



Policy Trends and Emerging Opportunities for Strengthening Community Land Rights in Africa

A review of relevant international and regional policies and frameworks to empower community land rights advocacy

2017

POLICY TRENDS AND EMERGING OPPORTUNITIES FOR STRENGTHENING COMMUNITY LAND RIGHTS IN AFRICA

A review of relevant international and regional policies and frameworks to empower community land rights advocacy.

2017

Citation: AFSA. (2017). Policy Trends and Emerging Opportunities for Strengthening Community Land Rights in Africa. Kampala, Uganda.

This report was prepared by Dr Julian Oram on behalf of AFSA. It is part of an AFSA series of three continental policy studies, focusing on Land Rights, Agroecology, and Seed Sovereignty. These reports were published with the financial support of Bread for the World, The Tudor Trust, The 11th Hour Project and The Swift Foundation.

The Alliance for Food Sovereignty in Africa brings together small-scale food producers, pastoralists, fisherfolk, indigenous peoples, farmers' networks, faith groups, consumer associations, youth associations, civil societies and activists from across the continent of Africa to create a united and louder voice for food sovereignty.

www.afsafrica.org

ISBN 978-9970-595-00-6



9 789970 595006





EXECUTIVE SUMMARY

Current land tenure arrangements across Africa reflect a complex and layered history of natural resource governance systems. Customary access to farmland, forests and pasturelands managed by traditional community leaders have been overlain with colonial and post-colonial state claims over natural resources, as well as by individual private titles, long-term land leases, usufruct rights and other property laws. In many parts of the continent, this has resulted in a high level of uncertainty for rural communities regarding their rights to the land they rely upon for their food and livelihoods, and which is also often deeply tied into peoples' cultural, spiritual and religious values.

While there has thus long been a case for land policy reforms in many African countries, this need has become all the more acute over the past decade. In that time, the continent has experienced seismic changes that have rapidly escalated competing demands for land. Some of these relate to internal drivers, stemming from demographic trends, mass migration, urbanisation, economic growth, and an emphasis on neo-liberal policies that have explicitly sought to commodify land and natural resources, and to create markets for land as a tradable asset.

At the same time, wider macro-economic turbulence has made land in Africa an attractive proposition to global investors. The financial crises of 2007/08, along with the sudden spike in food commodity and oil prices, saw a massive influx of capital into land around the world, both as an investment 'asset', and in an attempt to exploit the growing demand for food and biofuels. Africa was a primary target for these investments due to a perceived abundance of 'underutilised' and 'unoccupied' land on the continent, and because weakly defined and poorly enforced tenure laws seemingly enabled easy access for investors and speculators.

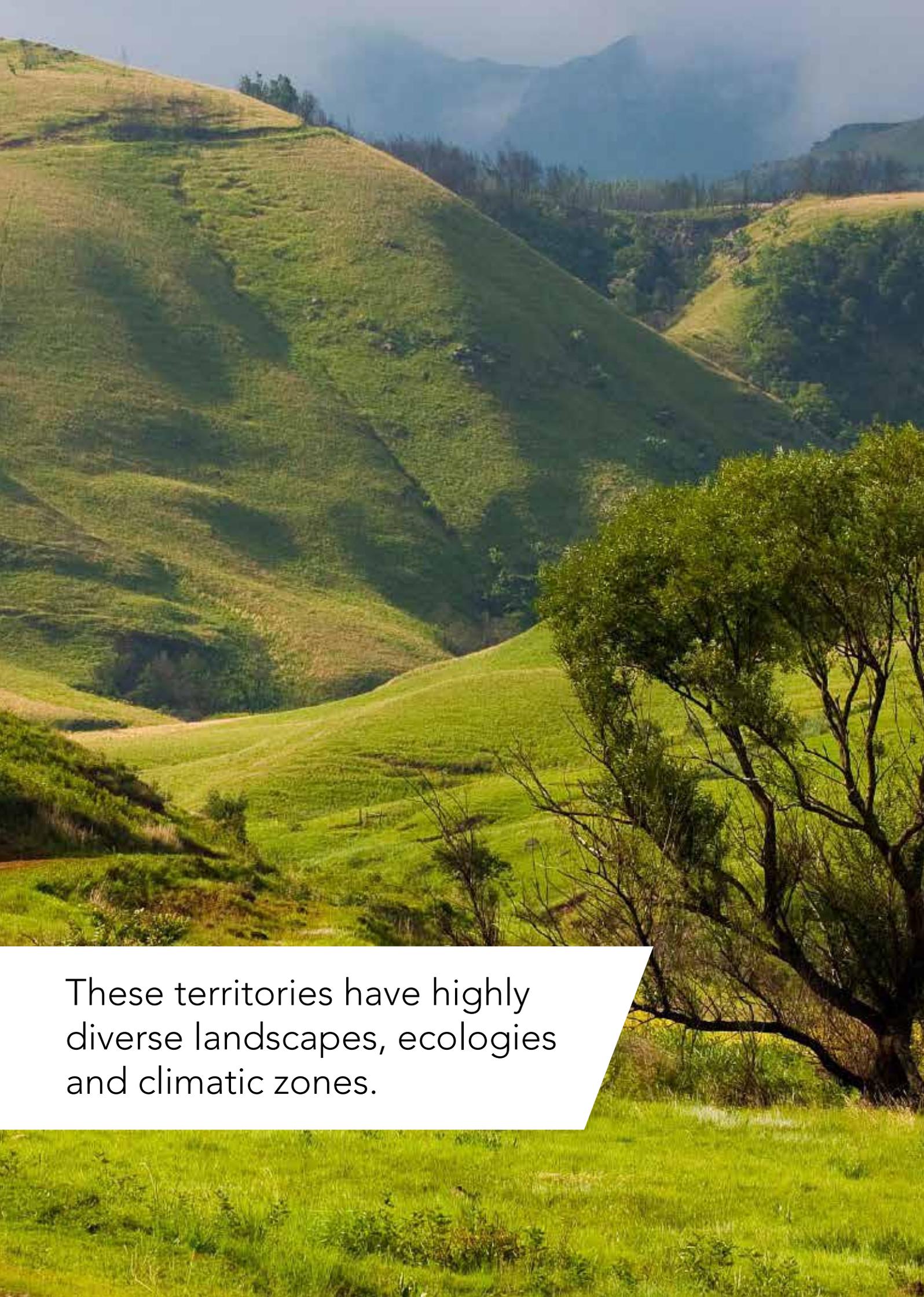
This 'perfect storm' of indigenous and exogenous pressures has triggered a huge surge in land deals, and in particular large-scale land acquisitions, that have displaced millions of rural Africans from their homes, farms, forests and

grazing lands. Between 2000-2016, African governments concluded 422 large-scale land deals with investors, covering an estimated ten million hectares. This new wave of 'land grabs' has been associated with multiple human rights abuses and social injustices, with thousands of communities forcibly evicted and left destitute. Poor land governance in Africa is also associated with persistent poverty, food insecurity, inequality, conflict and land degradation. Women are particularly vulnerable due to their weaker status as land claimants under both customary and formal land governance systems.

In response to this crisis, nations around the world, including those in Africa, have sought to devise frameworks that establish principles for good land governance, and which define concrete policies to protect customary and community land rights. At the international level, the UN World Committee on Food Security (CFS) presided over a multi-stakeholder consultative process, which led to the adoption in 2012 of the "Voluntary Guidelines for the Responsible Governance of Tenure" (VGGT). These principles have since become a global reference point as the 'gold standard' for policies and practices to respect and protect community land rights.

However, even before the VGGT, the African Union had developed its own continental policy response to the land grabbing crisis, through the adoption of the 2009 AU Declaration on Land Issues and Challenges in Africa, which endorsed the "Framework and Guidelines for Land Policy in Africa" (F&G). This document provides both a strong rationale for the need to strengthen community land tenure protections within the African context, as well as giving guidance on how such policies can be developed.

In addition, a raft of other international policy and legal frameworks have sought to assist governments and other parties (e.g. investors) to undertake measures that strengthen community land rights. These include the Optional Protocol on the Convention on Ending all forms of Discrimination Against Women, the UN Declaration on



These territories have highly diverse landscapes, ecologies and climatic zones.

the Rights of Indigenous Peoples, the UN Convention to Combat Desertification, the CFS' Principles for Responsible Investment in Agriculture and Food Systems, and the Sustainable Development Goals.

At the African level, new land policy initiatives have been launched at both continental and regional levels. Notable amongst these is the Land Policy Initiative, which has been working to advance the F&G within the Regional Economic Communities (RECs) of the African Union. While some of these RECs have made progress in developing regional frameworks for land policies, others have been undermined by geopolitical factors.

At the same time, the UN Food and Agricultural Organisation has been working with African governments to operationalise the VGGT and integrate them into domestic land policies. In addition to this, the G8-backed New Alliance for Food Security and Nutrition has been developing guidelines for investors on how to ensure companies respect community land rights, whilst also pushing for African countries to adopt laws that facilitate private land titling. Land policy indicators are also being developed to measure progress towards objectives under the Comprehensive African Agricultural Programme (CAADP), and have been integrated in African countries' commitments under the Kampala Convention to secure the rights of the continent's estimated 13 million internally displaced people.

Yet despite these and numerous other interventions, the land tenure rights of rural people across many parts of Africa – particularly women – remain weak and fraught with uncertainty. The policy frameworks devised at the global and continental levels have, with some notable exceptions, failed to 'stick' on the ground at the national and local levels. Knowledge of these policy frameworks and their implications for human rights and community land rights is still not widespread amongst rural communities across the continent; not even amongst policy makers and officials in charge of local land administration.

Furthermore, considerable structural obstacles exist to the adoption and implementation of strong laws to protect customary and community land rights in many African countries. These include on-going sensitivities around post-colonial land legacy issues; regional political tensions related to internally displaced persons and national territorial sovereignty; corruption, cronyism and political patronage; competing demands for land; complex tenure claims; and limited human, technical and financial resources to administrate land.

It is therefore essential that increased political pressure is brought to bear at all levels to accelerate the uptake of progressive policies to strengthen community land rights. As an umbrella of regional networks working on food sovereignty issues – particularly concerning land, seeds and agroecology – the Alliance for Food Sovereignty in Africa (AFSA) is well positioned to engage directly in advocacy at the continental and regional levels, as well as to provide

support for networks operating at the regional and national levels to do their own advocacy.

In this regard, several key advocacy opportunities stand out to advance community land rights in Africa. For a start, civil society organisations (CSOs) should engage with the Secretariat of the Land Policy Initiative to better understand the political obstacles and opportunities for regional land policy frameworks based on the African Union's F&G on Land Policy to be developed within the RECs. It is important to support West African CSOs to push for an ECOWAS Regional Directive on Rural Lands, while supporting CSOs in East and Southern Africa to secure high-level political commitments by IGAD and COMESA, respectively, to integrate the F&G into relevant regional initiatives.

At the continental level, CSOs should engage the Planning and Coordination Agency Program on Land Governance within the New Partnership for Africa's Development (NEPAD) to ensure that it develops and tracks indicators relating to policies that bolster community land rights. Similarly, CSOs should lobby the AU to ensure that the CAADP Results Framework for 2015-2025 contains stronger land governance components.

Crucially, because land rights policies mainly only have real 'traction' at the country and local levels, it is important to engage with regional and national civil society networks to jointly consider ways to push for stronger land rights legislation domestically, particularly in countries where such legislation is currently under debate or active consideration by policymakers (e.g. Zambia, Malawi, Liberia and SA). It should also wherever possible encourage synergies between efforts to push the VGGTs and those around the F&G.

In order to effectively undertake the advocacy steps outlined above, it will be crucial for CSOs to carefully map out and consider the key actors and power relationships within each of the key institutions. Although this exercise goes beyond the scope of this paper, it should be noted that certain bodies such as the LPI are more likely to welcome a collaborative approach from civil society than some of the more political entities within the African Union.

Finally, CSOs should also consider activities that go beyond lobbying and advocacy. Recent cases at the African Commission on Human and Peoples' Rights, and African Court show that there is potential to use pan-African legal instruments to hold governments to account for land-related human rights violations. CSOs could help to support subsequent cases, or at least to provide a profile to situations where governments should be held accountable for violations of their international obligations. CSOs could also make use of key communications tools, such as comparative score-card rankings on land rights laws and policies, as well as engaging with members of the pan-African and regional Parliaments to help increase the political and media spotlight on land governance issues.

CONTENTS

11 Glossary of Terms

13 1. Land Use in Africa: History, Recent Trends and Drivers of Change

15 1.2 Drivers of Land Use Change

19 2. Key Policy Initiatives Relating to Land Rights in Africa

19 2.1 International Frameworks Relating to Land Rights

27 2.2 African Policy Initiatives Relating to Land Rights

35 2.3 Regional Policies Relating to Land Rights

47 3. Key Opportunities for Advancing Land Rights Policies in Africa

48 3.1 The Land Policy Initiative

50 3.2 CAADP Results Framework 2015-2025

51 3.3 NEPAD PCA Program on Land Governance

52 3.4 Other Continental Land Initiatives



55

Conclusions and Recommendations

59

Annex: Country Experiences of Implementing New Land Policies: Three Case Studies

- 59** 1. Mali
- 61** 2. Mozambique
- 63** 3. Uganda

65

References and Endnotes

Glossary of Terms

AfDB	African Development Bank
African Commission on Human and Peoples' Rights/	The African Commission on Human and Peoples' Rights, in existence since 1986, is established under the African Charter on Human and Peoples' Rights (the African Charter). It is the premier African human rights body, with responsibility for monitoring and promoting compliance with the African Charter.
African Court on Human and Peoples' Rights	The African Court on Human and Peoples' Rights was established in 2006 to supplement the work of the Commission, following the entry into force of a protocol to the African Charter providing for its creation.
AMU	Arab Maghreb Union.
AU	The African Union (AU) is a continental political and economic union consisting of 54 countries on the African continent. It encompasses a number of official bodies, including the Pan-African Parliament (PAP), the Assembly of the African Union, the African Union Commission (or Authority), the Court of Justice of the African Union, the Executive Council, the Permanent Representatives' Committee, the Peace and Security Council and the Economic, Social and Cultural Council.
CAADP	The Comprehensive African Agricultural Development Program (CAADP) was formulated in 2003 under NEPAD to be Africa's policy framework for agricultural development.
CEN-SAD	Community of Sahel-Saharan States.
COMESA	Common Market for Eastern and Southern Africa.
CSO	Civil Society Organisation.
EAC	The East African Community (EAC) The East African Community (EAC) is a regional economic community organisation of 6 Partner States: the Republics of Burundi, Kenya, Rwanda, South Sudan, the United Republic of Tanzania, and the Republic of Uganda.
ECCAS	The Economic Community of Central African States (ECCAS) is a regional economic community of the African Union for the promotion of regional economic co-operation in Central Africa. Membership comprises of eleven states: Angola, Burundi, Cameroon, Central African Republic (CAR), Chad, Democratic Republic of Congo (DRC), Equatorial Guinea, Gabon, Republic of the Congo, Rwanda and Sao Tome and Principe.

ECOWAS	The Economic Community of West African States (ECOWAS) is made up of fifteen member countries located in the Western African region: Benin, Burkina Faso, Cape Verde, Cote D'Ivoire, Gambia, Ghana, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Republic of Guinea, Senegal, Sierra Leone and Togo.
IDPs	Internally Displaced Persons.
LDN	Land Degradation Neutrality.
Land Policy	According to the African Union land policy is the course of action defined by the state in order to govern: <ul style="list-style-type: none"> • Modalities of access to land (in rural and urban areas) and natural resources; • The modalities of land acquisition; and • Security of rights to land and natural resources, usage and management of space.
Land Tenure	Land tenure refers to control over resources or the way in which people hold, or do not hold, individually or collectively, exclusive rights to land and all or part of the natural resources upon it.
LPI	Land Policy Initiative.
NEPAD	The New Partnership for Africa's Development (NEPAD) was the first Africa level framework aimed at stimulating and supporting systematic and harmonised and coherent policies to shape the course of Africa's development.
North Africa	The region encompassing: Algeria, Egypt, Libya, Morocco, Mauritania, Sahrawi Arab Democratic Republic and Tunisia.
NRM	Natural Resources Management.
REC	Regional Economic Community (of the African Union).
SADC	The Southern African Development Community (SADC) is a Regional Economic Community comprising 15 Member States; Angola, Botswana, Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.
VGGT	The United Nations Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in Context of National Food Security.
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples.
UNECA	United Nations Economic Commission for Africa.
WAEMU	West Africa Economic and Monetary Union.

1. Land Use In Africa: History, Recent Trends And Drivers Of Change

1.1 Recent Land Use Trends

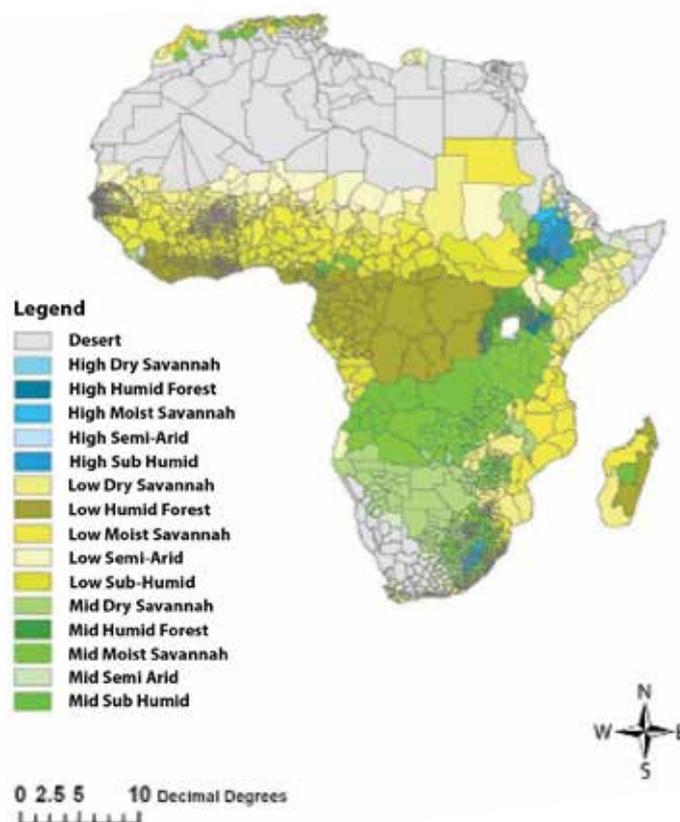
Africa is a hugely diverse continent, containing 54 fully recognised sovereign countries, nine territories and two de facto independent states with limited or no recognition.

These territories have highly diverse landscapes, ecologies and climatic zones. These range from the arid deserts of the Sahara-Sahel, Kalahari and Namib, to the extensive savannahs of West, Central, East and Southeast Africa, to the belt of the tropical forest spanning the middle of the continent, to highland terrains, vast lakes, riparian areas and coastal plains.

Over the centuries, rural Africans have used these diverse environments to meet their needs in ways that maximise the resources available; including through nomadic pastoralism, silvo-pastoralism, harvesting forest products, undertaking shifting cultivation, sedentary farming, fishing or combinations of the above. These livelihood systems have depended on managing and nurturing land and natural resources sustainably over generations. Land is thus deeply valued by many African societies not just as an economic asset, but also as a source of cultural identity and spiritual reverence.

