AND ABBREVIATIONS

ADR	Alternative Dispute Resolution
AfDB	African Development Bank
ANRC	African Natural Resources Center
AU	African Union
AUC	African Union Commission
CAADP	Comprehensive Africa Agriculture Development Programme
CEDP	Competitiveness and Enterprise Development Project
COMESA	Common Market for Eastern and Southern Africa
CSOs	Civil Society Organizations
ECA	Economic Commission for Africa
ECOWAS	Economic Community of West African States
EEA	Ethiopian Economic Association
EEZ	Exclusive Economic Zone
ENRM	Environment and Natural Resource Management
EU	European Union
F&G	Framework and Guidelines
FAO	Food and Agriculture Organisation
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH
HCENR	Higher Council for Environment and Natural Resources
IFAD	International Fund for Agricultural Development
IGAD	Intergovernmental Authority on Development
IGADD	Intergovernmental Authority on Drought and Development
ILC	International Land Coalition
KLA	Kenya Land Alliance

LPI	Land Policy Initiative
LSLBI	Large scale Land Based Investments
M&E	Monitoring and Evaluation
NEPAD	New Partnership for Africa's Development
NLC	National Land Commission
NLIS	National Land Information System
RCMRD	Regional Centre for Mapping of Resources for Development
RECs	Regional Economic Communities
SADC	Southern African Development Community
SDC	Swiss Agency for Development and Cooperation
SECS	Sudanese Environment Conservation Society
UNCCD	UN Convention to Combat Desertification
UNCLOS	UN Convention Law of the Sea
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UN-HABITAT	United Nations Human Settlements Programme
VGGT	Voluntary Guidelines on the Responsible Governance Tenure



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# OVERVIEW

## 1.1 Introduction

Land governance concerns the rules, processes and structures through which decisions are made about access to land and its use, the manner in which the decisions are implemented and enforced and the way that competing interests in land are managed. It encompasses statutory, customary and religious institutions, as well as informal institutions. Further, it includes state structures such as land agencies, courts, and ministries, local governments, and municipalities responsible for management of land. It also includes informal land developers and traditional bodies. It also covers the legal and policy framework for land, as well as traditional practices governing land transactions, inheritance and dispute resolution. In short, it includes all relevant institutions from the state, civil society and private sectors.

It is important to understand land governance within any jurisdiction, whether it is a community or a country because there are multiple development objectives and multiple stakeholders who have interests that range from basic survival to personal enrichment to societal well-being. As land resources are finite within a jurisdiction, there is often competition between stakeholders over access to and use of the resources.

Good land governance principles include the following:

- Access to land and natural resources should be equitable. Given the importance of land for a wide range of economic, social and environmental objectives, no group within society should be legally or politically excluded from being able to access to land or related natural resources;
- Security of tenure should be provided to all members of society. Good governance ensures the legal recognition and protection of a range of land

rights, including customary and traditional rights as well as intermediate forms of tenure. Evictions should be avoided wherever possible; where absolutely necessary, they should be carried out according to national law and international standards related to due process and fair and just compensation;

- Specific measures should be taken to ensure access to land and the security of land and property rights of women. A gender perspective on land and property rights should be incorporated at all stages of reform analysis, design, implementation and analysis. Data regarding access to land and security of tenure should be gender disaggregated;
- Decision-making regarding land and natural resources should be transparent, with processes open to all members of society. Good governance places all decisions on land upon respect for fundamental human rights and ensures that all relevant stakeholders are enabled to effectively participate, particularly women and vulnerable groups;
- The rule of law should be applied to all. Good governance requires that no one stands above the law, and that politicians, officials, land professionals and others actors are accountable for their actions. It ensures that rules and procedures are clear, consistent, well understood and applied in a transparent manner. It requires that conflicts are managed effectively and efficiently, including through traditional institutions and through alternative dispute resolution methods;
- Land administration should be decentralized based on the principle of subsidiarity, i.e. taken at the lowest appropriate level and based on accountability. Where appropriate, it should build on traditional and informal practices consistent with other governance principles. Inclusive processes are required to ensure the equitable distribution of benefits from land and related natural resources.
- Effective and efficient land administration should be provided to all members of society. Services should be responsive to the needs of citizens. Costs of acquiring services should be affordable, and procedures should be clear and

simple. Technical solutions should be based on available capacity and appropriate technology.

- Sustainability should be ensured by taking a long term perspective. Good governance requires institutional and financial sustainability. Policy decisions and administrative action should not compromise the social, economic and environmental needs of future generations.

With the support from the Switzerland Development Cooperation (SDC), the IGAD Secretariat through the Land Policy Initiative (LPI) project has commissioned a study aimed at improving land governance in the IGAD region. The study is also intended to develop capacity of academic institutions in the region to promote and undertake land policy related research. The purpose of this report is to provide land governance profiles of IGAD member countries; identify land administration, training and research institutions and assess their capacities and identify gaps and challenges that affect achieving good land governance. Specifically, the report reviews the land policies and laws in IGAD member countries and identifies land administration, training and research institutions that are relevant to land governance. It also assesses the strengths and gaps in the policy and legal frameworks and the capacities of institutions in addressing land governance.

## 1.2 Background

In 2006, the African Union Commission (AUC), the United Nations Economic Commission for Africa (UNECA) and the African Development Bank (AfDB) initiated a process for the development of a Framework and Guidelines (F&G) for land policy and land reform in Africa, with a view to strengthening land rights, enhancing productivity and securing livelihoods for the majority of the continent's population. The aim of the Land Policy Initiative (LPI) was to examine land policy issues and challenges in Africa,

with a view to developing a framework to strengthen land rights, enhance productivity and improve livelihoods.

The Framework and Guidelines provide a clear overview of the historical, political, economic and social background of the land question in Africa, including elaborating on the role of land as a valuable natural resource endowment, in attaining economic development and poverty reduction.

The Framework and Guidelines promote the need for a shared vision among all stakeholders, to ensure a comprehensive and coordinated land policy as a major factor in national development. It urges African governments to pay attention to the status of land administration systems, including land rights delivery systems and land governance structures and institutions, and to ensure adequate budgetary provision to land policy development and implementation. Progress will require the development of tracking systems and mechanisms of land policy formulation and implementation that will enable African governments learn from past successes and setbacks, and make timely readjustments to national land policy processes.

