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AGRARIAN REFORM, LAND POLICIES AND THE MILLENNIUM DEVELOPMENT GOALS: FAO'S INTERVENTIONS AND LESSONS LEARNED DURING THE PAST DECADE

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Introduction and Background

1. Of all the world's regions, poverty, food insecurity and vulnerability to crisis are of greatest concern in sub-Saharan Africa. Poverty rose by 41 percent to 46 percent between 1981 and 2001 resulting in additional 150 million people living in extreme poverty¹. Currently some 313 million people in sub-Saharan Africa survive on less than US\$1 per day and just under 50 percent of the region's population – 53 percent of the global total - living in poverty².

2. Despite growing urbanization, the incidence of poverty remains highest in rural areas. In the mid-1990s headcount rural poverty in different countries of the region ranged from 40 – 75 percent³. Moreover, the poorest of the poor in rural areas are the landless and the land-poor - those with access to insufficient or poor quality land unable to support a family. In FAO's analysis, the challenge of entrenched poverty requires a strategy which accords high priority to providing more equitable access to land - often requiring changes in policies, legislation and institutions⁴, as well as action to promote broad participation, strengthens rural livelihoods, and foster empowerment of the poor, their capacity for self help and to influence policy⁵.

3. Although customary systems of tenure and land allocation continue to afford widespread access to land across Africa, in practice land rights are often insecure, and there is evidence that landlessness and land inequality are growing amongst smallholder farmers. There is evidence that poorer households, with less land per capita, appear to be more income dependent on their landholdings than the better off⁶. Moreover natural resource availability for livelihoods is in decline, and land based livelihoods are undermined by conflict, natural disasters and HIV/AIDS.

4. Given the acute state of poverty in Africa and continuing trends of slow economic growth and natural resource degradation, member states have considered that an examination of progress, impacts and lessons of work to support agrarian reform, land policy and administration in Africa in the context of the Millennium Development Goals (MDGs), which provide the internationally agreed framework for tackling poverty, is a critical area for consideration at FAO's 24th Regional Conference for Africa (ARC) at the beginning of 2006.

5. This paper aims to provide an overview of FAO's work in relation to key issues, trends and challenges of land reform in Africa over the last decade, and an analysis of the main FAO

¹ *World Development Indicators 2004*, World Bank. Income poverty defined as numbers living on less than US\$1 per day.

² Regional fact sheet from *World Development Indicators 2005*, Sub-Saharan Africa, World Bank, www.worldbank.org/data/datatopic/ssa_wdi.pdf.

³ *Rural Poverty Report 2001: the challenge of ending rural poverty*, IFAD. www.ifad.org/poverty Data for 16 countries in West, Central, East and Southern Africa compiled by IFAD using country specific poverty measures. In the same period urban poverty ranged between 15 and 40 percent for the same countries. Rural poverty is difficult to estimate because of varying national definitions of urban and rural, and systematic data on is not available.

⁴ *Access to land, food security and poverty alleviation: FAO's interventions during the past decade* FAO Land Tenure Service, Rural Development Division, June 2004.

⁵ *Ministerial Review of Progress in the Implementation of the 2003 ECOSOC Ministerial Declaration on Promoting an Integrated Approach to Rural Development in Developing Countries for Poverty Eradication and Sustainable Development*. FAO Rural Development Division, 2005, and *Millennium Development Goals, Rural Development Division (SDA) Narratives*, FAO 2005.

⁶ Results of a study of Ethiopia, Kenya, Rwanda, Mozambique and Zambia drawing on national household survey data 1990 – 2000. TS Jayne et al (2002) *Smallholder income and land distribution in Africa: implications for poverty reduction strategies* Michigan State University / USAID.

interventions strategies and their impacts with reference to specific examples from across the continent. The first part of the paper reviews the MDGs, the broad development trends, and the relevance of land reforms (Section 1), together with current land policy and tenure arrangements and their bearing on the poor (Section 2). In the second part, Section 3 considers the range, effectiveness and impacts of FAO's support to land policy and agrarian reforms in Africa, and Section 4 offers overall conclusions on ways forward with recommendations on next steps for continued engagement.