During the 18th and 19th centuries, European settlers gained control over land in Africa through conquests and appropriation. The consolidation of such control and subsequent regulation of acquired lands was effected through the promulgation of a variety of European laws, and establishment of political, administrative and economic management systems, which were grafted onto a

Figure 1: Agro-ecological zones of Africa



diverse range of indigenous economic and cultural practices, leading to dualistic land rights and land administration regimes.¹

Throughout the colonial period, large parts of Africa's terrain were appropriated for the use of commodity crop production for the benefit of the colonial state, displacing millions of people, or converting them into farm labourers on their own land. Furthermore, the traditional boundaries between societies and their ancestral domains were disrupted by the imposition of artificial administrative and political boundaries, changing the way in which people were able to use the land.

These profound changes in the relationship between Africa's land and its people under colonialism persisted into the post-colonial period. While smallholder, pastoralist, artisanal fisherfolk and forest communities dominate the demographics of rural Africa, countries across the continent have focused on an export-oriented, commodity crop model of agricultural development to stimulate economic growth. Similarly, many African nations have relied heavily on the transfer of land for timber concessions, or for oil, gas and mineral exploitation, to generate foreign exchange.

Over recent decades, a combination of economic and social pressures have begun to radically alter the way land on the continent is used over the past forty years. For example, in 1975, natural habitats such as steppe, sahelian short grass savannah, and sudanian savannah were still the dominant land cover classes across West Africa, representing 18 per cent, 15 per cent, and 32.2 per cent of the mapped area, respectively. About 131,000 sq km (2.7 per cent of the mapped area) of West Africa was forested at the time, often interspersed with tracts of degraded forest totalling an additional 168,000 sq km (3.4 per cent of the mapped area). Cropland was widely scattered among the natural landscapes, covering 10.7 per cent of the area. Two agricultural regions stood out, the Peanut Basin of Senegal and the Grain Belt of northern Nigeria, whose landscapes were almost totally devoted to cropland.²

In the intervening period, there has been a major expansion in cropland. Between 1975 and 2013, the area covered by crops doubled in West Africa, reaching a total of 1,100,000 sq. km, or 22.4 per cent, of the land surface. In every country, agriculture is exerting pressure on the natural landscapes, replacing and fragmenting savannahs, woodlands, and forests. In the same period forest cover was reduced by 37 per cent. In addition, prolonged droughts in the 1980s degraded or reduced some of the savannahs and steppes, removing protective cover and destabilising the sandy soils, resulting in a 47

per cent (49,000 sq. km) increase in sandy areas. Moreover, the area devoted to human settlements increased by 140 per cent in West Africa, with most of this urbanisation occurring in the coastal region.³

Similarly, in East Africa, the spatial pattern of land use change over the past fifty years has been characterised by increasingly intensively managed landscapes. Land use changes in East Africa have transformed land cover to farmlands, grazing lands, human settlements and urban centres at the expense of natural vegetation; leading to deforestation, biodiversity loss and land degradation.⁴ One study from Kenya showed that the costs of land degradation due to land use and land cover changes reached the equivalent of 1.3 billion USD annually between 2001 and 2009.⁵

Another notable trend in land use across Africa has been the simultaneous process of fragmentation and consolidation of land holdings. As in many parts of the world, the trend of land fragmentation (both of farm size and of land tenure) is common across Africa; resulting mainly from continuous sub-division of land for inheritance, but also through other land use trends. For example, in the Horn and East Africa, many regions have become highly fragmented, arising from a combination of land conversion from pastoralism to agriculture or ranching, invasion by non-local plant species, enclosure for individual use, appropriation for mineral extraction, and removal from use to become a protected area. This is putting the pastoral systems in these areas at risk of complete collapse.⁶

At the same time, certain countries in Africa have attempted to counter fragmentation through a process of land consolidation, predicated on the assumption that land consolidation was needed as an approach to developing the agricultural sector. These land consolidation attempts were often attempted where existing customary land tenure and agricultural systems did not favour it, and hence have either failed, or else have broken down the customary land tenure in the areas.

In some regions, such as in Southern Africa, land consolidation has been driven by political economy trends. Since 1999, the acquisition of large-scale landholdings by foreigners and local elites has been occurring mainly where no significant amount of land alienation or privatisation had

occurred previously (e.g. Zambia, Mozambique, and Tanzania). Most of the dispossession in the region involves peasant owned 'communal' lands, which tend to be wrongly perceived as 'un/under-utilised even 'un-owned' by government officials and investors.⁷

1.2 Drivers of Land Use Change

Economic and Political Drivers

Over the past two decades, neoliberal economics has become the dominant policy paradigm across Africa. This has accelerated the commodification of land across the continent, and with it created new markets for land titles. Since the 1990s, macroeconomic policies, particularly externally-oriented trade liberalisation and the deregulation of domestic markets, have disfavoured Africa's predominantly small-scale food producers, while helping large-scale commercial farming to expand.

This is reflected by African countries vying to 'out-perform' one another on the World Bank's Doing Business ranking, which rewards lowering social and environmental safeguards to facilitate foreign investments and the exploitation of natural resources. Since 2013, World Bank has also been rolling out a Benchmarking the Business of Agriculture index, which specifically focuses on evaluating countries' agricultural sector and determining how suitable it is for agribusinesses. Critics have warned that this benchmarking exercise is encouraging governments to conduct private-titling reforms, which don't ensure sustainable access to farmland for family farmers, but rather allow for investors to take over the land.

Indeed, Africa has become increasingly attractive to overseas investors aiming to take advantage of its rich natural resources. A spike in food commodity prices following the global banking crisis in 2007/08 was associated with a wave of commercial investments in land, with the agriculture and extractive sectors featuring prominently in these deals, as well as logging and tourism.

Between 2000-2016, African governments concluded 422 large-scale land deals with investors – representing 42% of the total large-scale land deals completed worldwide – covering ten million hectares. Most of this foreign investment has come from Europe, the Middle East, China and the US. Land acquisitions on the continent are particularly concentrated along major rivers and in East Africa.⁸

Many of these deals have been associated with loss of community farmland, forests and pasturelands, leading to accusations of state-sponsored land grabs. Some governments (e.g. Ethiopia and Uganda) have been directly implicated in large-scale forced displacements in the name of 'public purpose' commercial projects.⁹

National operators involved in smaller land transactions have also played an important role in aggregate terms. These domestic actors have been attracted by emerging commercial opportunities and more dynamic land markets. In some African countries (e.g. Ghana, Zambia and Kenya), land controlled by medium-scale farms exceeds large-scale holdings of both foreign and domestic investors. This has led to further land grabbing and greater levels of land concentration, reflected in rising inequalities.¹⁰

The attractiveness of land in Africa to both domestic and foreign investors, coupled with vague, overlapping and often poorly enforced land laws, has left rural communities across the continent vulnerable to land grabs at the hands of powerful private investors working in conjunction with local business and political elites. As noted by Amanor (2012), “distress sales by the poor are not the product of willing participation in free markets”.¹¹

At the same time, land in Africa has become a focus of several high-profile political initiatives. In a bid to modernise the continent’s farming systems, Africa’s political leaders have been targeting large areas of ‘underutilised’ land in designated growth corridors.¹² The growth corridor concept was promoted by the fertiliser company Yara International at the UN General Assembly in 2008, and was subsequently endorsed by the World Economic Forum. It has since become a main element of the intergovernmental strategy for agricultural growth expressed within Malabo declaration of the African Union (discussed in more detail in Part 2).

Growth corridors in Eastern and Southern Africa¹³ have had the backing of international institutions, including the G8 and World Bank. These areas have been zoned to make land, infrastructure and financial incentives available to domestic and international investors looking to establish large-scale intensive farming operations.

However, many of these areas are already occupied by small-scale food producers, sparking conflict over land. As noted by Serraj et al. (2016), “Corridor development in areas with weak institutions and especially with unclear or unenforceable land and resource rights bring the risks of land grabs and of anarchic land development, with consequent grave risks for local people and for the environment.”¹⁴

In addition to the promotion of high-profile growth corridors, a number of African governments have joined a multi-stakeholder partnership backed by the G8, called the New Alliance for Food Security

and Nutrition, in which countries commit to specific policy reforms around land, seed and trade rules, outlined in Cooperation Frameworks. These reforms are designed to attract corporate investment and secure donor funding, and accelerate implementation of African country food security strategies.

Ten African countries have signed up to the New Alliance so far: Burkina Faso, Cote d’Ivoire, Ethiopia, Ghana, Mozambique, Tanzania, Benin, Malawi, Nigeria and Senegal. Around 50 multinational companies including Monsanto, Cargill and Unilever, and around 100 African companies, are also involved.

The initiative has drawn heavy criticism from African and international civil society organisations for fuelling the privatisation of Africa’s seed systems and alienating small-scale food producers from their land.¹⁵ In a resolution voted in June 2016, European Parliamentarians noted that family farmers and smallholders have been largely excluded from negotiations, and called on all investments under the New Alliance to be subject to independent prior impact studies to protect farmers’ land rights and prevent land grabbing.¹⁶

Social and Demographic Changes

The forces driving increased competition over land resources in Africa are not just economic. The continent has also been undergoing a demographic upheaval linked to population increase, forced migration, urbanisation and rural-rural migration. Africa’s population will double by 2050 from one billion to two billion people, while the youth population will double by 2045. Many African youth are unemployed and many will migrate.¹⁷ The combination of population growth, migration and urbanisation means that the overall per capita availability of land (particularly agricultural land) is decreasing in many countries. In parts of West Africa, for example, as much as 50% to 75% of the populations live on about 25% of the national land (concentrated along the coastal zones), leading to much higher population densities in these areas.

In addition, contemporary processes of social organisation and mobilisation – based on gender, class, ethnicity, origin and age – increasingly shape access to and control over land, resulting in complex claims and conflicts over land resources. Rural communities in Africa are increasingly characterised by social stratification. Local land markets and the co-existence of diverse populations frequently coalesce as a result of frontier development and the movement of farmers and labourers involved in cash crop production, particularly in export-crop and mineral producing areas. This often results in complex land relations, in which secondary rights in land leasing, sharecropping, and rental arrangements are common.¹⁸

Land Degradation and Climate Change

Since the 1970s, destructive farming practices, extensive deforestation and unsustainable natural resource exploitation have triggered widespread land degradation. More than six million hectares of productive land is lost to degradation in Africa every year, and the continent has the second highest deforestation rate in the world.¹⁹ Only four per cent of Africa's agricultural lands are irrigated, so degraded soils mean not only agricultural productivity, but also less rainfall captured in waterways, aquifers, soils and vegetation. In many instances, unequal distribution of land has relegated a growing population of small farmers onto marginal areas leading to increasing physiological pressure and land and resource degradation including deforestation.

These trends have been exacerbated by rising seasonal variability caused by climate change. The vulnerability of Africa to climate change has been clearly established. The African Adaptation GAP report found a high probability of a four-degree Celsius temperature rise, heavily disrupting crop production and the environment.²⁰ Changes of this magnitude would dramatically increase the frequency and intensity of droughts and other calamitous events, and have the potential to push millions more people into poverty.

Together, these anthropogenic and natural drivers have deeply affected land, water and other natural resource use, undermining the continent's resilience to natural and economic shocks.²¹

Changing Land Governance Relations

Across most of Africa, governments own all land, water, forests and subsurface assets – a legacy of colonial rule. But while governments may legally own the land, rural societies often hold traditional and customary rights to this land. In practice, many communities have chiefs or other traditional leaders who are responsible for allocating land-use rights to clan or tribal members, as well as to newcomers (migrants), or to groups that use land seasonally (e.g. pastoralists). This has created multiple layers of 'formal' and 'informal' land tenure systems that persist in many parts of Africa to this day.

As a result of the socio-economic changes discussed above, land governance systems are under immense pressure across Africa. The rapidity of current transformations is creating challenges for the adaptive capacity of both state-based and customary land governance systems in Africa. This has been manifested by a huge surge in unregulated – and in some cases corrupt or illegal – transactions that remove land from the hands of local communities into those of domestic elites or foreign investors and speculators.

Efforts to redress post-colonially unequal land ownership and discriminatory land use policies and insecure land tenure systems in Africa have been running since the 1950s, notably via the nationalisation and redistribution of land resources. Since the introduction of structural adjustment programmes in the 1980s, land reforms have become subject to two countervailing pressures.

One emerged out of concerns with poor land governance and corruption, and has focused on rolling back the state, decentralising administration, and giving greater roles in land administration to local communities. The other approach has conceptualised land reform within

the context of promoting land markets. This is concerned with promoting private rights in land, expanding land titling programmes, facilitating the ability of states to rapidly process land registration and allow land purchasers to confidently conduct transactions, thereby encouraging foreign investment.²²

Attempts in a number of African countries at undertaking land reform through measures such as individual and group titling or appropriation for cash crop production have, however, been met with limited success as a result of the persistence of social and cultural attachment to land and, in some cases, contestation and conflict.

Another problem is that the co-existence of multiple sources of pressure creates real challenges for legal frameworks and governance systems that are often structured in sectoral terms. Different laws and institutions may address issues linked to mining, real estate development, or large-scale agricultural ventures. Yet in any given locality, rural people may experience these interventions as part of the same development process that is restructuring land relations.²³

Land reform processes that address these multiple challenges are thus still urgently needed across the continent.

Lack of Progress in Women's Land Rights

In recent years, women's land rights have received greater attention in terms of political discourse and legal frameworks. Recent land policies, marriage, family and inheritance laws have furthered the protection of land rights for women in Africa.²⁴ However, this has often not been translated into reality on the ground, mainly due to local customary practices of patriarchal control over land. The gap between equality under the law (de jure) and equality in practice (de facto) remains a formidable challenge as progressive laws too often go unimplemented and under-enforced. Women are still faced with land grabbing, disinheritance and a general patriarchal attitude that claims land and property rights are for men, not women.



2. Key Policy Initiatives Relating to Land Rights in Africa

This section provides an overview of the most relevant international, continental and regional policy initiatives relating to land rights and land governance in Africa.

Table 1 – International Instruments Relating to Land Governance in Africa

Binding Instruments	
ACHPH	African Charter on Human and People’s Rights.
CEDAW	UN Convention on the Elimination of all forms of Discrimination Against Women.
CESCR	UN Convention on Economic, Social and Cultural Rights.
Kampala Convention	African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa.
UNCCD	United Nations Convention to Combat Desertification.
Non-binding/“soft law” Instruments	
F&G	Framework and Guidelines on Land Policy in Africa.
CAADP	The Comprehensive African Agricultural Development Program.
SDGs	Transforming our world: the 2030 Agenda for Sustainable Development (Sustainable Development Goals).
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples.
VGGT	The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in Context of National Food Security.

2.1 International Frameworks Relating To Land Rights

Voluntary Guidelines on the Governance of Land Tenure (VGGT)

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in Context of National Food Security (VGGT) are a set of non-legally binding commitments by governments on actions to be taken in the area of land policy and natural resource governance.

The Guidelines were finalised through intergovernmental negotiations led by the Committee on World Food Security (CFS), an intergovernmental body made up of governments (members) and inter- or non-governmental participants and observers, and hosted by the UN Food and Agriculture Organization (FAO). The negotiations on the VGGT included the participation of CSOs, private sector representatives, academics, and international organisations. The Guidelines were officially endorsed by CFS at its Thirty-Eighth (Special) Session on 11 May 2012.

The VGGT are steered by five key Guiding Principles:

- *Recognise and respect* the legitimate holders of tenure rights.
- *Safeguard the legitimate* tenure rights against threats.
- *Promote and facilitate* the enjoyment of legitimate tenure rights.
- *Prevent tenure disputes*, conflicts, and opportunities for corruption.
- *Provide access to justice* to deal with infringements.

The Guidelines are divided into seven chapters, covering 1) Preliminary content (purpose and scope), 2) General Matters (relating to the guiding principles etc.), 3) Legal Recognition and Allocation of Tenure Rights and Duties, 4) Transfers and Other Changes to Tenure Rights and Duties, 5) Administration of Tenure, 6) Responses to Climate and Emergencies, and 7) Promotion, Implementation, Monitoring and Evaluation.²⁵

While voluntary, the VGGT are still very influential and potentially important in the African context. Their legitimacy and influence derives from their endorsement by governments, and also from the long and inclusive processes of consultation and negotiation that led up to their endorsement. As such, their recommendations may be politically hard to argue against in national contexts because governments have already endorsed them at a high level, and because they are the outcome of consultations with so many experts and different stakeholders.²⁶

An encouraging sign is that the VGGT is already being used in a number of African countries to strengthen customary land use rights. For example, Cameroon's International Land Coalition used the VGGT to build members' capacity as part of its National Engagement Strategy (NES). The VGGT was used as a reference point to build the ILC's position paper on land reform, which was presented to Parliamentarians and government officials, including the Minister of State for Property, Land Tenure and Survey, as well as to representatives from the Prime Minister's office. The VGGT principles also helped the Cameroon NES stakeholders to address issues of indigenous

people, transparency, and conflicts in respect to tenure of land, fisheries and forests, and to build the advocacy positions of the NES on these issues.²⁷

The VGGT are also being used to resolve land disputes and create benefit-sharing agreements over the use of natural resources. In Malawi, the Ministry of Lands, Housing and Urban Development adopted and launched the VGGT in 2014. Since then, the CSO Landnet Malawi has promoted the use of VGGT at national and local level to influence policy and best practices on responsible land governance. At district level, Landnet Malawi has conducted training workshops on the use of the VGGT, including awareness workshops for government officials and community meetings with relevant leadership structures and grassroots groups. These equipped participants with the knowledge of VGGT and capacity to draw up action plans to follow up on the cases that needed intervention. In the district of Salima, the application of the VGGT is helping to solve a conflict between communities and private investors on the Malele Island.²⁸

African governments have also been using the VGGT to review their land laws. For example, in 2015, the FAO, in partnership with the Government of Sierra Leone, conducted a detailed review of legislation in the context of the VGGT. The review focused on cross-cutting issues such as gender-equitable laws and regulations, and helped to identify where and how capacity supporting the responsible governance of tenure can be developed.

The FAO has also used the VGGT to review draft legal frameworks in the Central African Republic and Madagascar.²⁹ In Niger, the introduction of the VGGT had been catalytic to a new impetus on community land tenure issues in the country. The process leading to the preparation of a new state policy on land is now fully based on the VGGT principles.³⁰ The FAO has provided support of various kinds for implementing the VGGT to Angola, Burundi, CAF, Côte d'Ivoire, Ethiopia, Kenya, Liberia, Madagascar, Malawi, Nigeria, Senegal, Sierra Leone, Somalia, South Sudan and Swaziland.^{31, 32}

Box 1: Responsible Agricultural Investment: The RAI vs. the PRAI

The Principles for Responsible Agricultural Investment that respects rights, livelihoods and resources (PRAI) were developed jointly in 2010 by the FAO, UNCTAD, IFAD and the World Bank. There are seven basic principles relating to aspects of responsible agricultural investment, the first of which is that: “existing rights to land and associated natural resources are recognized and respected”.