The Land Policy Initiative was established in 2006 as a joint initiative of the African Union Commission, the Economic Commission for Africa and the African Development Bank. In its first phase (2006-2009) the LPI was successful in developing a Framework and Guidelines on Land Policy in Africa, with a view to facilitating national land policy development and implementation processes.

The F&G, which was developed through a rigorous roadmap of activities, including regional assessments and consultations on land policy, was adopted by the African Ministers responsible for land in Addis Ababa, Ethiopia, in April 2009. They were further endorsed by the highest level of African governance—the AU Heads of States and Governments, through a Declaration on land issues and challenges in Africa, during the 13th Assembly of the African Union in Sirte, Libya, in July 2009.

Given its mandate, in 2012, the LPI developed a five–year strategic plan defining the key elements needed for adequate implementation of the AU Declaration on Land. This five-year strategic plan and roadmap (2012-2016) captured the need for “mainstreaming land in the agenda for Africa’s development”. This objective is being achieved through a number of interventions including developing of joint projects with Regional Economic Communities (RECs) and Member States, with financial support from development partners. It is within the mandates of the RECs to implement AU Policies, Declarations and Strategies in their respective regions and to provide support to their Member States and coordinating partners’ efforts in the implementation of the AU Declaration on Land, guided by the F&G.

In this context, the LPI and IGAD, with support from the Swiss Agency for Development and Cooperation (SDC), developed a three-year project “Improving land governance in the IGAD region.”

The Project Objectives are:

- To enhance the capacity of the LPI and the IGAD Secretariat to facilitate and monitor the implementation of the AU Declaration on Land in the region;
- To mainstream land governance issues in programmes and activities of the IGAD Secretariat and its member states;
- To develop capacity of academic institutions in the region to promote and undertake land policy related research taking into account existing IGAD Frameworks;
- To establish / strengthen a regional platform for knowledge sharing and advocacy aimed at promoting good land governance and land policy convergence among IGAD Member States (Djibouti, Ethiopia, Kenya, Somalia, South Sudan, Sudan, and Uganda);
- To improve synergy (partnerships, coordination and alignment) of land governance related programmes in the IGAD region; and



- To facilitate monitoring and evaluation of land policy reform processes based on the overall IGAD Monitoring and Evaluation (M&E) Framework.

In view of the above, the LPI in partnership with IGAD commissioned this consultancy to map research and training institutions within the IGAD region.

## 1.3 Objectives of the assignment

The main objective of this consultancy is to provide land governance profiles of IGAD member countries and identify land administration, training and research institutions and assess their capacities and identify gaps and challenges. The specific objectives are:

- a) To review the land policies and laws in IGAD member countries and identify gaps and challenges that affects the implementation of AU Declaration on Land and possible recommendations for its recommendations;
- b) To identify land administration, training and research institutions and assess their capacities and identify gaps and challenges to implement the AU Declaration on Land and recommendations for strengthening the institutions;
- c) To develop Land Governance Strategy that provides strategies for enhancing policies, laws and administrative, research and training institutions for land governance;

## 1.4 Methodology

The consultant used the following methods when conducting the study:

### (a) Comprehensive Desk review

A comprehensive review of policies and legislation, published and unpublished reports, academic works and studies was conducted. Through the review, the following were studied:

- Land rights especially rights of special interest groups such as peasants, women and pastoralists;
- Land tenure systems in the IGAD member countries;
- The status of land governance systems, challenges and conflicts within the systems;
- The existing capacities (Human, technical and financial) and mandate of the land institutions and their challenges and;
- Scope of training and research institutions and their challenges.

### (b) IGAD member Countries Visit

The consultant visited five (5) IGAD member countries namely, Djibouti, Ethiopia, Kenya, Sudan and Uganda. South Sudan and Somalia were not visited due to security reasons and Eritrea was not visited because its membership was suspended from IGAD. During the visits, semi-structured interviews were conducted with Government officials, Civil Society Organizations and Academic, research and training institutions involved in land administration.

### (c) The Regional Validation Meeting

The validation meeting is intended to assess the accuracy of the findings, conclusions and recommendations drawn from the study and propose the way forward for the LPI project.

## 1.5 Structure of the Report

This report is divided into five sections.

The *first section* is an overview. It provides introduction, background to the study, objectives of the assignment and the methodology used.

The *second section* provides an overview of the IGAD region. It describes the countries in the IGAD region, the size of the land of the IGAD region, population and the background and its legal status.

The *third section* reviews international, regional policies and instruments, including institutions relevant to land governance in the IGAD region.

The *fourth section* describes country land governance profiles of IGAD member countries. The national policies, laws and administrative, research and training institutions are reviewed. In this section, strengths and weakness are documented.

The final and *fifth section* provides conclusions and recommendations.