While the Principles are voluntary in nature, they are intended to provide a framework for national regulations, international investment agreements, corporate social responsibility initiatives, and individual investor contracts. However, the PRAI have been heavily criticised by civil society organisations and rural social movements for being essentially oriented towards ‘sanitising’ corporate land investments, as opposed to starting from the needs and perspectives of small-scale food producers and respecting endogenous land governance practices

As an alternative framework, the Principles for Responsible Investment in Agriculture and Food Systems (RAI), developed in 2014 at the UN World Committee on Food Security (CFS), are a set of globally applicable soft-law principles that apply to all types and sizes of agricultural investment including fisheries, forests and livestock. The ten principles acknowledge that the starting point for defining how responsible investment in agriculture and food systems can contribute to food security and nutrition is the recognition and respect for human rights.³³ Principle 5 is “Respect tenure of land, fisheries and forests, and access to water”, in line with the VGGT.³⁴

Because the RAI principles were developed through a multi-stakeholder process at the CFS, and because they start from a rights-based perspective, they have been more widely supported by civil society than the PRAI. All CFS stakeholders have been asked to collaborate, network and identify joint activities to promote the use of the RAI Principles at the local, national and regional levels. Although generally more widely accepted than the PRAI, the CFS Principles are also regarded with suspicion by some civil society organisations and rural social movements (discussed more in 2.2).

UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)

The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) is a legally binding UN treaty ratified by 189 governments, including those of most African countries. Described as an international bill of rights for women, it was adopted by the UN General Assembly in 1979 and instituted in 1981. While the convention does not deal extensively with land, Article 14 of the Convention, which relates specifically to the position of rural women, declares that State parties shall ensure the right for women: “to have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes”.

On 6 October 1999, the UN General Assembly adopted the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. It established two mechanisms that enable women to seek redress for violations of the CEDAW:

- The communication procedure enables women to submit communications (i.e., complaints) alleging that a State Party has violated their rights in CEDAW.
- The inquiry procedure empowers the Committee to conduct inquiries into reliable information that a State Party has committed grave or systematic violations of rights in CEDAW.³⁵

CEDAW and its Optional Protocol have been used in Africa to bring attention to State Party failures to secure women’s land rights. For example, in March 2015, the Committee on the Elimination of Discrimination Against Women (the supervisory body of CEDAW) issued a report on the situation in Eritrea.³⁶ In this, the Committee expressed concerns that the implementation of women’s equal right to land is being hampered by the bias of land distribution committees against women, and the fact that the right to land of married women is in practice often exercised by their husbands.

The Committee recommended that the government strengthen its efforts to fully implement a 1994 decree on land tenure, including by providing training on women’s right to land to the village land committees and by effectively monitoring the implementation of the Proclamation, as well as facilitating women’s access to productive land.³⁷

Around the same time the Committee also issued a report on Gabon, in which it expressed concerns about barriers faced by rural women in the acquisition of land due to discriminatory customary laws, and recommended that the government take measures to address these barriers.³⁸ In 2015 the CEDAW Committee also ordered the government of Tanzania to revise its discriminatory laws after it failed to help two widows who were made homeless by their in-laws.³⁹



UN Declaration on the Rights of Indigenous Peoples (UNDRIP)

The adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) on 13 September 2007 marked the culmination of more than two decades of negotiations involving States and indigenous peoples (IPs).⁴⁰ It is the most comprehensive international instrument on the rights of indigenous peoples, and gives prominence to collective rights to a degree unprecedented in international human rights law.

The Declaration establishes a universal framework of minimum standards for the survival, dignity and wellbeing of indigenous peoples, and elaborates on existing human rights standards as they apply to the specific situation of IPs. It recognises indigenous peoples' rights to their lands, territories and resources, including rights to those lands traditionally held by indigenous peoples but now controlled by others. These include recognition of IPs rights:

- To own, use and control the lands, territories and natural resources that they hold by reason of traditional occupation (article 26).

- To redress (including by restitution or just, fair and equitable compensation) for traditional lands which have been confiscated or occupied without their free, prior and informed consent (article 28).
- To the conservation and protection of the environment and the productive capacity of their lands and resources (article 29).
- To self-determination for the development or use of their lands and resources (article 32).

The Declaration also requires States to take measures to uphold and promote the rights of indigenous peoples relating to lands, territories and resources, such as imposing restrictions on the storage or disposal of hazardous materials in the lands or territories of indigenous peoples (article 29) and preventing the use of lands and territories of indigenous peoples for military activities (article 30).⁴¹

UNDRIP is a Declaration adopted by the UN General Assembly, and as such was not subject to State party ratification, and so does not have legally binding status.

Box 2 – The Global Land Tenure Network (GLTN)

The GLTN, facilitated by UN-Habitat, is an alliance of international 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 and promotion of good land governance and continuum of land rights approach. Central to the work of GLTN is promoting the concept of continuum of land rights approach rather than a focus only on issuing individual freehold titles.

The founding premise of the GLTN is that developing countries rarely implement pro-poor and gender sensitive land policies because they generally lack sufficient access to tools and practices for doing so. In this sense, the GLTN may be overly apolitical to be useful to AFSA as an advocacy forum; however it is probably worth seeking membership as a way of tracking policy opportunities and key events.

UN Convention to Combat Desertification (UNCCD)

Established in 1994, the United Nations to Combat Desertification (UNCCD) is the sole legally binding international agreement linking environment and development to sustainable land management. The Convention addresses specifically the arid, semi-arid and dry sub-humid areas, known as the drylands, where some of the most vulnerable ecosystems and peoples can be found. In the 10-Year Strategy of the UNCCD (2008-2018) that was adopted in 2007, Parties to the Convention further specified their goals: “to forge a global partnership to reverse and prevent desertification/land degradation and to mitigate the effects of drought in affected areas in order to support poverty reduction and environmental sustainability.”

Although there are clear links between secure land tenure and efforts to combat land degradation and desertification, the UN Convention to Combat Desertification (UNCCD) has been slow to address the issue.

Recently, however, the Convention has begun to turn its attention to land rights issues. At the twelfth session of the Conference of the Parties of the UNCCD in 2016, governments agreed to integrate the sustainable development goals target 15.3 on Land Degradation Neutrality (LDN) into the implementation of the Convention, consenting that: “striving to achieve SDG target 15.3 is a strong vehicle for driving implementation of the UNCCD”.⁴²

In order to support countries into translating these decisions into action at the country level, the UNCCD’s Science Policy Interface developed a LDN conceptual framework that provides a scientifically sound basis for understanding LDN and developing practical guidelines for implementing and monitoring national processes for achieving LDN.⁴³ This conceptual framework observes that LDN in the context of sustainable development is intrinsically linked to land governance, including policies, processes and institutions by which tenure over land and natural resources is managed. It states:

“

“The governance of tenure is a crucial element in determining if and how people, communities and others are able to acquire rights, and exercise the responsibilities that come with those rights, to use and control land. Many tenure problems arise because of weak governance, and attempts to address tenure problems are affected by the quality of governance. Weak governance adversely affects social stability, sustainable use of the environment, investment and economic growth.”⁴⁴

”

As such, the LDN has as one of its three basic objectives to “Reinforce responsible and inclusive governance of land...with emphasis on protection of land tenure rights of vulnerable and marginalized people.” In particular, the conceptual framework is designed to work in concert with the VGGT, which it notes, “...are central to how LDN can be pursued with less risk of unintended consequences associated with land tenure insecurity, land appropriation and land conflict”. Indeed it argues that the VGGT form the basis of responsible land governance regimes needed to underpin the pursuit of what the vision of LDN can achieve.⁴⁵

It is worth noting that nearly all African countries have committed to setting LDN targets. Algeria, Chad, Ethiopia, Namibia and Senegal were also amongst 14 countries that participated in the LDN pilot project in 2014/15.

Box 3: The Global Land Indicators Initiative

The Global Land Indicators Initiative (GLII) is a collaborative multi-stakeholder process started by the Millennium Challenge Corporation (MCC), UN-Habitat and the World Bank (WB), facilitated by GLTN. It was established in 2012 with the aim to harmonise monitoring efforts around land tenure and governance, particular with regards to data collection and monitoring. The Initiative is supporting global and regional frameworks such as the VGGT and the Framework and Guidelines on Land Policy in Africa (F&G), and has grown to include over 30 institutions around the world ranging from UN Agencies, multilateral organisations, NGOs, farmers' federations and academia.⁴⁶ Although important for measuring progress on land tenure security, the GLII is probably not of central relevance to AFSA's work.

Sustainable Development Goals (SDGs)

On 25th September 2015, the United Nations General Assembly adopted the 2030 Agenda for Sustainable Development, along with a set of 17 SDGs and 126 associated targets. The SDGs are a new, universal set of goals, targets and indicators that UN member states are expected to use to frame their agendas and policies over the next 15 years.

The SDGs have been criticised for failing to galvanise a greater level of international commitment to strengthening land rights of vulnerable people. Although an improvement on the previous set of Millennium Development Goals, the SDGs only include references to land rights within several sub-goals, rather than placing secure land tenure at the forefront of development strategies. Land rights feature under Goals 1, 2 and 5 including:

Sub-goal 1.4 states: "By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance."

Sub-goal 2.3 recognises that enhancing small-scale food production is clearly linked to secure land rights. It states: "By 2030, double the agricultural productivity and incomes of small-scale food

producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land..."

Sub-goal 5.a requests States to: "Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws."

Other goals with land implications include goal 10 on reducing inequality, Goal 15 on protecting and restoring ecosystems, and Goal 16 on peaceful and inclusive societies.



2.2 African Policy Initiatives Relating To Land Rights

AU Framework and Guidelines on Land Policy in Africa (F&G)

Land rights policies feature prominently within the development aspirations of the African Union, which is the continent's leading champion of political cooperation and economic integration. In 2006 the Land Policy Initiative (LPI) of the African Union, the UN Economic Commission for Africa (UNECA) and the African Development Bank (AfDB) concluded the development of a Framework and Guidelines on Land Policy in Africa (F&G), to facilitate national land policy development and implementation processes. The F&G was endorsed by African agriculture ministers

in March 2009, and subsequently by AU heads of state within its Declaration on Land Issues and Challenges (see Box 4).⁴⁷

The implementation of the F&G is seen as complementary to the VGGT, and is being done in recognition of the contribution of the VGGT as a tool to improve land governance on the continent. The F&G are about why land policy is important, the issues it must address in the African context, and the challenges that have been encountered across the continent. They also focus heavily on change processes: land policy development, implementation, and tracking progress. The F&G are thus mostly about why and how change should happen, but say relatively little about what policies should actually look like – whereas the VGGT offers more concrete guidance on the what land policies should look like.⁴⁸

Box 4: AU Declaration on Land Issues and Challenges in Africa⁴⁹

“WE, the Heads of States and Government of the African Union, meeting at our Thirteenth Ordinary Session in Sirte, Libyan Arab Jamahiriya, from 1 to 3 July 2009...

UNDERTAKE TO:

1. Prioritise, initiate and lead land policy development and implementation processes in our countries, notwithstanding the extent of multi-stakeholder contribution to such processes involving also civil society, private sector;
2. Support the emergence of the institutional framework required for the effective development and implementation of land policy and implementation;
3. Allocate adequate budgetary resources for land policy development and implementation processes, including the monitoring of progress.

RESOLVE TO:

1. Ensure that land laws provide for equitable access to land and related resources among all land users including the youth and other landless and vulnerable groups such as displaced persons;
2. Strengthen security of land tenure for women which require special attention.

REQUESTS the Commission in collaboration with the Regional Economic Communities, UNECA, AfDB and other partners to:

1. To work towards the establishment of an appropriate institutional framework to provide coordination of follow up activities and facilitate mutual learning by Member States as they develop/review their land policies in accordance with the Framework and Guidelines;

2. Take measures for the establishment of a fund to support follow up activities to promote land policy development.

and implementation;

3. Undertake measures for the establishment of mechanisms for progress tracking and periodic reporting by Member States on progress achieved.

INVITES the Regional Economic Communities to:

1. Convene periodic regional platforms to facilitate experience sharing, lessons learnt and dissemination of best practices in land policy formulation, implementation and monitoring based on members states experiences;

2. Appropriately capture and address issues of land policies within their respective common agricultural policy framework.

URGES Member States to:

1. Review their land sectors with a view to developing comprehensive policies which take into account their peculiar needs;

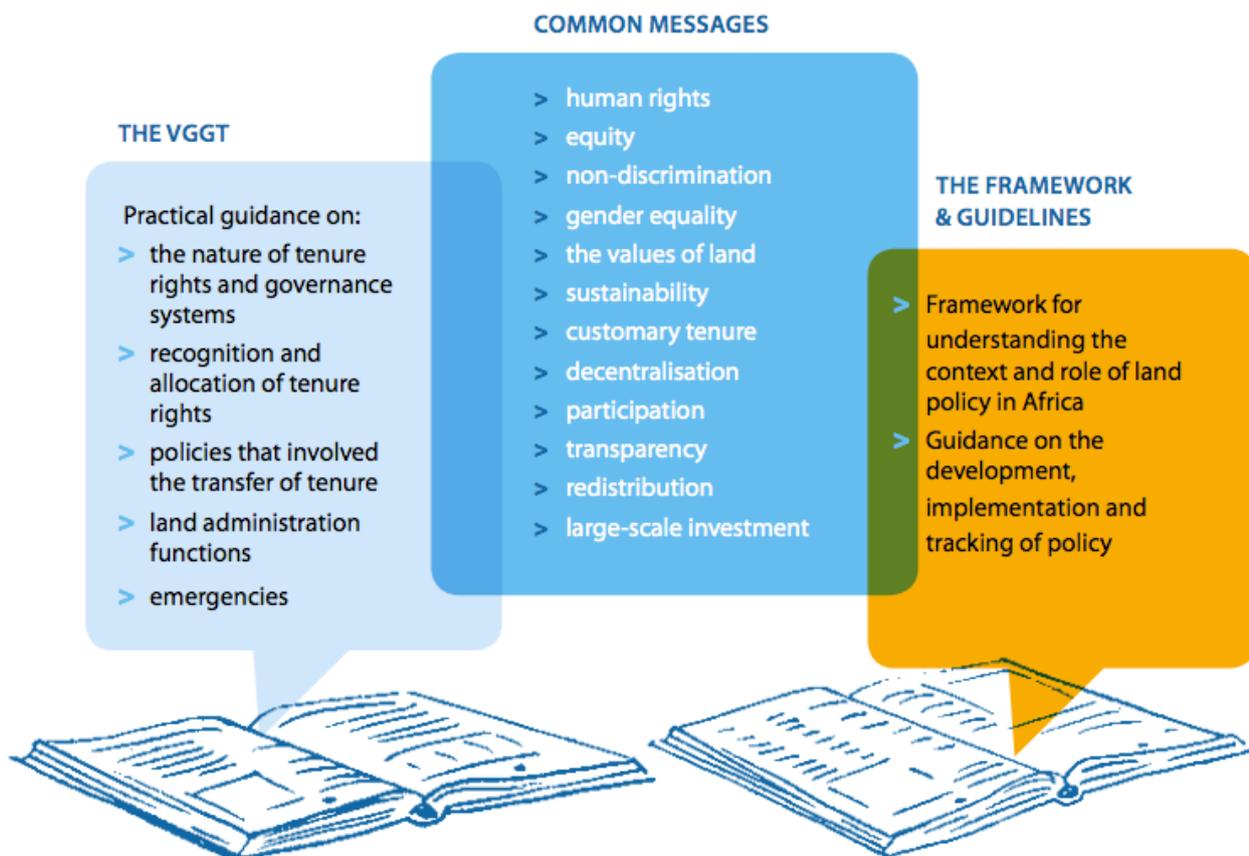
2. Build adequate human, financial, technical capacities to support land policy development and implementation;

3. Take note of the steps outlined in the Framework and Guidelines on Land Policy in Africa for their land.”

Specific resolutions within the AU Declaration include ensuring land laws provide for equitable access to land and related resources, and strengthening security of land tenure for women. Under the Declaration, the expectation is for the African Commission to work the with Regional Economic Communities (RECs), UNECA, the AfDB and other partners to coordinate activities and facilitate Member States to develop/review their land policies, as well as establishing mechanisms for tracking and reporting progress by member states.

In this way, the two sets of guidelines are complementary (See Figure 2). Both are intended to contribute to the AU’s efforts towards the eradication of hunger and poverty, based on the principles of sustainable development, and on recognising the centrality of secure community land rights.⁵⁰

Figure 2: Complementarities and common messages between F&G and VGGT



Source: International Land Coalition Africa (2014)

The Land Policy Initiative (LPI)

The Land Policy Initiative (LPI) was formed in 2006 as a joint programme of the African Union Commission (AUC), the UN Economic Commission for Africa (UNECA), and the African Development Bank (AfDB).

Initiated in response to widespread land disputes across the continent, the aim was to develop a joint framework for land policy and land reforms in Africa, with a view to strengthening land rights, enhancing productivity, and securing livelihoods. This resulted in the formulation of the Framework and Guidelines on Land Policy in Africa (F&G). The principle goal of the LPI now 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".⁵¹

The LPI also commissioned a continental review on the status of women's land rights in Africa in 2013, which recommended that "...countries should make sure that international laws and conventions guaranteeing women's access to and control over land and natural resources are integrated in their national legislations and consistently implemented".⁵² On the back of this, the LPI has called for 30% of documented land rights allocated to African women by 2025. This target was endorsed by the AU Specialized Technical Committee on Agriculture, Rural Development, Water and Environment (STC) held on 05-06 October 2015 in Addis Ababa, Ethiopia.⁵³

More recently, in March 2017, the LPI launched a pilot project in order to track implementation of

the AU Declaration on Land Issues and Challenges in Africa. In collaboration with the International Food Policy Research Institute (IFPRI), the project will assess progress made in implementing the key decisions and commitments of the AU Declaration on Land at continental, regional and national level, beginning with ten countries.⁵⁴ These are: Cote D'Ivoire, Niger, Nigeria, DRC, Rwanda, Tanzania, Uganda, Madagascar, Malawi and Zambia.

In June 2014, FAO signed a Memorandum of Understanding with UNECA, the host of the Land Policy Initiative, to support the national governance of tenure implementation with guidance from the VGGT.⁵⁵ It was announced in 2016 that LPI was to be re-launched as the African Land Policy Centre (ALPC), though it is not clear from the available literature what the exact timeline for this process is, or how it will alter the LPI's institutional shape.⁵⁶

Comprehensive Africa Agriculture Development Programme (CAADP) and the Malabo Declaration

The Maputo Declaration

In 2003, the African Union (AU) Summit made a declaration in Maputo, Mozambique, announcing the launch of the Comprehensive Africa Agriculture Development Programme (CAADP) as an integral part of the New Partnership for Africa's Development (NEPAD). CAADP has since become the continent's primary policy framework for agricultural development. Its aim is to maximise the contribution of agriculture towards the elimination of hunger, poverty reduction, and sustainable economic growth in Africa.⁵⁷

By 2015, 44 African Union Member States had signed CAADP compacts. Of these, 33 have developed formal national agriculture and food security investment plans (NAFSIPs).⁵⁸ These have become the primary medium term expenditure frameworks for agriculture for CAADP compact countries, with the aim of improving agricultural investment and planning. As a result, on average, public agricultural budgets have risen by more than 7% per year across Africa since 2003, nearly doubling public agricultural expenditures since

the launch of CAADP.⁵⁹

With regards to land policy, the CAADP Framework for Mainstreaming Land Policy and Governance into National Agriculture aims to provide strategic support to Member States in addressing land tenure issues. This includes the design and implementation of interventions that address land governance related challenges and opportunities in national development agendas.