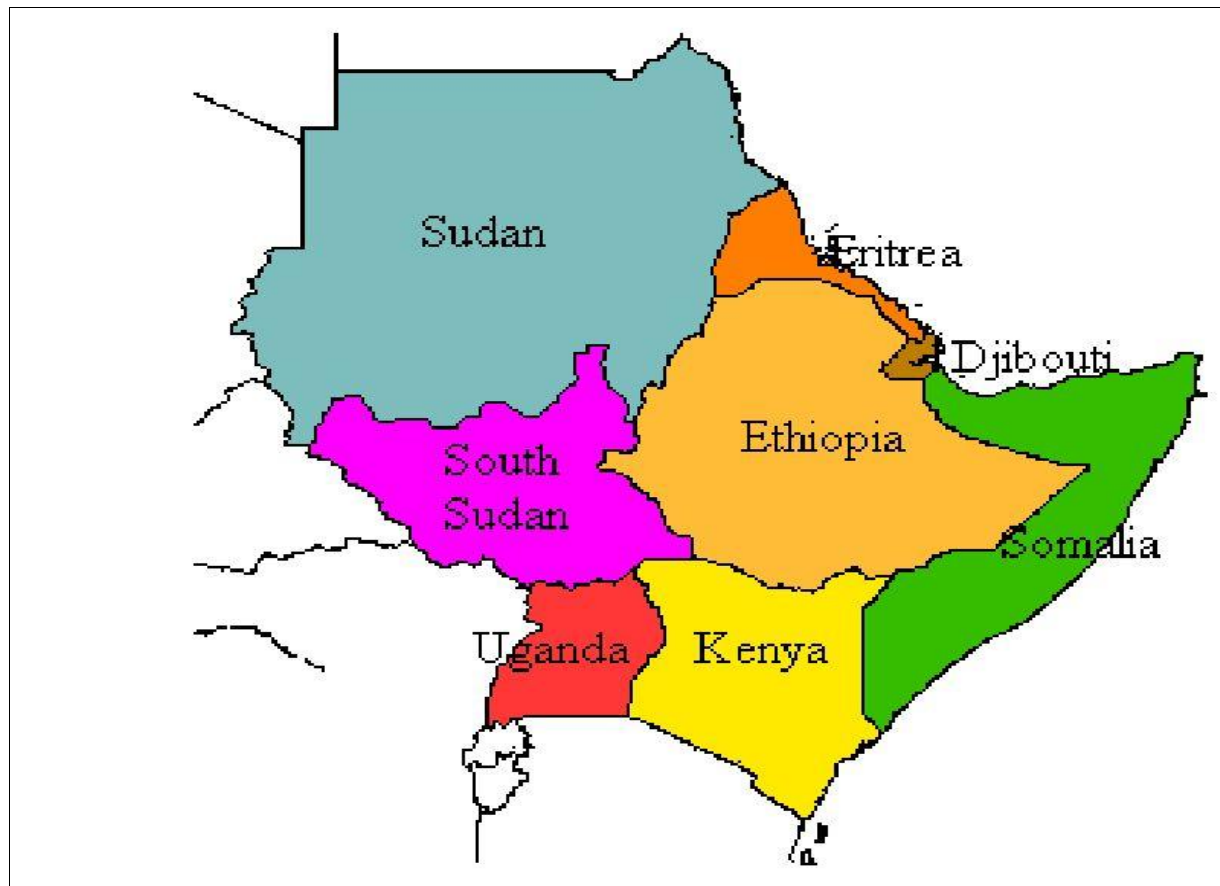
# OVERVIEW OF THE IGAD REGION

IGAD region comprises the countries of Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda. The region covers an area of about 5.2 million square kilometres.

Approximately 80% of the region is arid and semi-arid. The lowlands in these areas receive less than 500 mm of rainfall per year. The rest of the region has diverse climate and landscapes, which includes cool highlands, swamp areas, tropical rain forests and other features typical of an equatorial region. Farmlands account for 7% of the total land area; forests 19% and 28% are permanent pastures. The remaining 46% of the land is considered unproductive. The rainfall pattern is unreliable and variable, both spatially and temporally. The region is prone to recurrent droughts and dry spells, making it one of the most vulnerable regions to climatic variations on the African continent

The IGAD region has a population of over 221.3 Million people characterized by high growth rates. The average population density is approximately 42 persons/km<sup>2</sup>. There are population density variations between the countries, however, these are substantial, ranging from 15.1 persons per km<sup>2</sup> in Somalia to above 142.8 per km<sup>2</sup> in Uganda. These variations are even more pronounced between the different ecological zones. There are deserts with scarcely anybody living in them, and pockets in rural areas with high populations of more than 600 persons living on one km<sup>2</sup>.

Figure 1: Map of the IGAD region



IGAD was established in 1986 as the InterGovernmental Authority on Drought and Development (IGADD) to co-ordinate the efforts of the member states in combating desertification and promoting efforts to mitigate the effects of drought. Thereafter, at an extra-ordinary Summit held on 18th April 1995, the Heads of State and Government resolved to re-vitalize the Authority and to expand its mandate to cover political as well as economic issues. Consequently, the Authority was re-named the InterGovernmental Authority on Development in 1996 and the Agreement Establishing IGAD was amended accordingly. The new Agreement gave IGAD an expanded mandate that includes inter alia, the following areas of cooperation among the member states:

- Enhancing cooperation and co-ordinating their macro-economic policies;

- Promoting sustainable agriculture development and food security;
- Conserving, protecting and improving the quality of the environment;
- Ensuring the prudent and rational utilization of natural resources;
- Cooperating in increased sustainable utilization and development of energy resources in the sub-region, and in the gradual harmonization of their national energy policies and energy development plans; and
- Cooperating in the gradual harmonization of their national policies in scientific and technological research and development, transfer of technology, and their policies on capacity building in science and technology in the sub-region.

While the new Agreement Establishing IGAD identified some twenty areas of cooperation among the member states, the following three priority areas were selected as the immediate entry points for cooperation:

- Food security and environmental protection;
- Conflict prevention, management and resolution; and
- Economic cooperation and integration

# **REVIEW OF POLICIES, INSTRUMENTS AND INSTITUTIONS RELEVANT TO LAND GOVERNANCE IN THE IGAD REGION**

## **1.6 International Instruments and Policies**

International instruments and policies that provide guidance for land governance in the IGAD region are contained in legally binding and non-legally binding instruments. The key instruments and policies are as follows:

### **1.6.1 UNCCD**

The objective of this Convention is to combat desertification and mitigate the effects of drought in countries experiencing serious drought and/or desertification, particularly in Africa, through effective action at all levels, supported by international cooperation and partnership arrangements, in the framework of an integrated approach which is consistent with Agenda 21, with a view to contributing to the achievement of sustainable development in affected areas. This objective involves long-term integrated strategies that focus simultaneously, in affected areas, on improved productivity of land, and the

rehabilitation, conservation and sustainable management of land and water resources, leading to improved living conditions, in particular at the community level (Article 2).

In the IGAD region all member countries are parties to the UNCCD and can benefit from its support to parties which include management of land degradation in drylands areas.

## **1.6.2 The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), 1979**

The Convention calls on States parties to end discrimination against women in laws, policies and practices, including through the adoption of temporary special measures. Its article 2 obliges States to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.

Under article 14(2), the requires the States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women that they participate in and benefit from rural development. This includes guarantees of equal treatment in land and agrarian reform as well as in land resettlement schemes.

Under Article 15(2) obliges States to accord women equal legal capacity in civil matters, in particular “equal rights to conclude contracts and to administer property”. Thus availing them an opportunity for them to access, own, control and dispose Land and other properties and keep them as their personal held properties.

Further, under Article 16 the requires the States to ensure that the same rights for both spouses in respect of the ownership, acquisition, management, administration,



enjoyment and disposition of property, whether free of charge or for a valuable consideration. This is an important provision for administration of land for women spouses who are usually at a disadvantage.

### **1.6.3 The Universal Declaration of Human Rights**

The Universal Declaration of Human Rights, under article 2, sets the principle of nondiscrimination. It prohibits discrimination of any kind including discrimination based on sex, in the enjoyment of rights guaranteed in the Declaration. Among many other rights, the Declaration recognizes the rights to property, food housing and education". Thus by providing so, the declaration recognizes that when it comes to inheritance of land, there should be no discrimination.

Further under article 17, The Universal Declaration of Human Rights provides to the effect that everyone has the right to own property alone as well as in association with others. This can impliedly be construed to the effect that every woman has the right to own property alone as well as in association with her husband. This is not happening on ground where women are denied their rights to own property on their own and forced to own properties through their husbands.

### **1.6.4 The International Covenant on Civil and Political Rights**

The Covenant under its article 3, guarantees equality between women and men, and it prohibits discrimination based on sex. Thus the Covenant discourages any kind of discrimination which can be construed to include non-discrimination in women right to access, own, control and dispose their lawful obtained land.

## 1.6.5 The International Covenant on Economic, Social and Cultural Rights

The Covenant under Article 3 of similarly calls on States parties to “undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant” and prohibits discrimination based on sex. The Covenant also recognizes the rights to food, housing, education, health, culture, work and association. By providing so the Covenant requires state parties to it to undertake all necessary steps to enact laws that are non-discriminatory to women and as well to make sure that it prohibits any practices that are gender discriminatory.

## 1.6.6 EU Land Policy Guidelines (2004)

These guidelines support land policy design and land policy reform processes in developing countries. Depending on the context and objectives, a land policy reform programme may include one or several of the following elements:

- New tenure legislation and revision of codes, to recognize and regulate new types of rights or forms of transfer (including women’s, small farmers’, pastoralists’, minority groups or indigenous peoples’ land rights);
- Land registration and titling of existing rights;
- Regularization (updating formal records to take account of changes and informal transactions) of existing land rights;
- Land redistribution;
- The creation of new opportunities for land access;
- Restitution of land rights alienated from the original owners or users;
- Privatization of collective or state land;

- Improvements to the efficiency and accountability of existing land administration systems;
- Establishment of (new) institutions and structures with responsibility for land acquisition, administration and conflict resolution;
- Setting up a land-based tax system;
- Designing and enacting new land use and planning rules and procedures;

Central issues for the design of land policy and land reforms are:

- Securing rights over land and related resources;
- Building on existing rights and practices;
- Titling may or not be the solution;
- Land rights administration: lowering transaction costs and securing rights;
- The role of rental market to enhance productivity and access;
- Land redistribution.

Key principles for successful policy design:

- Processes of land policy reform, changes to legislation, land rights;
- Promote inter-ministerial work, with in-depth analysis of current situations;
- Promote a participatory approach to policy making;
- Take into account the distance between statutory law and local practice;
- Identify key principles and allow for diverse solutions within them;
- Take implementation costs into account in the design of land tenure reform measures;
- Carefully craft the rules, tools procedures to avoid loopholes that could make the reform; collapse or lead to unintended negative effects;
- Recognize that the impact of reform depends on changes in practices and not on the legal texts alone;
- Ensure widespread dissemination of information on the scope and content of the reform as well as on the policy, legislation and procedures;

- Gender issues need a careful approach;
- The rights of minorities and indigenous peoples are to be adequately recognized;
- Land policy has to include sound land use planning.

In developing land policies the following guidelines should be followed:

- The government should draw up policies and establish the legislation, structures and procedures for the protection of rights on property for all the population, as well as civil rights more generally;
- The private sector, civil society groups and local communities should provide their input in the process of reviewing policy and legislation.

## **1.6.7 FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2010)**

The main objective of the guidelines is to improve governance of tenure of land fisheries and forests. Specifically guidelines aim to:

- Improve tenure governance by providing guidance and information on internationally accepted practices for systems that deal with the rights to use, manage and control land, fisheries and forests;
- Contribute to the improvement and development of the policy, legal and organizational frameworks regulating the range of tenure rights that exist over these resources;
- Enhance the transparency and improve the functioning of tenure systems;

- Strengthen the capacities and operations of implementing agencies; judicial authorities; local governments; organizations of farmers and small-scale producers, of fishers, and of forest users; pastoralists; indigenous peoples and other communities; civil society; private sector; academia; and all persons concerned with tenure governance as well as to promote the cooperation between the actors mentioned.

The Guiding principles provide the following principles for tenure governance:

- States should recognize and respect all legitimate tenure right holders and their rights;
- Safeguard legitimate tenure rights against threats and infringements;
- Promote and facilitate the enjoyment of legitimate tenure rights;
- Provide access to justice to deal with infringements of legitimate tenure right;
- Prevent tenure disputes, violent conflicts and corruption.

Principles for implementation that are essential to contribute to responsible governance of tenure of land, fisheries and forests are:

- Recognizing the inherent dignity and the equal and inalienable human rights of all individuals;
- No one should be subject to discrimination under law and policies as well as in practice;
- Recognizing that equality between individuals may require acknowledging differences between individuals, and taking positive action, including empowerment, in order to promote equitable tenure rights and access to land, fisheries and forests, for all, women and men, youth and vulnerable and traditionally marginalized people, within the national context;
- Ensuring the equal right of women and men to the enjoyment of all human rights, while acknowledging differences between women and men and taking specific measures aimed at accelerating de facto equality when necessary;

- Recognizing that natural resources and their uses are interconnected, and adopting an integrated and sustainable approach to their administration;
- Engaging with and seeking the support of those who, having legitimate tenure rights, could be affected by decisions, prior to decisions being taken, and responding to their contributions; taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes;
- Adopting a rules-based approach through laws that are widely publicized in applicable languages, applicable to all, equally enforced and independently adjudicated, and that are consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments;
- Clearly defining and widely publicizing policies, laws and procedures in applicable languages, and widely publicizing decisions in applicable languages and in formats accessible to all;
- Holding individuals, public agencies and no state actors responsible for their actions and decisions according to the principles of the rule of law;
- Continuous improvement: States should improve mechanisms for monitoring and analysis of tenure governance in order to develop evidence-based programmes and secure on-going improvements.