However, the first ten years of CAADP implementation did not go far in advancing improved land rights policies. While land degradation has started to be addressed by African governments, few systematically articulate land governance considerations in CAADP investment and policy reform planning.⁶⁰

Furthermore, very little attention has been paid to how land will be availed for agricultural investments, or how to address land tenure challenges. Indeed, most CAADP land interventions de-emphasised policy and governance aspects, focusing instead on technical and investment measures to correct land degradation.⁶¹

The Malabo Declaration and Business Plan 2017-2021

In 2014, in recognition of the 10th anniversary of CAADP, the African Union Commission (AUC) reviewed, strategized and developed goals, actions and targets for the next decade to 2025 to continue the goals of the CAADP. As part of this review, AU Heads of State and Government adopted the Malabo Declaration on Accelerated Agriculture Growth and Transformation for Shared Prosperity and Improved Livelihoods. The declaration covered seven commitments and targets related to agricultural development and food security:

1. Commitment to principles and values of the CAADP process.
2. Increasing investment finance in agriculture
3. Ending Hunger in Africa by 2025.
4. Halving Poverty by 2025 through inclusive agricultural growth and transformation.

5. Boosting intra-African trade in agricultural commodities and services.
6. Enhancing resilience of livelihoods and production systems for climate variability and other related risks.
7. Enhanced mutual accountability for strategic actions and results.

In order to articulate a strategy for how these targets are to be met, the African Union Commission's Department of Rural Economy and Agriculture (DREA) developed the Malabo Business Plan 2017-2021. This Plan has seven programmatic objectives, corresponding to the seven commitments under the Declaration. One of these objectives

(corresponding to Commitment 4 on halving poverty) is "Inclusive and sustainable agricultural production and accelerated agricultural growth", which has as a sub-programme "sustainable land management and governance".

Initiatives by continental organisations (e.g. LPI and the NEPAD Planning and Coordination Agency's Program on Land Governance) will be part of the technical teams providing support to member states. The Business Plan is aligned with AU Agenda 2063 ten-year Implementation plan, the AU Strategic Plan, and the CAADP Results Framework (discussed in Part 4).

The LPI 'Guiding Principles on Large-Scale Land-Based Investment in Africa' (Guiding Principles); and the New Alliance 'Analytical Framework for Responsible Land-Based Investments'

An important output of the Land Policy Initiative has been the development of a set of Guiding Principles on Large-Scale Land-Based Investments (LSLBI), which was undertaken with the support of the AUC, the AfDB and UNECA. The Guiding Principles were adopted by the Council of Agriculture Ministers in June 2014 and are meant to ensure that land acquisitions in Africa "promote inclusive and sustainable development". The principles operationalise the responsibilities of States contained in the VGGT, as well as drawing from the F&G, to provide more specific indications to African governments as to how and under what circumstances large-scale land deals should be allowed.⁶²

They have several specific objectives, including guiding decision making on land deals (recognising that large scale land acquisitions may not be the most appropriate form of investment); providing a basis for a monitoring and evaluation framework to track land deals in Africa; and providing a basis for reviewing existing large scale land contracts.

The Guiding Principles draw lessons from global instruments and initiatives to regulate land deals including the Voluntary Guidelines and the Principles for Responsible Agricultural Investments in the Context of Food Security and Nutrition. They also take into account relevant human rights instruments.⁶³

In June 2015, the New Alliance for Food Security and Nutrition adopted its own "Analytical Framework for Responsible Land-Based Investments", which harmonises donors' operating principles on agribusiness investments and aligns them with the LPI's Guiding Principles, as well as the CFS RAI.

For some, the proliferation of such standards at both the global and African level has become a cause of concern, doing little to provide concrete legal protection for communities whose lands are being targeted, while potentially sanitising corporate land takeovers that tick the right 'responsible investment practice' boxes.⁶⁴ These fears have merit. Although widely accepted and supported on the continent as the first "African response" to land grabbing, the Guiding Principles are not a binding instrument and lack an enforcement mechanism. As such, they currently offer no greater protection of community and customary land rights than other voluntary frameworks on land.⁶⁵

Furthermore, these instruments are fundamentally designed to provide private sector actors with a 'social license to operate' with regards to transforming community lands to serve investor interests. In essence, they are used to engage communities in a dialogue around a development pathway that is not necessarily of their choosing.

Thus, while the various guidelines may provide sound advice on 'best practice' for identifying potentially affected stakeholders, and seeking 'free prior and informed consent'; their basic function is to make a pre-determined development pathway (e.g. a plantation or outgrower scheme) as palatable as possible for those who already occupy the land. In this sense, they cannot be said to advance the cause of food sovereignty or self-determination in land use for rural communities in Africa.

The Kampala Convention

Formally known as the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, the Kampala Convention is the world's first continental instrument that legally binds governments to protect the rights and wellbeing of people forced to flee their homes by conflict, violence, disasters and human rights abuses. Africa has more countries affected by displacement than any other continent, and is home to more than 12 million internally displaced people (IDPs).

The Convention, adopted by African governments in 2012, explicitly recognises people displaced by development projects as IDPs, and provides a shared framework that legally protects IDPs in twelve ways:

1. Reinforces states' primary responsibility to protect IDPs.
2. Establishes a legally binding definition of an IDP.
3. Addresses potential causes of displacement.
4. Facilitates the adoption of national legislation on IDPs' protection and assistance, and policies that aim to address displacement issues.



Castellanelli summarises the dangers of these frameworks in the following terms:

Responsible agricultural investments could in fact be a rationalization of land grabbing... These principles seem to be more concerned with ensuring a smooth transfer of existing land rights to investors, [than] keeping farmers and communities' land in their hands now and in the future... Reducing land resources available for redistribution and the orientation of agricultural policies in order to avoid agrarian reform is a regressive measure and therefore violates the human right to food.⁶⁶



5. Emphasises the need to secure funding to ensure IDPs' protection and assistance.
6. Acknowledges the roles of all those involved in responding to displacement and sets out the actions required during its different phases.
7. It enshrines individuals' right to be protected from displacement and states' duty to adopt all measures needed to prevent it.
8. Holds all those involved, including private and multinational companies, accountable for their actions.
9. Prohibits armed groups from committing acts of arbitrary displacement.
10. States that IDPs should not be discriminated against on the basis of their displacement, and that people with special needs should receive adequate protection and assistance according to their vulnerability.
11. Stipulates that states must collaborate with civil society and humanitarian organisations to ensure IDPs' protection and assistance if they do not have the resources to do so themselves.
12. Makes national authorities responsible for creating the conditions required to achieve durable solutions.⁶⁷

African Charter on Human and Peoples' Rights/ African Court on Human Rights

The African Charter established the African Commission on Human and Peoples' Rights, which was inaugurated on November 2, 1987. The Commission's Secretariat has subsequently been located in Banjul, The Gambia, and is officially charged with three major functions:

- Protection of human and peoples' rights.
- Promotion of human and peoples' rights.
- Interpreting the African Charter on Human and Peoples' Rights.⁶⁸

The ACHPR has undertaken ground-breaking work to apply the concept of indigenous peoples to the African region, including with regards to land rights. However, some African governments are still reluctant to acknowledge the existence of indigenous peoples within their states, leading to the denial of these peoples' human rights and ongoing land rights violations.

In response, some indigenous peoples' groups have brought complaints of human rights violations associated with land grabbing to the Commission. In the case of Endorois people in Kenya, the African Commission on Human and Peoples' Rights found that, in the pursuit of creating a game reserve, the State unlawfully evicted the Endorois from their ancestral land and destroyed their possessions.⁶⁹

The Commission also held that the upheaval and displacement of the Endorois and the denial of

their property rights over their ancestral land was disproportionate to any public need served by the game reserve. The Commission declared that special measures are necessary in order to address the discrimination experienced by indigenous peoples under a property system that did not give recognition to the communal property rights of the Endorois people.⁷⁰

In another land rights case in Kenya, the African Court of Human and Peoples' Rights recently ruled in favour of the Ogiek community. Following an eight-year legal battle, the Court announced in May 2017 that the Kenyan government violated seven articles of the African Charter in a dispute dating back to colonial times. The Ogiek are one of the last remaining forest-dwelling communities in Kenya, and are among the most marginalised indigenous peoples in the country. They alleged eight violations of their rights to life, property, natural resources, development, religion and culture by the Kenyan government under the African Charter, to which Kenya is a signatory.⁷¹

This is the first time the African Court, in operation since 2006, has ruled on an indigenous peoples' rights case, and was by far the largest case ever brought before the Court. It was originally lodged with the Commission, but was referred to the Court on the basis that it evinces serious and mass human rights violations. In making its decision, the Court recognised that the Ogiek (and other indigenous peoples in Africa) have a central role to play as guardians of local ecosystems, and in protecting land and natural resources.⁷²

The African Resilient Landscapes Initiatives and African Landscapes Action Plan (ALRI/ALAP)

In December 2015, NEPAD and launched the African Resilient Landscapes Initiative in order to help address the continent's overlapping challenges of poverty, climate variability, land degradation, population growth, deforestation, unsustainable watershed management, and unsustainable land use. ARLI is promoting the use of a 'landscape approach' to ensure that natural resources are used and managed in an inclusive and multi-sectoral manner.⁷³

Box 5: The ALAP 19 Point Action Plan

Policy

1. Present the evidence to policy makers.
2. Synthesize lessons learned on policy implementation.
3. Develop impact indicators.
4. Involve grassroots communities

Finance

11. Coordinate finance across sectors and initiatives.
12. Mainstream landscape investment into financial institutions.
13. Mobile microfinance and local finance.
14. Bring an investment mindset into landscape initiatives.

Governance

5. Develop a landscape learning and action platform.
6. Expand landscape knowledge from rural to urban areas.

Research

15. Translate landscape research into action.
16. Set priorities for appropriate landscape research.

Business

7. Introduce landscape labelling.
8. Support landscape action within large companies.
9. Build business awareness and capacity.
10. Develop landscape tools for business.

Capacity Development

17. Establish and promote an online 'marketplace'.
18. Build a globally accessible curriculum.
19. Develop a policy and implementation framework.

Source: <http://terrafrica.org/wp-content/uploads/2017/02/African-Landscapes-Action-Plan.pdf>.

ARLI will be implemented through the African Landscapes Action Plan (ALAP), a roadmap prepared by the African Union, NEPAD and other partners to advance governance, policy, business action, capacity development, research, and finance for the management of African landscapes. It aims to achieve this via a series of priority actions that "embrace all land actors and all sectors" (see Box 5). It will work with the African Forest Landscape Restoration Initiative (AFR100)

to bring 100 million hectares of degraded and deforested land under restoration by 2030.⁷⁴ ARLI and its supporting initiatives aim to contribute to improved soil fertility and food security, better access to clean water, reduced desertification, enhanced habitats and biodiversity, green jobs, renewed economic growth and livelihood diversification, and increased capacity for climate change resilience and adaptation.



2.3 Regional Policies Relating To Land Rights

Policy initiatives relating to land rights and land management have also been happening at the regional level within Africa. These have primarily been led by the Regional Economic Communities (RECs), as well to a lesser extent by regional UN agencies, or regional natural resource governance bodies. The RECs are regional groupings of African states, which have developed individually and have differing roles and structures. Generally, their purpose is to facilitate regional economic integration between members of the individual regions and through the wider African Economic Community (AEC), which was established under the Abuja Treaty (1991).

The RECs are closely integrated with the AU's work and serve as its building blocks. The relationship between the AU and the RECs is mandated by the Abuja Treaty and the AU Constitutive Act, and guided by the 2008 Protocol on Relations between the RECs and the AU and the Memorandum of Understanding (MoU) on Cooperation in the Area of Peace and Security.

The AU recognises eight RECs:

- Arab Maghreb Union (UMA).
- Common Market for Eastern and Southern Africa (COMESA).
- Community of Sahel–Saharan States (CEN–SAD).
- East African Community (EAC).
- Economic Community of Central African States (ECCAS).

- Economic Community of West African States (ECOWAS).
- Intergovernmental Authority on Development (IGAD).
- Southern African Development Community (SADC).

With regards to agriculture, four out of eight RECs have signed CAADP regional compacts, out of which three have developed complete Regional Agricultural Investment Plans (RAIPs) – ECOWAS, SADC, and IGAD. A draft RAIP has been developed by the EAC and is currently under consultation.

Under the 2009 AU Declaration on Land Issues, the RECs have made several commitments relevant to the development of policy frameworks around land rights and land administration. These include commitments to:

- Convene periodic regional platforms on land policy formulation & implementation to facilitate.
- Undertake to share experiences, lessons learnt and best practices; and
- Capture and address issues of land policy within respective common agricultural policy (and other) frameworks.

Nevertheless, the experience of the various RECs in policy analysis or action on land rights is highly uneven. Below is a summary of the state of land policies in North, West, East, Central and Southern Africa, including a brief review of traditional land governance regimes in those regions, as well as a summary of recent policy initiatives in each.

THE SIX REGIONS OF THE AFRICAN UNION



Diaspora



North Africa

Traditional and post-colonial land governance systems

As in other regions, colonial domination in North Africa created legal pluralism in land governance regimes, with French and (to a lesser extent) British civil law overlapping with Islamic law and tribal systems. Consequently, land rights are extremely complex and include registered lands, melk lands

(private lands), the hema system of rangelands, habous (or waqf) donated lands, and pre-Islamic collective tribal lands. One consequence of legal pluralism is poor formalisation of land rights and persisting land tenure insecurity and conflicts. This coexistence of traditional, religious, and civil legislation is considered as one of the main causes of land disputes in the region.

In the mid-1980s, most North African countries moved from planned economy and state capitalism toward neo-liberal economies. New laws were passed to enable the private sector access land resources and to attract foreign direct investments. However, governments failed to harmonise the laws passed under the rule of planned economy with the new ones, designed to promote a free market. The coexistence of those two types of laws proved not to be conducive to economic development. In addition, most North African countries remained centralised while the full implementation of the new land laws required devolution of power to the local administration.⁷⁵

The coexistence of religious, traditional and civil legislation is among the reasons for land disputes. Land management practices are often viewed and conducted from a sectoral point of view, which tends to undermine sustainable and harmonious use of land resources. Many North African countries lack an updated, full, model system for land registration including cadastral and other information necessary to facilitate land management and land transactions. This absence is also among the reasons for disputes over land. The governments of North Africa depend on direct negotiation, arbitration and mediation in an attempt to solve conflicts over disputed land.⁷⁶

Regional Land Policy Initiatives and Policy Gaps

Two of Africa's eight Regional Economic Communities include member states from the North Africa region: UMA and CEN-SAD. To date, neither region has developed any joint strategy or shared policy framework for land governance. The administration of land and natural resources happens exclusively through policies and practices enacted at national and local levels. As such, barring a few initiatives related to combatting desertification, North Africa as a region has yet to coordinate or harmonise policies on land at a regional level,. Furthermore, neither UMA nor CEN-SAD has fully engaged in the CAADP process at a regional level.

However, there are signs that interest in developing a regional platform for land governance issues is growing. In September 2017, the LPI will be holding a workshop with officials from UMA to discuss key shared challenges and opportunities for states developing land policies in the region.⁷⁷

West Africa

Traditional and post-colonial land governance systems

People in West Africa have for centuries accessed land and resources through complex social relations governed by local institutions. Lineages or families have traditionally held land rights collectively; sometimes there are complex systems of multiple and overlapping rights.⁷⁸ Customary ways to access land, such as gifts, rents, pledges, sharecropping or sales, are traditionally oral agreements.⁷⁹ Verbal records of these rights have often been safeguarded in the memory of local elders.⁸⁰

Under colonial rule, land was officially under the control of the imperial power, although land was also often vested in traditional rulers. In reality there was not much difference between these two relationships, since native authorities were under the trusteeship of colonial officers, who defined and ratified the bylaws that they could make. For example, in French West Africa, by virtue of conquest, land was assumed to come under the sovereign control of the colonial authority. However, the state also recognised African communal property.⁸¹ This created dichotomous land governance systems, where land was held as property of the state, but often administrated at local level through traditional and customary systems.

Since independence, many of the region's national land laws were developed based on European legal concepts, centred on individual land rights and ownership, and thus have had little relevance to land relations on the ground.⁸² This has reinforced the dichotomous land governance systems of the region, often leading to conflict between different parties with contesting claims to land under the various forms of private property law and customary systems of tenure recognition.

Regional Land Policy Initiatives and Policy Gaps

During the 1980s, West African countries began to exchange and reflect on land issues and challenges that many of them faced in common via the committee on desertification in the Sahel. This has left a lasting legacy in terms of the dynamics between countries in the region, and the way they see land. Governments in West Africa generally feel comfortable exchanging experiences with each other in relation to land. Many have had similar experiences, such as conflicts between farmers and pastoralists, so they know they have common challenges, and can talk about it freely.⁸³

Over the past twenty-five years, ECOWAS has undertaken several major initiatives that are noteworthy in the context of regional land policies. These include the establishment of a mechanism for conflict prevention and management; a decision of the Assembly of Heads of State and Government regarding cross-border transhumance; and adoption of a community-wide agriculture policy.

Land Convergence Framework

When the F&G was adopted, ECOWAS was the first REC to say that they wanted to start implementing the Guidelines with Member States. They initiated a Task Force on rural land issues in 2010, which conducted an extensive review of existing land policies and lessons in the region for ECOWAS member States. This led to a partnership between ECOWAS and the LPI to develop a 'convergence

framework' for land policies in the region. This framework contains a set of guiding principles, consistent with the F&G, for developing the content and implementation strategy of a regional land policy. A new Land Policy Observatory is also being integrated into the framework to monitor relevant developments in the region.⁸⁴

West African Land Policy Harmonisation

In June 2013, a report and proposals on a "Harmonised Land Policy and Legal Framework on Land Tenure in the ECOWAS Region" was presented to, and validated by, ECOWAS officials during a workshop in Abuja, Nigeria. On the basis of this, ECOWAS leaders decided to draft a directive on rural lands in West Africa, which went to a head of states summit at the ECOWAS Commission in 2014. The ECOWAS leaders decided that the directive should be subject to country level - consultations before going back to the Commission.

In the meantime, the LPI is working with ECOWAS to bolster its institutional capacity on land issues, and to help mainstream land in different regional programmes. This includes looking at gender and land dimensions of regional programmes, looking at land dynamics within the NAFSIPS, monitoring and evaluation of existing national land policies and establishing a platform for dialogue. It is also supporting the regional taskforce on land, working with experts from the region and meeting periodically to advise ECOWAS.

In 2010, ECOWAS, in collaboration with the LPI Secretariat, prepared a framework to synchronise regional land policies called the West Africa Land Policies Harmonisation Framework. The framework is supposed to implement the 2009 AU Declaration on Land, as well as taking account of other ongoing initiatives in the region, particularly the WAEMU rural land observatory, the FAO's Voluntary Guidelines, and the LPI Guiding Principles on LSLBI. It also endorses the Inter State Committee for Drought Control in the Sahel land charter, a proposed policy framework to establish common principles on land governance in the Sahel and West Africa (more on this below).