## 1.6.8 The IFAD Environment and Natural Resource Management Policy, 2012

The objective of this policy is to enable poor rural people to escape from and remain out of poverty through more-productive and resilient livelihoods and ecosystems.

The policy has sets out core principles to guide IFAD's support for clients in ENRM. The ones that are important for land governance are:

- Scaled-up investment in multiple benefit approaches for sustainable agricultural intensification;
- Recognition and greater awareness of the economic, social and cultural value of natural assets;
- Improved governance of natural assets for poor rural people by strengthening land tenure and community-led empowerment;
- Livelihood diversification to reduce vulnerability and build resilience for sustainable natural resource management and;
- Equality and empowerment for women and indigenous peoples in managing natural resources;

## 1.7 Regional Instruments and Policies

There are regional instruments and policies that have been developed that provide guidance to land governance in the IGAD region. The major ones are as follows:

## **1.7.1 The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa**

This Protocol is the key instrument for the protection of women rights in Africa. Several provisions of the Protocol address women's land and property rights. It provides for the equality between women and men and the right to an equitable sharing of the properties that were jointly acquired. It further grants to women, rights to access and control the productive resources including land.

The Protocol also provides for the widow's right to inheritance the properties of her husband, and that in case of the parent's properties both men and women have equal right to inherit equal shares.

The Protocol further requires that State parties to take measures to provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food in the context of women's right to food security.

## **1.7.2 AU Declaration on Land**

The African Union Declaration on Land Issues and Challenges mandated Member States to 'prioritize, initiate and lead land policy development and implementation processes', RECs such as IGAD are required to support member States in "land policy formulation, implementation and monitoring and address issues of land policies within their respective common ... policy framework[s]" and continental institutions to work towards the 'establishment of an appropriate institutional framework, take measures for the establishment of a fund and undertake measures for the establishment of mechanisms for progress tracking and periodic reporting'



Member States are called to review land sector/develop comprehensive land policy, build adequate capacity (human, institutional, financial) and make use of the F&G to guide national land policy process.

AUC with ECA, AfDB, RECs were called upon to establish institutional framework to implement Declaration; establish fund to support the implementation of Declaration and report back periodically on progress made.

A specific call is made to RECs to convene periodic platforms for exchange of experiences, lesson learning and dissemination of best practices and capture/ address issues of land within common agricultural, other frameworks.

### **1.7.3 Agenda 2063**

Agenda 2063 is as a collective vision and roadmap for the next fifty years in Africa. The heads of state committed themselves to provide opportunities for all Africans to have decent and affordable housing in clean, secure and well planned environments by providing access to affordable and decent housing to all in sustainable human settlements ensuring effective and territorial planning and land tenure, use and management systems and ensuring balanced development of all human settlements while embracing a rural urban continuum.

Commitment was also committed made to develop and implement affirmative policies and advocacy to ensure women's increased access to land and inputs, and ensure that at least 30% of agricultural financing are accessed by women.

### **1.7.4 Framework and Guidelines on Land Policy in Africa (2010)**

The Framework and Guidelines provides a clear overview of the historical, political, economic and social background of the land question in Africa and elaborates on the

role of land as a valuable natural resource endowment in attaining economic development and poverty reduction.

The purpose of the Framework and Guidelines is to provide of the principles which should inform the development, content and implementation of land policies in African member states.

Specifically the Framework and Guidelines seeks to:

- Offer a basis for commitment by African member states to the formulation and operationalization of sound land policies as a basis for sustainable human development that includes assuring social stability, maintaining economic growth and alleviating poverty and protecting natural resources from degradation and pollution;
- Promote consensus for shared principles as the basis for securing access to land for all users, enhancing agricultural productivity and sustaining livelihoods;
- Underscore the need for popular participation in land policy formulation and implementation so as to facilitate improved governance of land resources;
- Suggest standards for best practices for land policy reforms and benchmarks for the performance of land institutions that member states can adopt in keeping with their respective contexts;
- Articulate a policy framework for addressing emerging issues and anticipating future trends relating to land resources;
- Provide a basis for more coherent partnership between states, citizens and development partners in land policy formulation and implementation on the continent;
- Establish general principles for engaging development partners for the purposes of mobilizing resources for building capacities for transformative land policy reform processes, and develop guidelines for regional convergence on the

sustainable management and utilization of land and associated resources shared by two or more member states in various parts of Africa.

The guidelines provide the following principles that can guide the development of a national land policy:

- Integrating land issues into decision-making processes;
- Acknowledging the legitimacy of indigenous land rights systems;
- Strengthening the land rights of women;
- Enhancing access to land through tenure reform;

It points out the challenges to comprehensive Land Policy Development to include the following:

- Low levels of stakeholder and civil society involvement
- Sectoral focus to policy development
- Inability to provide for adequate budgetary allocations
- Inadequate human and institutional capacity

Appropriate Strategies for Land Policy Development are:

- Clarifying roles in land policy development
- Recognizing the role of indigenous institutions
- Consultation with the land using public
- Engagement with civil society organizations
- Launching the land policy development process
- Building capacity for land policy development
- Ensuring availability of financial and human resources
- Communication for land policy development
- Providing anchorage for further policy development in land-related sectors and sub-sectors

The guidelines provide the following Sequencing the Policy Development Process

- Stakeholder consultation and identification of salient problems in the land sector
- Preparation of working drafts for further discussion with stakeholders
- Appraisal of institutional and financial/budgetary options;
- Refinement, processing and approval of the national land policy;
- Design of implementation programmes and rationalization of institutional responsibilities for implementation;
- Enactment of new and revision or repeal of existing land and land-related legislation;
- Further dissemination of information to the public, training and capacity building to support implementation.