CILSS

Another important regional initiative with regards to land policies in West Africa is the Permanent Interstate Committee for Drought Control in the Sahel (CILSS). It has nine member countries. Its primary objective is to “invest in research for food security and in the struggle against the effects of drought and desertification in order to achieve a new ecological equilibrium”. It is the regional organisation that has focused most on land issues.

In 1994, CILSS held a conference in Praia (Cape Verde) on land issues and decentralisation in the Sahel. This launched the ‘Praia process’, which sought to support member countries to develop national legislation on natural resources management (NRM).

CILSS subsequently organised the Praia + 9 forum on Rural Land Tenure and Sustainable Development in the Sahel and West Africa in 2003. This event identified several challenges that needed to be addressed in the region; including links between NRM and administrative decentralisation; protecting land rights of vulnerable groups; incorporating land issues into poverty reduction strategies; and developing cross-border approaches to NRM. The Forum also identified the lack of political will of governments as a major obstacle to implement the recommendations.⁸⁵

One of the key proposals was that the Forum should invite Heads of State of CILSS, WAEMU and ECOWAS Member States to take the appropriate measures to discuss and negotiate a West Africa regional land policy assessment, with the view to eventually adopting a common land policy charter to protect the rights of local communities.

In 2006, CILSS, was given the responsibility of coordinating a road map for elaborating and implementing a land policy charter, in collaboration with ECOWAS and WAEMU. According to this road map, which is currently under implementation, the Charter should be ready for application by 2020. The Charter, which will involve the Sahel and West African States, aims to establish guiding principles

for integrated and secure land tenure and natural resource management in West Africa, and could constitute the basis for the development of a common law on land tenure issues in the region.⁸⁶

Recent developments show that West African states have made significant progress in the formulation of land guidelines or laws. These include:

- most states have adopted the participatory approach (although often only under pressure from CSOs) when formulating texts and laws affecting land; desire to establish a link between framework policies/laws relating to land and other sectoral policies and laws, particularly those concerning natural resource management;
- Almost all states have carried out relatively broad land reforms;
- Some states in the sub-region have adopted land policy documents;
- Others have adopted framework laws on land or Agricultural Orientation Laws which refer to the formulation of rural land use laws;
- In almost all the states, achieving secure land tenure has been affirmed and reaffirmed, particularly with regard to rural land;
- The establishment of local land management structures to take due account of the reality and unpredictability of local situations; and
- Recognition of the land dimension in the regional integration process.⁸⁷

However, although a number of West African states have proclaimed strong land policies, concrete actions to protect community land rights have often been lacking. In addition, the institutions necessary to implement the reforms are frequently either under-developed, or entirely lacking. Even when they are established, they perform poorly either because they lack sufficient resources, or because there is a mismatch between their functions and those of other government structures (e.g. land registry and land use planning offices; or units from Ministries in charge of mining or forestry that have authority over land allocations. There are also difficulties due to the

failure to integrate local practices and traditional institutions in the land policy and legislation implementation process.

Furthermore, when land reforms take place concurrently alongside other sectoral reforms, ensuring coherence of the implementation meas-

ures with those of the other ongoing processes is often a problem. Where land reform is undertaken in the context of NRM, agricultural development, environmental protection and rural development in general, it tends to be implemented as a secondary objective of these other projects and programmes.

Box 6: Liberia on the Cusp of Progressive Land Rights Laws

Lawmakers in Liberia have stalled on the brink of passing historic laws that would strengthen the rights of rural communities to land on which they have lived for generations, much of which has recently been acquired through large-scale commercial acquisitions.

In 2014 and 2015, the President Ellen Johnson-Sirleaf, submitted to the National Legislature drafts of the Land Rights Act (LRA) and Land Authority Act (LAA), respectively. The proposed act would legally recognise communities' rights to "customary land," defined as land owned by a community and used in accordance with customary practices. The concept of customary land recognises communities' long-term, continuous occupancy and use of land. It would also establish safeguards to reduce discrimination against women and other vulnerable groups affected by social and cultural barriers to land tenure.⁸⁸

However, after two public hearings, both pieces of legislation remain under review and debate by the National Legislature, with limited public information on the status of the LRA. A national coalition of civil society organisations have been pushing to raise public awareness and support for the revised land laws, and have urged the government to ensure that the Land Rights Bill considers:

1. The need for public land and protected areas to be designated in a transparent and participatory process that seeks prior consultation and an informed consent of communities affected.
2. The nullification of any land re-classified or designated without Free Prior Informed Consent (FPIC) of local communities.
3. Protecting the interest of the future generations through provisions stating that the sale of customary land is only possible after 60 years or two generations.
4. A provision on how communal forests shall be managed to ensure access to these areas by local people who rely upon forest resources for their survival.⁸⁹

In April 2017, the FAO organised a five-day training workshop in collaboration with the Government of Liberia, exploring how the VGGT could be implemented in the context of the country's agricultural agenda and draft Land Act. This training brought together elders, chiefs, CSOs, Land Authority representatives, Ministry of Agriculture officials, academics and journalists, with the purpose of identifying and prioritising suggested actions in order to implement the VGGT in the country.⁹⁰

It can be concluded from the different experiences in the sub-region that the successful implementation of land policies depends on:

- » The effectiveness of measures taken to apply land policies;
- » The different land institutions being able to really carry out their functions;
- » Bringing land management institutions closer to the people;
- » Recognition of the interrelation between the functions of the decentralised structures and those of local authorities that have responsibilities for land management and tenure security;
- » Ensuring that the different groups of actors participate actively in land management and secure tenure;
- » Accepting that land tenure is a cross-cutting issue; and
- » Adopting adequate mechanisms for settling land disputes.⁹¹

Box 7: The Lkiama Land Governance Systems in Kenya

In Laikipia District, Kenya, the Samburu people use the Lkiama system to administer traditionally held lands. The land tenure system is communal and community members have rights to use the land, but no rights to permanently dispose of land. Land is considered an intergenerational asset. Under the system, elders administer the use of common property so that no one is denied access to land and resources to the detriment of others. The principle of Lkiama is 'use according to need.' Land is acquired through negotiation between clans, and conditions for land holding and use are mutually agreed upon. Then agreements are sealed through communal ritual, including sharing a meal of goat. Although the decision-making process was largely hierarchical, with male elders at the top, women (especially married women) were also engaged in the decision making around land use and allocation.

East Africa

Traditional and post-colonial land governance systems

In East Africa, communities always have had and in many cases continue to have their own customary management regimes. In the past, these management regimes often controlled both intra- and inter-community access to resources. In countries like Kenya and Uganda, for example, elders and traditional leaders have historically played a key role in securing and managing communal land rights.⁹²

However, it is important to note that customary land allocation and management systems, such as those described in Box 7, were historically developed under conditions of less land and resource scarcity than currently exist in East Africa. These systems have been flexible and adaptable over time, but current conditions of land scarcity, high monetary value for land, and state intervention are straining or obliterating customary management regimes in many communities.



Regional Land Policy Initiatives and Policy Gaps

Due to political sensitivities around migration and IDPs, member states within the ECA have held firmly to the principle that land policies are the concern of sovereign nations, and thus have been unwilling to develop any kind of regional approach to addressing land rights issues.⁹³ A regional strategy for implementing the AU Land Policy Framework has, however, been developed by IGAD, which was initially created in 1996 to deal with the problems created by recurring droughts in Eastern Africa. The IGAD region stretches over an area of 5.2 million km² that comprises the countries of Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda.⁹⁴

In February 2015, IGAD launched a six-year project, in conjunction with the Land Policy Initiative and Swiss Development Cooperation, to facilitate the implementation of the AU Declaration on Land Issues and Challenges. The explicit goals of the project are:

- Facilitating the implementation of the AU Declaration on Land Issues; and
- Improving access to land and security of land rights for all land users in the IGAD region, especially vulnerable groups - pastoralists, women and youth.

The project has been developed in accordance with the F&G, and is due to run through until the end of 2018. It is broken into two three-year phases and specifically aims to:

- a) Enhance the capacity of the LPI and IGAD Secretariat to facilitate and monitor the implementation of the AU Declaration on Land in the Region,

- b) Mainstream Land Governance issues in programmes and activities of the IGAD Secretariat,

- c) Develop capacity of academic institutions in the region to promote and undertake land policy related research,

- d) Work within existing regional platforms for knowledge sharing and advocacy aimed at promoting good land governance and land policy convergence among IGAD Member States (Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda)

- e) Improve partnerships, coordination and alignment of land governance related programme in the IGAD Region and

- f) Facilitate monitoring and evaluation of land policy reform processes.⁹⁵

Outputs of the project should include:

- A land expert at the IGAD Secretariat.
- Training of IGAD staff to enhance capacity on land policy and governance.
- Country profiles/reports--Status of the land governance in 8 IGAD member states.
- Academic/research institutions strengthened to promote training, research, monitoring of land governance.
- Regional dialogue platform strengthened and functioning.

At a meeting in Nairobi in November 2016, a work plan was agreed upon for 2017 centring on five priority areas: the establishment of an IGAD regional dialogue platform, gender mainstreaming within the IGAD LPI project, commissioning a mid-term project review, mobilising increased resources, and putting in place a monitoring and evaluation mechanism.⁹⁶

Box 8: Disparities between land governance laws and practice in Ethiopia

Although the Ethiopian Constitution guarantees citizens common ownership of land (together with the state), this right has not been fully realised – whether in terms of land accessibility or with regards to the payment of fair compensation in the event of expropriation. The reasons for this have to do with faulty laws, as well with poor implementation by public authorities.⁹⁷ There have also been political factors, with government involved in large-scale forced displacements and the ‘villagisation’ of nomadic peoples in the Gambella and Oromia regions.⁹⁸

Within the country’s constitution, land is excluded as a subject of compensation. For this reason, rural households are denied compensation for the complete loss of their farms in the case of land transfers. This lies in direct contradiction with the principle of joint ownership of land by the people and the state.

Central Africa

Traditional and post-colonial land governance systems

Cultural diversity and the historical context are important factors in explaining local land management practices in Central Africa. Perhaps more than in any other part of Africa, people in the region give a prime consideration to the mystical and sacred dimension of land. Yet the formulation of land policies in the region has been heavily influenced by the colonial legacy, which often undermined the legitimacy of customary land tenure systems and cultural practices. This has created a persistent legal dualism of statutory land law and customary land law, complicating land policies.⁹⁹

Local land governance systems are a hybrid of customary, Islamic (in the case of Chad), colonial land systems and formal land laws enacted after independence. Due to the ineffectiveness of the official systems to protect land rights, local land governance systems are of tremendous importance in the region. Local land practices may govern farmlands, pastoral areas, fishing zones, forest and mining exploration, and often differ widely depending on the type of place and usage of the space.¹⁰⁰

Regional Land Policy Initiatives and Policy Gaps

To date, the Regional Economic Community in Central Africa, ECCAS, has not been very active in developing protocols in relation to land policy, although several of the community’s projects and programmes touch upon land issues. These include the FIPAC programme (dealing with the rights of indigenous peoples across the region), the ECOFAC V programme (dealing with natural resource management and environmental protection) and ECCAS’ efforts to implement the the CAADP.

Some other regional institutions occasionally intervene on land issues in Central Africa. These include the Central African Forests Commission (COMIFAC), which works to support the sustainable management of forests in the Congo basin, and the Guinea Current Large Marine Ecosystem (GCLME), which aims to develop an integrated management of coastal zones, as well as addressing land issues that affect coastal areas. However, the actions of these regional bodies have thus far been poorly harmonised and coordinated.

The development and implementation of land policies in the region are therefore primarily undertaken at the State level. In general, the

Box 9: Blockages in Land Policy Reform in the DRC

The Democratic Republic of Congo is engaged in a land reform process under the Government's action plan. A number of reforms for enhancing economic growth are planned, including those that relate to the principles established for governing property, and the use and management of land resources and improving their productivity and contribution to social development. This concern is expressed in the Government's intention to improve land governance, including the ways in which land tenure disputes are resolved through the appropriate socio-political and administrative structures.

The current land tenure system is a legacy of the colonial era. Following the example of the colonial rulers, post-independence laws dispossessed local communities of their customary rights, and transferred land ownership to the State. The colonial licensing authorities were succeeded by the Land Offices, which have had sole jurisdiction for allocating land titles within their districts.

The Land tenure law of 20 July 1973, which followed the colonial period – as well as the various agrarian (2011), forest (2002) and constitutional (2006) laws – remain ambiguous about local communities' land ownership, the type of rights that members of local communities have, and the competent authority for managing this land.

In July 2012 a consensual road map for land reform was adopted but subsequently downgraded to a 'programming paper', considered as an instrument for technical planning, implementation, monitoring and evaluation of the land reform process. After three or four years this process should have resulted, specifically, in a national policy relating to land governance being drawn up, and in the creation of a revised draft land law and the measures for its implementation.¹⁰¹

ministry in charge of land and domains has the overall responsibility to elaborate and implement the land policy. In many countries the government has created parastatal agencies in charge of implementing land policies. The role and responsibilities of these parastatal agencies vary according to the stakes of the sector concerned.

The main changes in land policies in the region have been with regard to specific sectors (notably forestry and mining), and in the issuing of land titles. The best results for policy implementation relate to the forest sector. Conversely, the situation is particularly critical for the pastoral sector, as there are no specific related policies or laws covering pastoral land rights holders.¹⁰²

Generally, Central Africa has experienced weak leadership in the area land governance. For

decades, there were no significant land reforms undertaken within the region. The land policies of most regional nations have largely targeted financial objectives, particularly land taxation. National legislations generally remain out-dated and characterised by the absence of consultation either in elaborating or updating the existing legislations.¹⁰³

Among the bottlenecks in policy implementation in the region are the inequity in access to land and the non-recognition of other actors (a consequence of the monopoly of the State over land). The lack of trained and sufficient staff, as well as of data related to land management, is another problem across the region. The need for capacity building is critical, including amongst non-state actors such as community leaders.

Southern Africa

Traditional, colonial and post-colonial land governance systems

Indigenous tenure systems in Southern Africa were characterised by diversity and adaptability. As in other parts of the continent, they were based on principles of heritable rights of usufruct, held within family lineages, regulated and sanctioned by customary authorities. Accepted kinship and inheritance rules, varying from group to group, generally prescribed the access rights of different group members. These access rights were usually very secure, respected by all in the community.

During the colonial period, Southern Africa experienced the most extensive white settlement of any region in Africa. This period was characterised by extensive land grabs, which served the economic and political aspirations of settlers at the expense of Africans. This manifested itself in the forced removal of millions of people from the most productive land, and their resettlement into 'tribal' or communal lands, producing the dual land system that is still prevalent today.

Not only did this policy alienate many from the land, it also disrupted indigenous tenure systems. Colonial land policy and legislation was essentially a social engineering tool, developed to ensure that the distribution of opportunities was skewed along racial lines in favour of settlers.¹⁰⁴

Following independence, governments across the region have made efforts to address historical injustices by undertaking land and tenure reforms that abolished discrimination on racial grounds. The nature and level of success of this reform process has varied from country to country. However, it is notable that the dual land system introduced by the colonists, characterised by the division between commercial estates and communal lands, continues to exist.¹⁰⁵

The post-independence era has witnessed a trend towards centralisation of authority over natural resources by governments that generally made

themselves the ultimate custodians of resources. The colonial legacy of undermining indigenous tenure systems has continued because of the common perception that they represent an obstacle to agricultural modernisation. The role of traditional institutions in communal resource management decisions has thus been marginalised. This has led to the creation of dual authority structures; traditional systems and state administered systems, frequently resulting in a power vacuum and local struggles over land.¹⁰⁶

Regional Land Policy Initiatives and Policy Gaps

The dominant belief during both the colonial and immediate post-colonial periods was that systems that provided individual private property rights or state control of land were more progressive, equitable and economically efficient than those that vested property rights with communities. However, the durability demonstrated by indigenous tenure systems, and their ability to co-exist with other land governance systems, has led to their re-evaluation and a recognition of the important role they can play.

One example of this is that the policy of decentralising authority over wildlife has now been adopted by the majority of SADC countries and a number of countries in east and central Africa. In some of these countries, such as Namibia and Botswana, the policy framework encompasses a broader spectrum of natural resources. This enables a more integrated approach to natural resources management in communal areas. Policy and legislative changes have been effected which recognise the legal authority of traditional institutions in natural resource tenure regimes in Botswana, Lesotho, Malawi, Namibia, Zimbabwe and Zambia.¹⁰⁷

At the regional level, SADC and COMESA have both taken steps to address land rights issues in Southern Africa. The SADC strategy to "enhance sustainable agricultural production, productivity and competitiveness" under the CAADP contains a policy statement on land administration and

management. This states that SADC shall “facilitate, coordinate and support initiatives to improve land administration, use and management”, recognising that “...land use management issues have the potential to undermine food and nutrition security, poverty reduction, economic growth, and political stability in the region”.

In March 2003, the SADC Council of Ministers issued a directive to establish the SADC Land Reform Support Facility (SLRSF), along with other measures to improve land rights governance in the region. The proposed interventions included:

- Facilitating the implementation of various frameworks on land tenure, including the SLRSF, the AU Framework and Guidelines on Land Policy in Africa, and the VGGT;
- Coordinating the development of regional land policy guidelines and facilitating domestication at the national level;
- Promoting land policy research and development, taking into account gender, youth and vulnerable groups; and
- Promoting access to land for disadvantaged groups.¹⁰⁸

Meanwhile, in 2014, The LPI and COMESA agreed on key elements of a work plan to support the mainstreaming of land policy and governance in the programmes of the regional organisation. The two institutions also identified key elements of a formal agreement that would guide collaboration, technical and financial support, as well as resource mobilisation in the implementation of the work plan.

However, because of the multiple historical and political sensitivities around land issues in the region, progress towards the realisation of the objectives set out by SADC and COMESA in relation to land governance has been very slow. The LPI is still working with both regional bodies to improve their institutional capacities and technical knowledge on land policy issues, but it appears that little political energy currently exists to develop a more comprehensive regional land governance framework.¹⁰⁹

Table 1: Summary of REC Progress with Regards to Regional Land Rights Policies

REC	Progress on Regional Land Policies
AMU	LOW
CEN-SAD	LOW
COMESA	LOW
ECA	LOW
ECCAS	LOW
ECOWAS	HIGH
IGAD	MODERATE
SADC	LOW/MODERATE



3. Key Opportunities for Advancing Land Rights Policies in Africa

The above review of policy frameworks relating to land rights and land governance in Africa highlight the abundance of international, continental and regional initiatives that have arisen over the past ten to fifteen years to deal with the issue.

However, for many rural Africans, and especially for rural women, very little has changed on the ground in terms of the persistent insecurity that they face with regards to their land tenure status. Community and customary forms of land ownership are still often disregarded or overridden by powerful local and foreign interests conspiring to attain land for investment and/or self-enrichment purposes. Land grabbing remains a persistent problem across the continent, and the national policy and legal frameworks to address the problem are, by and large, still both under-developed and under-enforced.

There are various explanations for why this is the case, varying from region to region and country to country. But a common theme across the continent is that land is highly politically contentious, relating not just to the centrality of land to economic growth and wealth creation in Africa, but also to do with its role in both national and local politics as a symbol of status and power, as well as its deep social, cultural and spiritual affiliations.