## 1.7.5 The Land Policy Initiative (LPI)

The principle goal of the LPI is “to assist member states in the implementation of the AU Declaration on land Issues and challenges in Africa, in accordance with the Framework and Guidelines on Land Policy in Africa, in order to achieve socio-economic development, peace and security, and environmental sustainability”

The LPI Objectives are to facilitate the implementation of the AU Declaration of Land Issues and Challenges in Africa through:

- Advocating for the inclusion of land in the development agenda, strategies and programmes of African tri-partite organizations, Regional Economic Communities, African Member States and development partners;
- Coordinating and galvanize the efforts of partners towards effective synergies and partnerships for the implementation of the African agenda on Land Policy, as stated in the Declaration;
- Facilitating resource mobilization in support of land policy related research, advocacy, capacity building, technical support and advisory services;

- Facilitating dialogue on land related issues with a view to raising awareness on the importance of addressing challenges that hamper the appropriate utilization of land towards Africa's socio-economic development, peace and security and environmental sustainability;
- Facilitating capacity building at all levels in support of land policy development and implementation in Africa;
- Providing technical support and advisory services to RECs and members states on land policy development and implementation;
- Promoting networking and knowledge sharing at all levels in order to promote evidence-based land formulation and implementation;
- Develop and build capacity for monitoring and evaluation tools and systems in support of land policy development and implementation.

## **GUIDING PRINCIPLES ON LARGE SCALE LAND BASED INVESTMENTS IN AFRICA (2009)**

The Framework and Guidelines on Land Policy in Africa (F&G) aim to facilitate national land policy development and implementation process. The Guiding Principles are articulated as comprehensive, mutually reinforcing framework of principles, formed around a set of fundamental principles. The guiding principles are as follows:

Fundamental Principle 1 of the LSLBI provides that respect of human rights of communities, contribute to the responsible governance of land and land-based resources, including respecting customary land rights, and are conducted in compliance with the rule of law.

Fundamental Principle 2 provides that decisions on LSLBI are guided by national strategy for sustainable agricultural development, which recognizes the strategic importance of African agricultural land and the role of smallholder farmers in achieving food security, poverty reduction and economic growth.

Fundamental Principle 3 provides that decisions on LSLBI and their implementation are based on good governance, including transparency, subsidiarity, inclusiveness, prior informed participation, and social acceptance by affected communities.

Fundamental Principle 4 provides that LSLBI respect the land rights of women, recognize their voice, generate meaningful opportunities for women alongside men, and do not exacerbate the marginalization of women.

Fundamental Principle 5 provides that decisions on the desirability and feasibility of LSLBI are made based on independent, holistic assessment of economic, financial, social, and environmental costs and benefits associated with the proposed investment, throughout the lifetime of investment.

Fundamental Principles 6 provides that member States uphold high standards of cooperation, collaboration, and mutual, accountability to ensure that LSLBI are beneficial to African economies and their people.

# **AFRICAN (BANJUL) CHARTER ON HUMAN AND PEOPLES' RIGHTS (1981)**

The African Charter on Human and Peoples' Rights (also known as the Banjul Charter) is an international human rights instrument that is intended to promote and protect human rights and basic freedoms in the African continent.

Article 14 states that the right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.

All IGAD countries except South Sudan are member countries and therefore in developing the land laws and policies that have to guarantee right to property.

# **MAPUTO DECLARATION ON AGRICULTURE AND FOOD SECURITY IN AFRICA (2003)**

Under this Declaration, AU member countries resolved to revitalize the agricultural sector including livestock, forestry and fisheries through special policies and strategies targeted at small scale and traditional farmers in rural areas and the creation of enabling conditions for private sector participation, with emphasis on human capacity development and the removal of constraints to agricultural production and marketing, including soil fertility, poor water management, inadequate infrastructure, pests and diseases.

# **COMPREHENSIVE AFRICA AGRICULTURE DEVELOPMENT PROGRAMME (CAADP)**

The CAADP was endorsed at the African Union Heads of State Summit as a New Partnership for Africa's Development (NEPAD) program in July 2003. Its overall goal is to “Help African countries reach a higher path of economic growth through agriculture-led development, which eliminates hunger, reduces poverty and food insecurity, and enables expansion of exports.”

CAADP is a growth-oriented agricultural development agenda, aimed at increasing agriculture growth rates to a minimum of six percent per year to create the wealth needed for rural communities and households in Africa to prosper.

One of the key pillars of CAADP to achieve measurable outcomes is to extend the area under sustainable land management and reliable water control systems.



# **MALABO DECLARATION ON ACCELERATED AGRICULTURAL GROWTH AND TRANSFORMATION FOR SHARED PROSPERITY AND IMPROVED LIVELIHOODS (2014)**

The AU member countries recommitted themselves to the Principles and Values of the CAADP Process and stressed the significance of enhancing conservation and sustainable use of all of natural resources in Africa including land, water, plant, livestock, fisheries and aquaculture, and forestry, through coherent policies as well as governance and institutional arrangements at national and regional levels, to realise their huge potential to generate wealth, social benefits and contribute to the development of our economies.

## **1.8 Institutions at the international level**

There are key several institutions that are important in supporting land governance activities in the IGAD region. The key ones are as follows:

# **FOOD AND AGRICULTURE ORGANIZATION (FAO)**

Food and Agriculture Organization (FAO) is a permanent specialized agency of the United Nations, that is aimed eliminating hunger and improving nutrition and standards of living by increasing agricultural productivity. It has three main goals are: the eradication of hunger, food insecurity and malnutrition; the elimination of poverty and the driving forward of economic and social progress for all; and, the sustainable management and utilization of natural resources, including land, water, air, climate and genetic resources for the benefit of present and future generations

It coordinates efforts of governments and technical agencies in programs for developing agriculture, forestry, fisheries, and land and water resources. It supports land governance activities especially in Sub-Saharan Africa by promoting secure tenure rights and equitable access to land as a means for eradicating hunger and poverty. It developed Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) aimed at promoting secure tenure rights and equitable access to land as a means for eradicating hunger and poverty.