When taken in conjunction with the often multiple overlapping forms of land administration systems – resulting from the overlaying of traditional occupancy rights with colonial and post-colonial forms of land governance – it becomes apparent why new policy frameworks have yet to filter through into reformed land laws and governance practices.

Realising progressive land rights in practice will therefore require focusing advocacy energies on the policy spaces and opportunities within Africa where power dynamics can be influenced to support the interests of community land rights. In some cases, these platforms will relate to broader political concerns and motivations, e.g. around agricultural growth, investment, food security, wider governance reforms, and even meeting international targets such as under the SDGs. These ulterior motivations should be recognised and approached strategically, tapping into those motivations as an impetus for bolstering community land rights.

This may seem like a daunting task, but there are reasons to be hopeful. Political high-level commitments on land rights have been made by the African Union, notably within the Declaration on Land Issues and the Framework and Guidelines.

Meanwhile, at regional level, there is widespread recognition, at least, of the need for member states to address failures in land governance. Meanwhile, at the national level, many African countries have adopted participatory modalities in land policy development (often under pressure from CSOs), allowing African farmers' organisations and other civil society groups to be heard in discussions on new land policy frameworks.¹¹⁰

This section highlights some of the key continental and regional policy processes that could potentially provide an impetus to land rights reform.

3.1 The Land Policy Initiative

Potential Opportunities

The LPI has undoubtedly been a strategically important body in terms of setting the agenda on land rights at the continental level, and is currently looking to extend this at the regional and national levels. Current targets of the initiative include:

- (a) Twenty Member States developing land policies and adopting implementation tools that enhance women's secure access to land; and recognise the legitimacy of Africa's customary based land rights and institutions by 2020;
- (b) Ten Member States putting in place transparent, efficient and cost-effective Land administration systems which are reflective of Africa's unique realities by 2020.¹¹¹

One specific opportunity to influence how these targets take shape could be the second Conference on Land Policy in Africa, which is being hosted by LPI in Addis Ababa from November 14-17, 2017. The goal of the conference is to deepen capacity on land policymaking in Africa through improved access to information on land policy development and implementation. To compliment the AU's focus on youth this year, the Conference is being held under the theme: "The Africa We Want: achieving socio-economic transformation through inclusive and equitable access to land by the youth".

At the regional and country levels, the LPI is working with each of the RECs to identify entry points where member states have a shared interest in working on land; whether from the perspective of actively developing regional land policies. Three specific regional/ national opportunities involving the LPI worth highlighting are discussed below.

National Agricultural and Food Security Investment Plans (NAFSIPs)

Also related to CAADP are the country-specific

national agricultural and food security investment plans (NAFSIPs). The LPI and the International Fund for Agricultural Development (IFAD) are working together to mainstream land policy reforms in NAFSIPs, and are seeking to identify promising approaches that can be scaled up and replicated.

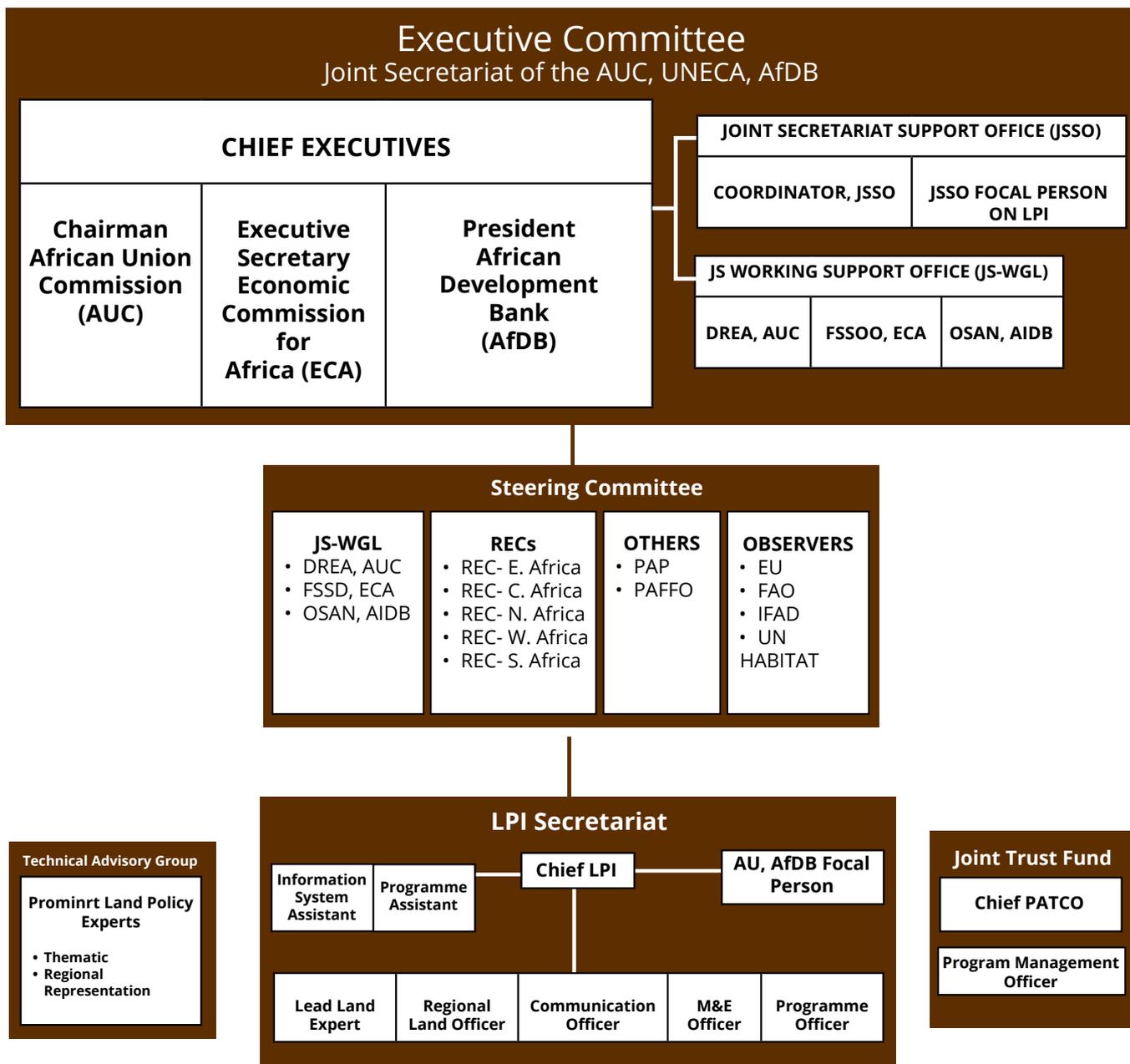
To start with, six pilot countries have been identified, three Francophone and three Anglophone. These are: Cote d'Ivoire, DRC, Madagascar, Malawi, Rwanda and Tanzania. A consultant has been appointed in each country to prepare a background document with a baseline assessment on where each country is with regards to land governance issues, and the extent to which these have been addressed within their national agricultural investment plans.¹¹² These studies should be made publicly available on the LPI website upon completion, and could provide a valuable advocacy tool for civil society groups in those countries.

This work is also linking with another project on monitoring and evaluation – led by the International Food Policy Resources Institute and NELGA (see 3.4 below) – using evidence-based reporting to track implementation of the F&G and AU Declaration commitments. Parallel to this, the LPI, FAO and NEPAD are collaborating to raise awareness of both the FAO Voluntary Guidelines and the AU Guiding Principles among all African member states.

Potential Obstacles

As the primary continental hub of land policy issues, the LPI is clearly stretched in terms of its capacity to work with multiple governmental and non-governmental stakeholders. The institute has therefore taken a strategic decision that it is unable to work with all 53 AU member states, and so has chosen to focus its interventions in working with the RECs.¹¹³

Figure 3: Land Policy Initiative Governance Structure



NB: Civil society is represented as members of the LPI steering committee by a civil society platform established by CSOs with support from LPI.

While a rational approach, political resistance or foot-dragging by one or two countries often undermines progress at the regional level (e.g. the EAC and SADC). This can leave the LPI with a set of 'lowest common denominator' interventions, usually around providing technical assistance such as monitoring and evaluation land policy development and implementation. The entry points for each region need to be identified by the member states themselves, and then carefully navigated by the LPI secretariat and regional staff.

A further obstacle faced by the LPI is resource mobilisation. A recent study published by the institute indicates that US\$4.5 billion will be needed over the next 10 years to fix some of the key challenges in relation to land, such as developing land policies, reforming institutions, improving tenure security in communal and individual lands, increasing access to land and tenure security for the poor and vulnerable, increasing efficiency and

transparency in land administration and resolving land disputes.¹¹⁴ How this level of resourcing will be generated is highly uncertain.

From the point of view of civil society, it should also be acknowledged that the LPI is itself a political institution, reflected in its tripartite foundations as a consortium consisting of the AUC, AfDB and UNECA, and in terms of its board structure (see Figure 3). This can make it bureaucratic and slow at moving policy initiatives forward. The LPI is essentially an intergovernmental body and would find it difficult to overturn decisions by member states. However the LPI would definitely welcome increased civil society pressure to help 'unblock' some of the political obstacles to their attempts to push regional progress on implementation of the AU F&G. It would also no doubt be keen to engage in dialogue and share information and intelligence with CSOs.

3.2 CAADP Results Framework 2015-2025

Potential Opportunities

In 2012, a review was undertaken to look back at the previous ten years of CAADP implementation. It revalidated CAADP's vision, and set out ways to accelerate and expand attainment of its goals. This led to the "Sustaining CAADP Momentum Results Framework - Next Decade of CAADP 2015-2025", which now informs the implementation of CAADP across Africa.¹¹⁵

The Results Framework is an essential component in facilitating CAADP implementation. It presents the critical actions required to achieve agricultural development agenda targets. The indicators are accompanied by baseline data and targets to be achieved within the next ten years. The

framework provides standardised tools that can be used by CAADP stakeholders at country, REC and continental level to measure agricultural performance and progress. Furthermore, it is a vital document in improving planning processes and strengthening existing monitoring and evaluation systems to achieve CAADP targets within the next 10 years.¹¹⁶

However, despite the appearance of "sustainable land management and governance" within the CAADP 2015-2025 Business Plan, the Results Framework has no strong corresponding indicators in relation to land policies. This is a major gap within the monitoring system of CAADP and needs to be addressed. The LPI has suggested a number of potentially relevant goals and indicators that could be incorporated under the Results Framework.¹¹⁷ These should be supported and lobbied for within CAADP.

3.3 NEPAD PCA Program on Land Governance

Encouraged by the adoption of the AU F&G on land policy in 2014, the NEPAD Planning and Coordination Agency (NPCA) established an integrated land governance programme in 2015. The scheme is aimed at producing evidence and making data available to policymakers to raise understanding at the country and continental level of the role of land governance in Africa's structural transformation and sustainable development.¹¹⁸

Thus far it has assisted member states by providing:

- Thematic analytical tools: e.g. on land rights, land administration, dispute resolution, land use planning etc.
- Sectoral analytical tools: e.g. on agriculture, mining and infrastructure development.
- Capacity development tools.
- Knowledge sharing platforms.
- Resource mobilisation strategies.¹¹⁹

Box 10: UN Habitat and DfID supporting local land rights efforts in DRC

UN-Habitat, in close collaboration with the Government of the Democratic Republic of Congo, has launched a USD \$12 million land programme that seeks to promote peace and stability. The DFID-funded initiative, implemented by the UN-Habitat country office in DRC, seeks to promote the concept of integrated land use planning at community scale to mitigate the risk of land disputes while unlocking the potential for increased socioeconomic development in the three provinces of North Kivu, South Kivu and Ituri.

Within the frameworks of the Voluntary Guidelines (VGGT) and the Comprehensive Africa Agriculture Development Programme (CAADP), the concept of land use planning will bring together various actors that are decision-makers on land issues, including customary authorities, conventional land administration and civil society organisations, with the aim of increasing transparency and inclusiveness to prevent land conflict in the context of state building.

The proposed strategy is to ensure a people-centred approach with a focus on ownership, inclusiveness, participation and empowerment of community members, taking in to consideration crosscutting issues of gender and youth.

The lessons drawn from the process of implementing land use planning will not only inform the national land and territorial planning reforms processes when testing tools but also provide options for securing community land rights and a development framework in line with the SDGs. The Global Land Tenure Network will be supporting the implementation of this new programme through the various tools and capacity development at the country level.¹²⁰

3.4 Other Continental Land Initiatives

Network of Excellence on Land Governance in Africa (NELGA)

Following years of discussions on how to strengthen capacity to drive land governance reforms in Africa, in 2015 the AU announced the establishment of the Network of Excellence in Land Governance in Africa (NELGA). Officially launched in April 2016, this network of tertiary education institutions will conduct training and research, provide technical assistance and build M&E systems on the continent. It aims to support the emergence of a new generation of land professionals in Africa, building capacity in the state, private sector and civil society, via several 'nodes' at universities around the continent that will both conduct research and develop short course training for policy-makers, practitioners, local authorities and civil society actors to disseminate knowledge and share 'best practices' on land governance.

TerrAfrica

Since 2013, Sub-Saharan CSOs have developed and implemented a CSO coordination and capacity building programme in line with the requirements for implementing the TerrAfrica and UNCCD programmes of work; with five agreed thematic groups for all Africa: a) Agriculture, b) New & renewable energies, c) Agroforestry, d) Gender and sustainable land management, and e) Management and conservation of natural resources.¹²¹

Great Green Wall Initiative

The Great Green Wall is an African-led project with an epic ambition: to grow an 8,000 km natural wonder of the world across the breadth of Africa.

Its goal is to provide food, jobs and a future for the millions of people who live in a region on the frontline of climate change. The Great Green Wall is taking root in the Sahel region, at the southern edge of the Sahara desert. The project will be supported by the World Bank, the African Union, the UN Food and Agriculture Organization and the UK Royal Botanical Gardens, which have together pledged \$3 billion in addition to technical expertise.

Twenty African nations, led by Senegal will erect a wall of trees across the southern edge of the Sahara desert from the Dakar on the Atlantic Coast to Djibouti on the Gulf of Aden. The 7,600 km long, 15 km wide Great Green Wall will be the largest horticultural feature ever.

In addition to stopping the southward advance of the Sahara, the project will focus on sustainable farming, livestock cultivation and food security. For example, a 50,000 acre tree-planting initiative in Senegal focused on acacia trees, which produces gum arabic, a valuable commodity used as a food additive. Some of the trees planted are fruit bearing as well, which will help feed the rural interior of Senegal.

In preparing its feasibility study in 2009, the FAO emphasised the importance of addressing land rights issues across the belt if the initiative is to succeed. It stated that the initiative should work with the TerrAfrica in:

- Protecting the rights of land under customary tenure;
- Increasing land title registration and linking it to land use planning;
- Promoting women's rights in land registration and customary land tenure systems;
- Promoting land markets and security of tenure, and;
- Ensuring the rights of pastoralists, who have seen encroachment on their lands with the expansion of settled agriculture, leading to conflicts in some places.¹²²

3.5 Key Regional Land Initiatives

ECOWAS Regional Directive on Rural Lands

The ultimate goal of ECOWAS is to get a Regional Directive on Rural Lands adopted. This directive would be a legally binding instrument for ECOWAS member states, although allowing for some flexibility in implementation. The directive will cover land policy development, land conflict management, trans-boundary issues, and guidance on how to promote land investments. According to an ECOWAS report to the 2014 World Bank Conference on Land and Poverty, a draft of the directive was circulated among Member States for comments.¹²³ However, the directive is still in draft format and has not yet been made publicly available.

It is therefore important that pressure be exerted on both the ECOWAS secretariat (to ensure the process does not lose momentum and works to a set timeframe), and to member states to make their national consultations on the draft directive transparent and inclusive. Also, ECOWAS should be pressured to make the text of the draft publicly available.

IGAD-LPI-SDC Land Project

The IGAD-LPI project entitled “Support to mainstreaming land governance in the IGAD regions”, supported by the Swiss Agency for Development and Cooperation (SDC), seems to have created some momentum and could be a very useful entry point for influencing a coherent approach to land policies across the countries in that region, especially as it already has a strong civil society component.

The Project Steering Committee is made up of representatives from IGAD, LPI, SDC, the regional Member States, EAC, FAO, the Regional Centre for Mapping of Resources for Development (RCMRD), IGAD civil society organisations (IGAD-CSO) and the East Africa Farmers Federation (EAFF). It acts as a platform to define targets and timeline for translating AU commitments by member states in the region – e.g. comprehensive land policies, budgetary allocations, 30% allocation/documentated land for women – and provides a viable framework for member states and other regional actors to share knowledge and best practices.¹²⁴





Conclusions and Recommendations

While securing land rights is critical to achieving development goals, efforts to address them are limited by a debilitating combination of complex long-term solutions and entrenched political barriers from local elites. As a result, many African governments (and indeed donors) have shied away from reforming land tenure laws and policies in their development strategies.

Despite this, the international consensus on responsible land governance, reflected in the VGGT, provides important pointers on how to take forward an agenda for the reform of land governance systems in Africa. Furthermore, the AU F&G, which pre-dates the VGGT, provides a concrete rationale for both developing and implementing land policies in the African context. Meanwhile, the LPI continues to work with regional bodies to identify windows of opportunity for implementing the F&G and policy tools such as the Guiding Principles on LSLBI, as well as cooperating with FAO's work on promoting the VGGT and on regional land initiatives within ECOWAS and IGAD. Furthermore, there is reportedly interest amongst representatives of regional parliamentary bodies and the Pan-African Parliament on land issues.¹²⁵

However, while much more could be done to drive forward land rights policy coordination and development at the regional level, this is not where the main challenge now lies. Rather, the central task for proponents of community land rights is the adoption of principles of the VGGT (and the guidance provided by the F&G) to formulate stronger land policies at the country level.

The reason for this is simple: land governance in Africa, as throughout the rest of the world, is predominantly undertaken by nation states, not by regional bodies. In some countries VGGT have more political traction, in others it's the F&G.¹²⁶ Recognising this, CSOs should prioritise identifying particular countries where there is political appetite and/or well existing civil society mobilisation around a land rights policy reform agenda. This is particularly relevant to Eastern and Southern Africa, where there is strong government resistance to the regionalisation of land policies. The exception to this may be West Africa, where significant momentum already exists for the adoption of regional land policy frameworks, and where member States within ECOWAS recognise that many of their challenges around land are shared.

In light of the above, it is the recommendation of the author that policy advocates should consider interventions at the pan-African, regional and national scales.



Pan-African Level

- 1. Engage with the LPI process**, along with members of the LPI Secretariat and the LPI representatives advising/sitting on the various REC committees looking at land issues, and support countries' civil society efforts to participate in national land rights policy initiatives.
- 2. Analyse and understand the dynamics of key land policy processes** including the LPI, the CAADP Results Framework, and the NEPAD Program on Land Governance – in order to engage with the process effectively and identify potential commonalities in actors across processes (e.g. AfDB, NEPAD, LPI).
- 3. Engage with Parliamentarians at the Pan-African Parliament**, as well as within regional bodies such as the SADC and East African Parliamentary Forums. Representatives within these institutions have the will and the mandate to securing stronger customary and community land rights, within their domestic policy space and media.
- 4. Monitor and seek to strengthen land governance in the CAADP results framework.** This could include engaging with the CAADP Monitoring Framework to strengthen benchmarks/indicators related to land concerns in NAFSIPS/agricultural programs; and building synergies in reports by countries to the AU summit on progress towards implementation of CAADP land governance commitments.

Regional level

- 1. Engage with regional land rights and women's land rights advocacy networks**, especially within West, East and Southern Africa.
- 2. Engage with ECOWAS land policy work**, and support regional civil society networks to encourage ECOWAS and its member states to validate and implement the regional directive on land and to resource a West African Land Policy Observatory.
- 3. Engage with LPI staff based within the RECs** to better understand current and potential new entry points for coordinated land policy development within each region.
- 4. Engage with other RECs (particularly IGAD and ECCAS)** to enhance and sustain the capacities needed to mainstream land governance in REC programmes, including gender-related programmes.
- 5. Encourage the use of simple monitoring tools**, such as regional land policy 'score cards', to highlight the disparities in regional progress on developing land policies, and to incentivise a 'race to the top'.
- 6. Promote recognition of the VGGT and the F&G guidelines** as the basis for legal cases around community land rights; e.g. at the African Commission for Human and Peoples' Rights; and/or at the African Court on Human and Peoples' Rights.



National level

- 1. Recognise and commend countries,** particularly within East, Central and Southern Africa that are already working with the FAO to integrate the VGGT into their national land policies; and support domestic civil networks to engage in these policy processes and align their efforts to integrate both the VGGT and F&G into national policy frameworks.
- 2. Support civil society networks** to develop advocacy strategies promoting the implementation of land related policies within the NAFSIPs, and the mainstreaming of land governance in national and agricultural plans under CAADP, using the VGGT and the F&G as guides to minimum standards.
- 3. Develop specific policy change targets related to the above,** so as to enable change to be benchmarked against the current state of affairs.
- 4. Document case studies on land governance practices** and structures to document examples of integration with local practices and traditional institutions, constraints and opportunities for effective performance, and linkage between land policy and decentralisation.





Annex: Country Experiences of Implementing New Land Policies: Three Case Studies

1. Mali



In Mali, a succession of laws and policies relating to land tenure have been gradually introduced over the past twenty-five years (see Box 11). The right of Malian citizens to own property was enshrined in the country's 1992 Constitution, while customary land user rights were recognised in the 2000 Domains and Land Code (amended in 2002).

The development of the Agricultural Policy Act in Mali provided an important window for citizens and farmer organisations to open a dialogue with

the government about land issues. Development of the legislation involved participatory and consultative processes.

The government gave the National Coordination of Farmer Organizations the responsibility and budget to hold consultations to canvass farmers' and other stakeholders' viewpoints, which were then used by government technical departments to develop the first draft policies and legislation.

Law	Content
1992 Constitution	Guarantee citizens the right to own property. Provides for the protection of property.
Decentralization Law No. 95-034 AN-RM of 12 April 1995	Gives local authorities (the Regional Assembly, The circle Council, and community councils) responsibility for land administration. land use planning and development, and organizing rural activities, including agro-forestry-pastoral production.
2000 Domains and Land Code amended in 2002 (Loi n° 02-008 du 12.02.2002)	Recognizes state land, land owned by individuals entities. Did not take into account the implications of decentralization. The local governments have still no domains assigned. Recognizes use right to customary land held by groups and individual group members.
Agricultural Orientation Law (Law No. 06-045 of september 2006)	Agricultural development policy (modernizing family farming, investment) which also includes an article on securing land rights.
Pastoral Charter (Law No. 01-004) of 2001 (implementation decree in 2006)	Recognizes pastoralism and the right of pastoralists to move their livestock. Requires local authorities, who have primary responsibility for managing pastoral land and paths. Requires local authorities to create calenders of use of natural resources.
Agricultural Land Policy (PFA) adopted on December 31, 2014	Addresses customary rights and decentralization in land management.
Draft legislation for an Agricultural Land Law (adopted by government in october 2015)	Secures individuals land rights and collective rights of family farms and agricultural enterprises.

In 2006 the Agricultural Orientation Law (LOA) was enacted on the back of these consultations. However, discussions on land issues had proven to be highly contentious. The government thus postponed dealing directly with the issue in the agriculture legislation, and instead included a provision recognising the importance of protecting family farms, and committing to develop a specific land policy. In 2008 the Malian government adopted a roadmap to implement a participatory process to develop a new agricultural land policy. A steering committee for this process, which includes farmers' organisations and civil society, was established in 2009.¹²⁷

In 2014, the government introduced a new strategy for land reform, with the objective "to rebuild social relations, to put the land at the service of development, to support the good governance of the State and to mobilise financial resources for local and regional authorities". In May 2014, the Ministry of Rural development held a national workshop to validate an agricultural land policy (PFA), based on the LOA, which focuses primarily on family farms and farmers for equitable and secured land access. The PFA was adopted on December 31, 2014. It gives more consistency to the customary rights (already recognised by the CDF Land Code) and decentralisation (implemented since 1996) in land management.

On April 10, 2017, a new Agricultural Land Law was enacted by the President. The legislation states that no land held under customary laws shall be included in state lands. It also provides for the documentation of customary land rights by creating two new types of title, customary land certificates and certificates of land possession. The two certificates have great legal value for farmers and rural communities as they can be transmitted to their heirs, sold and used as collateral for loans.

The law also recognises the right for communities to collectively own land, including spaces recognised as vital to the communities and their families. These lands are managed by customs and traditions in force in the concerned communities.¹²⁸ In addition, the Law mandates that 15 per cent of public land be allocated to women's associations (and other vulnerable groups like the young). However, one notable deficiency in the law is that the final draft was adopted without including provisions prohibiting gender discrimination in customary land management, which could perpetuate that problem.¹²⁹

Under the new law, two new institutions will be created. The first one is the village land commission to facilitate consultations on land issues and the formalisation of rights. They will also set up a forum to submit land disputes for conciliation prior to going before tribunals. The second is the national farmland observatory. The observatory will document land issues and monitor the implementation of the law and land management practices in rural areas. It will regularly publish information on the evolution of the farmland situation in the country, current best practices and alert the government on potential risks.

The law also reinforces decentralisation in farmland management by assigning a key role to municipalities ("communes" in the Malian system) in the registration of land rights.¹³⁰

2. Mozambique

Mozambique is one of the most land-abundant countries in Africa with an area of over 80 million hectares. A land zoning exercise undertaken in 2007 identified around seven million hectares as suitable for agriculture, livestock and plantation forestry. The remaining land is already under use or designated for other uses, including areas with land titles and concessions that have been approved or under consideration; community lands; areas of partnerships between communities and private investors; itinerant agriculture and forestry, including fallow areas; and resettlement areas for people affected by recent floods. Other land has been designated as ecologically sensitive, including conservation areas, mangroves and wetlands.

Most of Mozambique's 5 million ha. of existing farmland is cultivated by small-scale producers on rain-fed agriculture under traditional systems, with



an average landholding for smallholders of 1.8 ha. Only an estimated 3-5% of these landholdings are formally registered.

Since 2006 there has been a surge of interest by foreign investors in acquiring large tracts of land, driven by an interest in biofuels, food crops and plantation forestry. By 2009, the Government of Mozambique had received requests for 12 million ha of state-owned land for biofuel feedstock production alone.¹³¹ Mozambique now ranks 18th in the world among countries in terms of the area under contract for agricultural investment deals, with 60 deals concluded covering 500,000 hectares of land.¹³² Many of these deals have displaced or threaten to displace thousands of people in rural communities. A 200,000 ha. project along the Lurio River in northern Mozambique remains in the pipeline, which alone could displace 100,000 people.¹³³

Though the State ultimately owns all land, Mozambicans, women and men, have the right to use and benefit from the land. This right is known as a DUAT. The law defines three ways by which communities, individuals and companies can obtain a DUAT.

- Rural communities have a perpetual DUAT for land occupied under customary systems.
- Individuals occupying land in good faith for at least ten years have a perpetual DUAT for residential and family use.
- Individuals or companies can apply for a DUAT for a particular piece of land for up to 50 years, with one renewal.¹³⁴

Mozambique's 1997 Land Law recognises the rights attached to customary and long-term (10 years and over) occupation of land by communities and individuals without needing a formal title. The land reform programme does not zone land into community and non-community territories, nor does it pre-define 'the community' as some traditional entity. Rather, it enables the members of communities to adapt their land management systems to contemporary needs and enabling the community to transact the resources under its

administration with investors and other groups.¹³⁵

According to the 1997 Land Law, consultation with local communities is necessary before any change in land use, even if a company has a concession from the national government to use community land.¹³⁶ However, there are no elected representative village committees. Negotiations often start with village chiefs, elders, and political party representatives, before a meeting is organised with the village community. The community may negotiate compensation, and partnerships involving employment and social benefits, but no contracts are signed. Nor are there clearly defined procedures to ensure transparency, or that the outcomes of the negotiations are binding.¹³⁷

Within its territorial borders, the land rights of the various members of the community are recognised on the basis of their recognition within the norms of the community. Local community rights are established through claims based on "joint titling", based on notions that all community members, including men and women, have equal rights to community property, rights to participate in decision-making, and an equal say in management decisions. This recognises community rights without attempting to pre-define what constitutes the community or customary rights. This is up to the members of the community to define through dialogue.

Yet although the 1997 land law has won praise for protecting peasants, two sets of problems have emerged regarding initial use of land and consultation.

First, the land law is often interpreted to mean that people should not profit simply from having land, and only profit from using the land. That means leasing, subleasing and sharecropping officially are not permitted. By law, communities can claim land for their own future expansion (predicting community growth) but they cannot lease it out, even for short periods, until it is needed. Also, there have been few experiences of communities actually signing contracts with national or foreign

investors. Thus, communities may have formal rights over their land, but in order to realise any profit from it, they are under pressure to give up the land to outsiders.

Second, despite progressive elements to the land legislation, elite groups and vested interests have been consolidating land holdings in Mozambique, while peasant producers are being dispossessed of their land and access to fertile plots is becoming increasingly difficult.¹³⁸



3. Uganda

The Government of Uganda recognises land as an essential resource for economic progress and national food security. However, ambiguous land tenure regimes have been identified as a major impediment to development in the country, and land governance is marked by the contradiction between relatively progressive legislation and only partial implementation.¹³⁹

There are a number of outstanding challenges facing Uganda's land sector, including:

- Gaps in the integration of customary land and statutory institutions;
- Multiple claims to the same plots of land;
- Inadequate funds for land administration;
- Inadequate mapping capacity;
- Deteriorating and missing land administration records;
- Inadequate decentralisation of land registration services;
- Inadequate security of land ownership and insecure land-related investments;
- Inadequate dispute resolution mechanisms;
- Increasing land evictions on registered land and customary land;
- Inregistered land rights in areas of interest to the extractive industry, and;
- Problems with landlord/ tenant relations on mailo land ;
- Land tenure insecurity in post-conflict Northern Uganda;



- Disputes over government expropriation of land, and accusations of land grabbing in rural and urban areas.
- Shortage in personnel and resources for land management in districts.

The Uganda Land Act of 1998 recognises customary tenure as legal and equal to other forms of tenure, acknowledges user rights to land established through long-term occupancy, provides for the registration of customary rights to land, and creates an institutional framework for decentralised land management at the district level.

In February 2013, the Ministry of Lands, Housing, and Urban Development published a new national Land Policy, the goal of which is to: “ensure an efficient, equitable and optimal utilization

and management of Uganda's land resources for poverty reduction, wealth creation and the overall socio-economic development".¹⁴⁰ Specific objectives included:

- Harmonise and streamline the complex tenure regimes of the country for equitable access to land and security of tenure.
- Clarify the complex and ambiguous legal framework for sustainable land management.
- Redress historical injustices to protect the land rights of historically marginalised groups and communities, and
- Reform and streamline land rights administration.

More recently, the Government has been developing a National Resettlement Policy, National Urban Policy and a National Housing Policy to compliment the National Land Policy. There are also initiatives to organise communal landowners in Northern Uganda into legal entities and to register their land, while also accelerating the systematic registration of individual land rights.¹⁴¹

However, though the 1998 legislation and subsequent policy statements are generally regarded as strong, the current implementation of the land governance systems is not sufficiently robust or widespread enough to protect the security of tenure of the urban and rural poor and smallholder farmers. Over 90 per cent of Uganda's population still do not have any form of land documents to protect their land rights, and smallholder farmers' land rights are being squeezed by multiple external factors.¹⁴² The position of women with respect to land and inheritance also remains weak, both legally and in practice, which undermines their livelihoods and social status.¹⁴³

Uganda also still lacks a decentralised institutional structure for land management at the community level. Furthermore, the zonal and district level institutions responsible for land administration, including dispute resolution, remain underfunded and understaffed. There is also a need for extensive training and capacity building within the judiciary and Local Council Courts that interface with traditional institutions with regards to land.



References and Endnotes

1. AUC-ECA-AfDB (2010) "Framework and Guidelines on Land Policy in Africa: Land Policy in Africa: A Framework to Strengthen Land Rights, Enhance Productivity and Secure Livelihoods" Addis Ababa. http://www.uneca.org/sites/default/files/PublicationFiles/fg_on_land_policy_eng.pdf
2. USAID/ USGS (accessed June 19, 2017) "West Africa: Land Use and Land Cover Dynamics" <https://eros.usgs.gov/westafrica/land-cover/land-use-and-land-cover-trends-west-africa>
3. *ibid.*
4. Maitima, J; Mugatha, S; Reid, R. and Mugisha, S. (2009) "The linkages between land use change, land degradation and biodiversity across East Africa" https://www.researchgate.net/publication/228913785_The_linkages_between_land_use_change_land_degradation_and_biodiversity_across_East_Africa
5. Mulinge, W; Gicheru, P; Murithi P; Kihui, E; Kirui, O.K; and Mirzabaev, A. (November 2015) The Economics of Land Degradation and Improvement in Kenya. In: Nkonya ; E. Mirzabaev, A. and von Braun, J. (eds.) "Economics of Land Degradation and Improvement – A Global Assessment for Sustainable Development" pp. 471-498. Springer Open. https://link.springer.com/chapter/10.1007%2F978-3-319-19168-3_16
6. Flintan, F. (June 2011) "Summary Brief: The causes, processes and impacts of land fragmentation in the rangelands of Ethiopia, Kenya and Uganda "Regional Learning and Advocacy Programme for Vulnerable Dryland Communities". http://www.preventionweb.net/files/24288_24288summarybrieflandfragmentationf.pdf
7. Moyo, S. (2014) "Land Ownership Patterns and Income inequality in Southern Africa" <https://pdfs.semanticscholar.org/4b6d/5d9142a42693e17ca28d35e38ff5299d8136.pdf>
8. Nolte, K; Chamberlain, W. and Giger, M. (2016) "International Land Deals for Agriculture Fresh insights from the Land Matrix: Analytical Report II" Land Matrix. http://landmatrix.org/media/filer_public/ab/c8/abc8b563-9d74-4a47-9548-cb59e4809b4e/land_matrix_2016_analytical_report_draft_ii.pdf
9. Smith, D. (April 14, 2015) "Ethiopians talk of violent intimidation as their land is earmarked for foreign investors" The Guardian. <https://www.theguardian.com/world/2015/apr/14/ethiopia-villagisation-violence-land-grab>
10. Knapman, C; Silici, L; Cotula, L; and Mayers, J. (2017) "Africa's farmland in changing hands: A review of literature and case studies from sub-Saharan Africa" IIED, London. <http://pubs.iied.org/pdfs/17598IIED.pdf>

11. Amanor, K.S. (2012) "Land Governance in Africa: How historical context has shaped key contemporary issues relating to policy on land". Framing the Debate Series, no. 1. ILC, Rome. <http://www.landcoalition.org/sites/default/files/documents/resources/FramingtheDebateLandGovernanceAfrica.pdf>
12. Yara International (website accessed June 29, 2017) "Agricultural Growth Corridors" http://yara.com/sustainability/how_we_engage/africa_engagement/growth_corridors/
13. Examples of these include the Southern Agricultural Growth Corridor of Tanzania (SAGCOT) and the Beira Agricultural Growth Corridor in Mozambique.
14. Serraj, R; Byers, B; Engel, P; Bizzotto Molina, P; Rampa, F. and Sayer, J. (2016) "Agricultural Growth Corridors and Agricultural Transformation in Africa: research needs for impact, implementation and institutions". CGIAR Independent Science Partnership Council/ European Centre for Development Policy Management. <http://www.fao.org/3/a-bp142e.pdf>
15. See for example ActionAid (2015) "New Alliance, New Risk of Land Grabs" <http://www.plaas.org.za/news/landgrabs-africa-actionaid>
16. European Parliament (June 7, 2016) "International farm projects in Sub-Saharan Africa need land grab safeguards, MEPs warn." <http://www.europarl.europa.eu/news/en/press-room/20160603IPR30208/international-farm-projects-in-sub-saharan-africa-need-land-grab-safeguards>
17. NEPAD Planning and Coordinating Agency (July 2014) op. cit. <http://terrafrica.org/wp-content/uploads/2017/02/African-Landscapes-Action-Plan.pdf>
18. Amanor, K.S. (2012) op. cit.
19. NEPAD Planning and Coordinating Agency (July 2014) op. cit. <http://terrafrica.org/wp-content/uploads/2017/02/African-Landscapes-Action-Plan.pdf>
20. Schaeffer, M; Baarsch, F; Adams, S; de Bruin, K; De Marez, L; Freitas, S; Hof, A, and Hare, B. (November 2013) "Africa's Adaptation Gap: Climate-change impacts, adaptation challenges and costs for Africa" UNEP. <http://climateanalytics.org/publications/2013/africas-adaptation-gap-climate-change-impacts-adaptation-challenges-and-costs-for-africa.html>
21. *ibid.*
22. Amanor, K.S. (2012) op. cit.
23. Knapman, C et al. (2017) op. cit.
24. Kagwanja, J. (November 2014) "Land Policy, Land Governance and CAADP Agenda" Presentation given at the Conference on Land Policy in Africa 11-14 November 2014 AUC Conference Center. http://www.uneca.org/sites/default/files/images/land_policy_land_governance_caadp_-_joan_kagwanja.pdf
25. Committee on World Food Security (2012) "Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security". FAO. <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>