# **INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT (IFAD)**

The International Fund for Agricultural Development (IFAD) is a specialized agency of the United Nations was established to finance agricultural development projects primarily for food production in the developing countries. One of the areas it covers is land tenure security and poverty reduction. It has developed Environment and Natural

Resource Management Policy that sets out core principles to guide IFAD's support for clients in ENRM.

## **THE UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP)**

UNDP is the United Nations' global development network. It has a UNDP Drylands Development Centre (UNDP/DCC) is part of the United Nations Development Programme. It is a unique global thematic centre that provides technical expertise and practical policy advice and programme support for poverty reduction and development in the drylands of the world. The Centre's work bridges between global policy issues and on-the-ground activities, and helps governments to establish and institutionalize the link between grassroots development activities and pro-poor policy reform. The main areas of focus are: mainstreaming of drylands development issues into national development frameworks; land tenure/reform and sustainable land management; making markets work for the poor; decentralized governance for natural resources management; drought and complex food security; and payment for environmental services.

## **THE WORLD BANK**

The World Bank has supported land and real estate reforms across a wide range of countries. Its Agriculture and Rural Development research program includes the development of the Land Governance Assessment Framework (LGAF) and the issuing of Policy Research Reports like Land Policies for Growth and Poverty Reduction (2003).

Moreover, the World Bank Group offers a yearly study of conditions for private sector development, including a rating of the ease of registering property.

## UN-HABITAT

UN-HABITAT's section on Land, Tenure & Property Administration focus on the implementation of land, housing and property rights, particularly women's secure tenure, affordable land management systems and pro-poor flexible types of tenure. More efforts in UN-HABITAT further include the creation of the Global Land Tool Network (GLTN). The GLTN is an alliance of global regional and national partners contributing to poverty alleviation through land reform, improved land management and security of tenure particularly through the development and dissemination of pro-poor and gender-sensitive land tools.

## INTERNATIONAL LAND COALITION (ILC)

The ILC is a global alliance of civil society and intergovernmental organisations working together to put people at the centre of land governance. It promotes secure access to land for rural people through capacity building, dialogue, and advocacy. Specifically it works on the following areas that are key for land governance:

- *Secure Tenure Rights:* Respect, protect and strengthen the land rights of women and men living in poverty, ensuring that no one is deprived of the use and control of the land on which their well-being and human dignity depend, including through eviction, expulsion or exclusion, and with compulsory changes to tenure undertaken only in line with international law and standards on human right. In the IGAD region, it working in South Sudan to empower traditional leaders to

register all people in the village as well as to register all land parcels to customary estates in order to reduce land conflicts.

- *Strong Small-Scale Farming Systems:* Ensure equitable land distribution and public investment that supports small-scale farming systems, including through redistributive agrarian reforms that counter excessive land concentration, provide for secure and equitable use and control of land, and allocate appropriate land to landless rural producers and urban residents, whilst supporting smallholders as investors and producers, such as through cooperative and partnership business models. In IGAD region it is conducting research in South Sudan related to unused land in order to determine different categories, and to agree on a list of beneficiaries.
- *Diverse Tenure Systems:* Recognize and protect the diverse tenure and production systems upon which people's livelihoods depend, including the communal and customary tenure systems of smallholders, indigenous peoples, pastoralists, fisher folks, and holders of overlapping, shifting and periodic rights to land and other natural resources, even when these are not recognized by law, and whilst also acknowledging that the well-being of resource-users may be affected by changes beyond the boundaries of the land to which they have tenure rights
- *Equal land rights for women:* Ensure gender justice in relation to land, taking all necessary measures to pursue both de jure and de facto equality, enhancing the ability of women to defend their land rights and take equal part in decision-making, and ensuring that control over land and the benefits that are derived thereof are equal between women and men, including the right to inherit and bequeath tenure rights. In South Sudan, it is organizing discussions and raising awareness with local chiefs and leaders on the protection of women's land rights in five states across the country.
- *Locally-managed ecosystems:* Enable the role of local land users in territorial and ecosystem management, recognizing that sustainable development and the

stewardship of ecosystems are best achieved through participatory decision-making and management at the territorial-level, empowering local land users and their communities with the authority, means and incentives to carry out this responsibility.

- *Inclusive decision-making*: Ensure that processes of decision-making over land are inclusive, so that policies, laws, procedures and decisions concerning land adequately reflect the rights, needs and aspirations of individuals and communities who will be affected by them. This requires the empowerment of those who otherwise would face limitations in representing their interests, particularly through support to land users' and other civil society organizations that are best able to inform, mobilize and legitimately represent marginalized land users, and their participation in multi-stakeholder platforms for policy dialogue.
- *Transparent and accessible information*: Ensure transparency and accountability, through unhindered and timely public access to all information that may contribute to informed public debate and decision-making on land issues at all stages, and through decentralization to the lowest effective level, to facilitate participation, accountability and the identification of locally appropriate solutions.
- *Protected land rights defenders*: Respect and protect the civil and political rights of human rights defenders working on land issues, combat the stigmatization and criminalisation of peaceful protest and land rights activism, and end impunity for human rights violations, including harassment, threats, violence and political imprisonment.
- *Effective actions against land grabbing*: Prevent and remedy land grabbing, respecting traditional land use rights and local livelihoods, and ensuring that all large-scale initiatives that involve the use of land, water and other natural resources comply with human rights and environmental obligations. In South Sudan, it is setting up an observatory on land grabbing and are lobbying with political local leaders and chiefs for the inclusion of land users in large scale land acquisition processes.

## 1.9 Institutions at the Regional level

### **AFRICAN UNION COMMISSION (AUC)**

African Union Commission has a Department of Rural Economy and Agriculture. It has Land and Natural Resources. It has developed the LPI which is to assist member states in the implementation of the AU Declaration on land Issues and challenges in Africa, in accordance with the Framework and in accordance with the Framework and Guidelines on Land Policy in Africa. In partnership with the UNECA and the AfDB it initiated a process for the development of a Framework and Guidelines for land policy.

### **AFRICAN DEVELOPMENT BANK (AFDB)**

The AfDB is a multilateral development finance institution established to contribute to the economic development and social progress of African countries. It has The African Natural Resources Center (ANRC. Its scope covers management of renewable resources such as land.