26. International Land Coalition (2014) "Benchmarks for Land Governance in Africa". ILC, Rome. <http://www.landcoalition.org/sites/default/files/documents/resources/BenchmarksLandGovernanceVGGT-ALPFG.pdf>
27. Committee on World Food Security (June 2016) "Compilation of experiences and good practices in the use and application of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security" http://www.fao.org/fileadmin/templates/cfs/Docs1516/OEWG_Monitoring/3rd_Meeting/Compilation_of_VGGT_Submissions_24_June__2016.pdf
28. *ibid.*
29. Hilton, A. (2017) "FAO Moving into a New Phase of VGGT Implementation" FAO https://www.conftool.com/landandpoverty2017/index.php/06-04-Hilton-361_paper.pdf?page=downloadPaper&filename=06-04-Hilton-361_paper.pdf&form_id=361&form_version=final
30. Committee on World Food Security (June 2016) *op. cit.*
31. FAO (September 2016) "Evaluation of the Global Programme to Support the Implementation of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests" <http://www.fao.org/3/a-bp166e.pdf>
32. FAO and EU Partnerships. "Support to Land Governance in Sub-Saharan Africa. <http://www.fao.org/europeanunion/eu-projects/land-governance/en/>
33. Committee on World Food Security website (accessed June 16, 2017) "Responsible Investment in Agriculture and Food Systems". <http://www.fao.org/cfs/cfs-home/activities/rai/en/>
34. Committee on World Food Security (2014) "Principles for Responsible Investment in Agriculture and Food Systems". <http://www.fao.org/3/a-au866e.pdf>
35. Optional Protocol to CEDAW website (accessed June 16, 2017) "About OP CEDAW" <https://opcedaw.wordpress.com/about-op-cedaw/>
36. Committee on the Elimination of Discrimination Against Women (March 12, 2015) "Concluding observations on the fourth and fifth periodic reports of Eritrea". United Nations. CEDAW/C/ERI/CO/5
37. *ibid.*
38. Committee on the Elimination of Discrimination Against Women (March 11, 2015) "Concluding observations on the sixth periodic report of Gabon". CEDAW/C/GAB/CO/6. United Nations.
39. Migiro, K. (April 5, 2017) "At war with the in-laws: Tanzania's evicted widows push for rights" Reuters <http://www.reuters.com/article/us-tanzania-landrights-women-idUSKBN1771QZ>
40. Asia Pacific Forum of National Human Rights Institutions and the Office of the United Nations High Commissioner for Human Rights (August 2013) "The United Nations Declaration on the Rights of Indigenous Peoples: A Manual for National Human Rights Institutions" <http://www.ohchr.org/Documents/Issues/IPeoples/UNDRIPManualForNHRIs.pdf>

41. *ibid.*
42. The Global Mechanism of the UNCCD (2016) "Achieving Land Degradation Neutrality at the country level Building blocks for LDN target setting" http://www.unccd.int/Lists/SiteDocumentLibrary/Publications/10_2016_bbb_final_web.pdf
43. *ibid.*
44. UNCCD (February 2017) "Scientific Conceptual Framework for Land Degradation Neutrality" http://www2.unccd.int/sites/default/files/documents/LDN%20Scientific%20Conceptual%20Framework_FINAL.pdf
45. *ibid.*
46. Global Land Tenure Network website (accessed July 3, 2017) "Global Land Indicators Initiative (GLII)" <http://www.gltn.net/index.php/work-stream/global-land-indicator-initiative>
47. African Union, African Development Bank and United Nations Economic Commission for Africa (November 2014) "Guiding Principles on Large Scale Land Based Investments in Africa". Addis Ababa http://www.uneca.org/sites/default/files/PublicationFiles/guiding_principles_eng_rev_era_size.pdf
48. International Land Coalition (2014) *op. cit.*
49. African Union (July 2009) "Declaration on Land Issues and Challenges in Africa" Assembly/AU/Decl.1(XIII) Rev.1 http://www.uneca.org/sites/default/files/uploaded-documents/LPI/au_declaration_on_land_issues_eng.pdf
50. Committee on World Food Security website (accessed June 22, 2017) "Implementation of AU declaration on land in africa: strengthening secure land tenure for women" Abstract from side event at CFS 43. <http://www.fao.org/cfs/cfs-home/plenary/cfs43/side-events/47/vn/>
51. AUC/ ECA/ AfDB (October 2012) Land Policy Initiative: Elements of a 5-year LPI Strategic Plan and Roadmap (2012-2016)" <https://landportal.info/library/resources/land-policy-initiative-elements-5-year-lpi-strategic-plan-and-roadmap-2012-2016>
52. Odeny, M. (March 2013) "Improving Access to Land and strengthening Women's land rights in Africa." Paper Presented at the World Bank Conference on Land and Poverty 2013, Washington D.C. http://web.law.columbia.edu/sites/default/files/microsites/gender-sexuality/odeny_improving_access_to_land_in_africa.pdf
53. Committee on World Food Security website (accessed June 22, 2017) *op. cit.*
54. UNECA (March 2, 2017) "LPI Launches Project to Track Progress in Implementing the AU Declaration on Land" <http://www.uneca.org/stories/lpi-launches-project-track-progress-implementing-au-declaration-land>
55. FAO (2015) "The Voluntary Guidelines on the Responsible Governance of Tenure (VGGT): promoting secure tenure rights and equitable access to land as a means of eradicating hunger and poverty" <http://www.fao.org/3/a-i3920e/i3920e11.pdf>

56. IFAD (8 February, 2017) "Land Policy Initiative: generating African-led policies and strategies on land issues" <http://ifad-un.blogspot.co.uk/2017/02/land-policy-initiative-generating.html>
57. NEPAD (2012?) "Introducing the Comprehensive Africa Agriculture Development Programme" <http://www.nepad.org/resource/introducing-comprehensive-africa-agriculture-development-programme>
58. NEPAD website (accessed June 27, 2017) "Comprehensive Africa Agriculture Development Programme (CAADP)-Mauritius" <http://www.nepad.org/content/comprehensive-africa-agriculture-development-programme-caadp-mauritius>
59. Office of the Special Advisor on Africa (website accessed June 28, 2017) "Comprehensive African Agricultural Development Programme (CAADP)" <http://www.un.org/en/africa/osaa/peace/caadp.shtml>
60. Kagwanja, J. (November 2014) op. cit.
61. *ibid.*
62. Hall, R. and Scoones, I. (2016) "Strengthening Land Governance: Lessons from implementing the Voluntary Guidelines". UKAID. <http://www.landgovernance.org/assets/16.05.11-DFID-LEGEND-State-of-the-Debate-Report-1-Strengthening-Land-Governance-Lessons-from-implementing-the-Voluntary-Guidelines1.pdf>
63. GRAIN (January 2015) "Land and Seed Laws Under Attack: who is pushing changes in Africa?" <https://www.grain.org/article/entries/5121-land-and-seed-laws-under-attack-who-is-pushing-changes-in-africa>
64. See for example: GRAIN (October 2015) "Socially Responsible Farmland Investment: a growing trap" <https://www.grain.org/article/entries/5294-socially-responsible-farmland-investment-a-growing-trap>
65. GRAIN (January 2015) op. cit.
66. Castellanelli, C.A. (March, 2017) "A Critique of the Principles for Responsible Agricultural Investment" *Mercator, Fortaleza*, v. 16, e16007, 2017 <http://www.scielo.br/pdf/mercator/v16/1984-2201-mercator-16-e16007.pdf>
67. Internal Displacement Monitoring Centre (website accessed July 3, 2017) "The Kampala Convention Two Years On: time to put theory into practice" <http://www.internal-displacement.org/sub-saharan-africa/kampala-convention/>
68. African Commission on Human and Peoples' Rights. (website accessed June 20, 2017) "About ACHPR" <http://www.achpr.org/about/>
69. Asia Pacific Forum of National Human Rights Institutions and the Office of the United Nations High Commissioner for Human Rights (August 2013) op. cit.
70. *ibid.*

71. Minority Rights Group International (May 26, 2017) "Huge victory for Kenya's Ogiek as African Court sets major precedent for indigenous peoples' land rights" <http://minorityrights.org/2017/05/26/huge-victory-kenyas-ogiek-african-court-sets-major-precedent-indigenous-peoples-land-rights/>
72. See for instance: <http://minorityrights.org/2017/05/26/huge-victory-kenyas-ogiek-african-court-sets-major-precedent-indigenous-peoples-land-rights/>
73. TerrAfrica/ World Bank Group/ NEPAD (2013) "African Resilient Landscapes Initiative" http://terrafrica.org/wp-content/uploads/2013/resource-publications/Concept%20Note%20ARLI_Brochure_Nov%202015_Final.pdf
74. The World Bank (December 6, 2015) "NEPAD Launches Initiative for the Resilience and Restoration of Africa's Landscapes" <http://www.worldbank.org/en/news/press-release/2015/12/06/nepad-launches-initiative-for-the-resilience-and-restoration-of-african-landscapes>
75. AUC/ ECA/ AfDB (2010) "Land Policy in Africa: North Africa Regional Assessment" Addis Ababa. http://www.uneca.org/sites/default/files/PublicationFiles/regionalassessment_northafrica.pdf
76. *ibid.*
77. Staff Representative, LPI. Personal communication June 22, 2017
78. IIED (website accessed June 21, 2017) "Securing Land Rights in West Africa". Page for the "Land acquisitions and rights: legal tools for citizen empowerment 2010-2014" project <https://www.iied.org/securing-land-rights-west-africa>
79. IIED (April 2014) ""Developing Tools to Secure Land Rights in West Africa: a 'bottom-up' approach" IIED Briefing <http://pubs.iied.org/pdfs/17216IIED.pdf>
80. IIED (website accessed June 21, 2017) *op. cit.*
81. Amanor, K.S. (2012) *op. cit.*
82. *ibid.*
83. Staff Representative, LPI. Personal communication June 22, 2017
84. Land Policy Initiative (undated) "A Framework for Harmonised Land Policies in West Africa: an LPI – ECOWAS Partnership" <http://slideplayer.com/slide/4503935/>
85. AUC/ ECA/ AfDB (2011) "Land Policy in Africa: West Africa Regional Assessment" Addis Ababa. http://www.uneca.org/sites/default/files/PublicationFiles/regionalassessment_westafrica.pdf
86. Sahel and West Africa Club Secretariat (August 2006) "Land Reform Processes in West Africa: a Review" OECD. SAH/D(2006)560 http://www.landcoalition.org/sites/default/files/documents/resources/06_OECD_LandNetWestAfrica_Land_reform_processes_in_West_Africa.pdf
87. AUC/ ECA/ AfDB (2011) *op. cit.*

88. Nnoko-Mewanu, J. (August 2016) "Why Liberia Needs to Protect Land Rights" Human Rights Watch <https://www.hrw.org/news/2016/08/17/why-liberia-needs-protect-land-rights>
89. European Union External Action. (March 2017) "The European Union Launches 'Land Rights for Liberia Project'" https://eeas.europa.eu/headquarters/headquarters-homepage/22847/european-union-launches-land-rights-liberia-project_en
90. Stop Illegal Fishing Website (April 6, 2017) "Liberia: FAO, Partners Hold VGGT Implementation Forum in Monrovia" <https://stopillegalfishing.com/press-links/liberia-fao-partners-hold-vg-gt-implementation-forum-monrovia/>
91. AUC/ ECA/ AfDB (2011) op. cit.
92. Wandago, B. (2012) Who Represents Practitioners in the Policy Process? in: Davies, J. (ed.) "Conservation and Sustainable Development: Linking policy and practice in East Africa". IDRC/ Routledge/ IUCN
93. Staff Representative, LPI. Personal communication June 22, 2017
94. IGAD (website accessed June 21, 2017) "IGAD Advances Implementation of AU Declaration on Land" <https://www.igad.int/index.php/divisions/agriculture-and-environment/1418-ig-ad-advances-implementation-of-au-declaration-on-land>
95. Land Policy Initiative (February 2016) "Press Release for the IGAD Land Policy Initiative Meeting" https://www.igad.int/attachments/1283_Press%20Release%20for%20the%20IGAD%20Land%20Policy%20Initiative%20meeting.pdf
96. IGAD. (November 2016) "Land Governance in the IGAD Region on the Right Track" <https://www.igad.int/divisions/agriculture-and-environment/1431-land-governance-in-the-igad-region-on-the-right-track>
97. Ambaye, D.W. (2013) "Land Rights and Expropriation in Ethiopia" Doctoral Thesis. Royal Institute of Technology (KTH)- Sweden, School of Architecture and the Built Environment- Real Estate Planning and Law Division <https://landportal.info/library/resources/doctoral-theses-land-administration>
98. Human Rights Watch (January 2012) "Waiting Here for Death: forced displacement and "villagization" in Ethiopia's Gambella Region" <https://www.hrw.org/report/2012/01/16/waiting-here-death/forced-displacement-and-villagization-ethiopias-gambella-region>
99. AUC/ ECA/ AfDB (2012) "Land Policy in Africa: Central Africa Regional Assessment" Addis Ababa. http://www.uneca.org/sites/default/files/PublicationFiles/regionalassessment_centralafrica.pdf
100. *ibid.*
101. FPP/ RRN/ DGPA (May 2017) "Land reform and protection of communities' rights: Report of the seminar on information sharing on the land reform process and the protection of communities' rights in the implementation of forest policies and climate initiatives in the DRC. Kinshasa, DRC, March 2017. http://www.forestpeoples.org/sites/fpp/files/publication/2017/05/drc-legality-seminar-english-web_0.pdf

102. AUC/ ECA/ AfDB (2011) "Land Policy in Africa: Central Africa Regional Assessment" Addis Ababa. "Regional Assessment Studies on Land Policy in Central, Eastern, North, Southern and West Africa: Synthesis Report" <https://landportal.info/library/resources/regional-assessment-studies-land-policy-central-eastern-north-southern-and-west>
103. *ibid.*
104. Rihoy, L. (undated) "Natural Resource Tenure in Southern Africa: an overview of key issues and policy options for communal areas in Southern Africa". Mokoro. http://mokoro.co.uk/wp-content/uploads/natural_resource_tenure_southern_africa.pdf
105. *ibid.*
106. *ibid.*
107. *ibid.*
108. SADC (2013) "Regional Agricultural Policy" Food, Agriculture and Natural Resources (FANR) Directorate. SADC Secretariat. Gaborone, Botswana. http://www.inter-reseaux.org/IMG/pdf/Regional_Agricultural_Policy_SADC.pdf
109. Staff Representative, LPI. Personal communication June 22, 2017.
110. AUC/ ECA/ AfDB (2010) *op. cit.*
111. Land Portal website (accessed July 3, 2017) "Land Policy Initiative" <https://landportal.info/organization/land-policy-initiative>
112. Staff Representative, LPI. Personal communication June 22, 2017.
113. Staff Representative, LPI. Personal communication June 22, 2017.
114. UNECA (March 26, 2017) "Political will good but not enough to unlock Africa's land potential" <http://www.uneca.org/stories/political-will-good-not-enough-unlock-africa%E2%80%99s-land-potential>
115. Office of the Special Advisor on Africa (website accessed June 28, 2017) *op. cit.*
116. NEPAD (2015) "THE CAADP Results Framework (2015 - 2025)". <http://www.nepad.org/resource/caadp-results-framework-2015-2025>
117. For more on these see: Kagawa, J. (2014) "Land Policy, Land Governance and CAADP Agenda" http://www.uneca.org/sites/default/files/images/land_policy_land_governance_caadp_-_joan_kagwanja.pdf
118. Fotabong, E.L; Makunike, R. and Rukuni, M. (March 2017) NEPAD's Contribution to Implementing Evidence Driven Land Policy at Country Level. Presentation at the World Bank Land and Poverty Conference 2017, Washington DC, session on Expanding African Capacity for Land Governance https://www.conftool.com/landandpoverty2017/index.php?page=browseSessions&abstracts=show&form_session=448&metadata=show&presentations=show

119. *ibid.*
120. UN-Habitat (November 23, 2016) "DRC Launches DfID-Funded Programme to Support Peace and Stability" <https://unhabitat.org/drc-launches-dfid-funded-land-governance-programme-to-support-peace-and-stability/>
121. NEPAD website (accessed June 23, 2017) "Terr-Africa Continental Results" <http://www.nepad.org/content/terrafrica-continental-results>
122. Woodfine, A. and Jauffret, S. (June 2009) "Scope and Pre-feasibility Study on the Great Green Wall for the Saharan and Sahel" <http://www.fao.org/3/a-ax353e.pdf>
123. GRAIN (January 2015) *op. cit.*
124. GabreMeskel, T. and Demissie, B. (February 2017) Perspective of RECs in Implementing the AU Declaration on Land: The Case of IGAD Presentation
125. Staff Representative from PLAAS. Personal communication (July 4, 2017)
126. Staff Representative, IIED. Personal Communication (July 3, 2017)
127. Global Witness / Oakland Institute / International Land Coalition (2012) "Dealing with Disclosure: improving transparency in decision-making over large-scale land allocations, acquisitions and investments" https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/Dealing_with_disclosure.pdf
128. Coulibaly, M. (June 15, 2017) "Historic New Law Secures Land for Malian Farmers" IISD Blog. http://www.iisd.org/blog/historic-new-law-secures-land-malian-farmers?utm_source=list-smaller&utm_medium=email&utm_campaign=Mali
129. *ibid.*
130. *ibid.*
131. Locke, A. (March 2014) "Mozambique Land Policy Case Study" ODI. London. https://assets.publishing.service.gov.uk/media/57a089b5ed915d3cfd0003b8/EoD_HD67_March14_Mozambique_case_study_land.pdf
132. Wise, Tim (December 2016) "Land grab update: Mozambique, Africa still in the crosshairs" The Christian Science Monitor <http://landportal.info/news/2016/11/land-grab-update-mozambique-africa-still-crosshairs>
133. *ibid.*
134. Nielsen, R; Tanner, C. and Knox, A. (January 2011) "Mozambique's Innovative Land Law" Focus on Land in Africa Brief <http://www.focusonland.com/countries/mozambiques-innovative-land-law/>
135. Amanor, K.S. (2012) *op. cit.*

136. FIAN International (April 2017) "Land Grabbing and Human Rights: the role of EU actors abroad". Hands on the Land for Food Sovereignty Alliance. Heidelberg, http://www.fian.org/fileadmin/media/publications_2017/Announcements_Calls_Flyer/WEB_Eng.pdf
137. Amanor, K.S. (2012) op. cit.
138. Filipe, E. and Norfolk, S. (January 2017) "Changing landscapes in Mozambique: why pro-poor land policy matters" IIED Briefing. <http://pubs.iied.org/pdfs/17356IIED.pdf>
139. Baltissen, G. and Betsema, G. (2016) "Linking land governance and food security in Africa Outcomes from Uganda, Ghana & Ethiopia" LANDac Reflection Paper http://www.landgovernance.org/assets/20160831-LANDac_Reflection-paper.pdf
140. Republic of Uganda (February 2013) "The Uganda National Land Policy" Ministry of Lands Housing and Urban Development. Kampala. http://landportal.info/sites/default/files/the_uganda_national_land_policy-_february_2013.pdf
141. The World Bank Group (September 2015) "Searching for the 'Grail': can Uganda's land support its prosperity drive?" Uganda Economic Update. Sixth edition. Report no. 99060. Washington, D.C. <http://documents.worldbank.org/curated/en/755981467986343093/pdf/99060-WP-P155327-Box393200B-OUO-8-V1-UEU6-Economic-update-final.pdf>
142. Global Land Tenure Network website (accessed June 30, 2017) "Country Work: Uganda" <http://www.gltn.net/index.php/country-work/uganda>
143. Baltissen, G. and Betsema, G. (2016) op. cit.

This report is part of an AFSA series of three policy studies, focusing on Land Rights, Agroecology, and Seed Sovereignty.

These reports were published with the financial support of Bread for the World, The Tudor Trust, The 11th Hour Project and The Swift Foundation.



Alliance for Food Sovereignty in Africa

PO Box 571 KAMPALA, UGANDA
Email: afsa@afsafrica.org • Website: www.afsafrica.org
Tel: +256 414 499 169