In partnership with the AU and the ECA it initiated a process for the development of a Framework and Guidelines for land policy.

# **UNITED NATIONS ECONOMIC COMMISSION FOR AFRICA (ECA)**

One of the ECA's roles is to govern natural resources with aim of conducting of policy-oriented and to support the policy, legal and regulatory frameworks for the proper management of natural resources in Africa. Its purpose is to enable the use of land to lend impetus to the process of African development. In partnership with the AU and the AfDB it initiated a process for the development of a Framework and Guidelines for land policy.

## **INTERGOVERNMENTAL AUTHORITY FOR DEVELOPMENT (IGAD)**

Within IGAD there is Agriculture and Environment Division which covers three main sectors: agricultural development and food security, natural resources and energy, environment protection and dryland agricultural research and technology. The Division hosts the IGAD-LPI-SDC project which is intended to enhance the capacity of the LPI and the IGAD Secretariat to facilitate and monitor the implementation of the African Union Declaration on Land Issues and Challenges in Africa; mainstream land governance issues in programmes and activities of the IGAD Secretariat and Member States and develop capacity of academic institutions in the region to promote and undertake land policy related research.



# AFRICAN LAND POLICY CENTER (ALPC)

ALPC is to be established as per the AU Declaration on Land Issues and Challenges to establish an appropriate, well-capacitated institutional mechanism to provide leadership, coordinate, and build partnerships needed to implement these crucial commitments. The centre will be a transition from LPI and will maintain a close relationship with AUC, ECA and AfDB and involve other key actors in its governance. It will have strong thematic programs as well as regional programs to ensure reach to member states in order to achieve the commitments made. It will be facilitating research, advocacy and capacity towards review of land legislation and identifying options for affordable, efficient and decentralized land administration institutions.

# CONCLUSION AND RECOMMENDATIONS

The report provides land governance profiles of IGAD member countries; identifies land administration, training and research institutions and assesses their capacities and identifies gaps and challenges that affect achieving good land governance. Specifically, it reviews the land policies and laws in IGAD member countries and identifies land administration, training and research institutions that relevant to land governance. It also assesses the strengths and gaps in the policy and legal framework and the capacities of institutions in addressing land governance.

The following conclusion can be drawn from the study:

Land is a very crucial resource, required to secure livelihoods for peasant farmers and pastoralists. However, land governance is characterized by insecure land/natural resources rights and tenure, unequal distribution of land, the duality of the property system, (colonial legacy) legal pluralism and there are land conflicts especially between agricultural farmers and pastoralists.

The countries in the IGAD region have varying land governance systems due different colonial history. All countries in the IGAD region with the exception of Ethiopia have a history of West European colonial domination which left an imprint on the land tenure systems in the countries. Most of the countries have juristic or diffuse plural legal systems governing land. Consequently, there are, de jure, or de facto, coexisting multiple sources of property rights broadly categorized as customary and modern tenure, where statutory legal structure and customary practices interface.

Contrary to what one might expect given a group of 8 countries with diverse ethnic, linguistic, geographic and climatic diversity, one would expect diverse land policies and laws. However, due to colonial legacy there are dual tenure systems (statutory and customary) which has continued into the era of independence and to the present day. Although there is a real distinction between the legal and administrative approach of Djibouti, Somalia, Sudan with Islamic background compared to Kenya and Uganda as well as a diversity of post independent legal experimentation regarding land tenure and natural resource management policies, the fundamental duality that has long characterized tenure and resource management remains a defining characteristic of current regimes throughout the region.

The level of development of policy and legal frameworks in the IGAD region is at different levels. Kenya and Uganda have recent comprehensive land policies and laws, while Ethiopia has no land policy but has land laws that address urban and rural land. In South Sudan, the Land Act has been developed but it is not implemented due to political instability while in Sudan the land law is outdated and is heavily based on colonial principles and this is causing land conflicts between the pastoralists and agricultural farmers. In Somalia, there is almost no policy or law on land governance.

At the international and regional levels, policy and institutional frameworks have been developed that create opportunities for enhancing land governance in the IGAD region. At the national levels, there are gaps especially in Somalia where there is almost no institutional structure, Djibouti, where there is no national land institution and South Sudan and Sudan where national institutions are established under the law but they are not operational. In other countries such as Kenya and Uganda have developed institutional framework, however, there are gaps related to conflicts of mandates of institution, inadequate transparency and low level of land information system that still affect land governance and ineffective dispute mechanism.

There are no adequate training and research institutions on land governance. Apart from Ethiopia, that has a specialized training institution in land administration, in all

other countries training in land administration is scattered in various institution and it is not adequate to address training demands in region. In some countries such as Djibouti training is done abroad which is expensive and does not necessarily cover the local training needs.

The following recommendations have been made:

### **IGAD level**

- Strengthen IGAD Secretariat capacity on coordination/technical assistance of land governance;
- Strengthen IGAD Land governance and develop regional frameworks and related protocols for cooperation;
- Develop regional platform for dialogue, exchange and learning among states;
- Develop IGAD land governance training and research program;
- Coordinate implementation of a monitoring and evaluation framework for land governance.

### **National Level**

- Develop land policies and laws and reform institutions especially in Somalia, South Sudan and Sudan;
- Improve tenure security - communal & individual lands especially in Sudan
- Increase access to land and tenure security for the poor and vulnerable people in all IGAD member countries;
- Increase efficiency and transparency in land administration especially in Kenya and Uganda;
- Strengthen land disputes mechanisms for both statutory and customary land in all IGAD member countries;

- Increase scope and effectiveness of land use planning in all IGAD member countries;
- Improving public land management
- Develop post-conflict land administration in South Sudan and Somalia

## ANNEXES

### ANNEX I: BIBLIOGRAPHY

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African Union



African Development Bank



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UPHOLDING PEACE FOR A PROSPEROUS AND INTEGRATED REGION SINCE 1986  
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## LAND POLICY INITIATIVE

# LAND GOVERNANCE IN IGAD REGION

Assessment of Land  
Governance Framework,  
Training & Research Land  
Governance Institutions

## AN OVERVIEW



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

**Swiss Agency for Development  
and Cooperation SDC**