1. Key Issues, trends and challenges

1.1. Land and the MDGs in Africa

6. Land provides a source of income, livelihood, food security, cultural identity, and shelter, as well as being a fundamental asset for the economic empowerment of the poor and a safety net in times of hardship. Secure rights to land and greater equity in land access are important for poverty reduction, and of great relevance to the attainment of the Millennium Development Goals, notably MDG1, *Eradicating poverty and hunger*. Despite this, the associated targets and indicators do not make explicit the linkages and processes that land reforms contribute to this goal. Land policies and agrarian reforms are also of direct relevance to *Gender equality and the empowerment of women* (MDG 3)⁷; *Environmental Sustainability*, including improvements in the lives of slum dwellers (MDG 7, target 11)⁸, and establishment of effective *Development partnerships* (MDG 8).

7. As a result of the relatively indirect and superficially weak linkages with MDG targets, land interventions have received limited recognition in Poverty Reduction Strategy Papers (PRSP), and in government and donor budgets. Although improved security of land rights and more equitable land distribution are likely to enhance growth⁹, as well as bring about direct reductions in poverty, the specific benefits they have for the attainment of the MDGs are as yet unclear. For example policy makers are likely to consider that MDG targets in education and health may be better addressed through direct interventions in these sectors.

8. The MDGs themselves are silent on the complex processes by which they are to be attained, including how to build sustainable livelihoods, income growth, assets, security and environmental sustainability, all of which are particularly challenging in sub-Saharan Africa. There are also weaknesses in development approaches dominated by budgetary support and PRSPs, which do not always reflect realities on the ground and the processes through which people can move and remain out of poverty. On current trends, the MDGs will not be achieved for sub-Saharan African and poverty will increase¹⁰. Many African nations have been locked into cycles of crisis resulting from conflict, poor governance natural resource degradation and climatic variability, constraining the prospects for economic growth and leaving the poor especially vulnerable.

⁷ In relation to MDG 3 the September 2005 UN Summit resolved to promote gender equality by guaranteeing women's right to own property, ensuring their security of tenure and equal access to productive resources including land. 2005 World Summit Outcome, article 58. Available at http://www.sarpn.org.za/documents/d0001607/P1957-UN-Summit_Sept2005.pdf.

⁸ The one MDG target indicator that explicitly mentions security of tenure, in this case for urban dwellers.

⁹ *World Development Report 2006*, World Bank.

9. Although land policy is undoubtedly important for the elimination of poverty, there is as yet only limited experience in applying improved land access, tenure security and land distribution to achieve pro-poor economic growth that enables the livelihood strategies and social protection of the poor themselves. What mix of tenure arrangements and land administration systems can achieve secure property rights for the poor, the mass of smallholder and family sector farmers and for commercial investors? And how can historical injustices in land distribution be redressed for the African poor while maintaining both the rule of law and agricultural performance?

10. Improved understanding of the concrete linkages between land policies and agrarian reforms, the changing development context in Africa, and their practical impacts is of fundamental importance to achieve the MDGs.

1.2. Development context and trends

11. *Although the population living in urban areas across Africa as a whole is projected to increase, for the time being Africa remains predominantly rural¹¹. Poverty is concentrated amongst rural people and the rural poor continue to depend substantially on agriculture and related natural resources for their livelihoods¹².*

12. Access to land is not generally regarded as the major constraint to the development and prosperity of agricultural livelihoods in Africa. Compared with other regions, predominantly customary systems of land access still afford opportunities to access land and a relatively equitable distribution of land rights, according to demand and the availability of agricultural labour. For Africa's small farmers, *major constraints are access to markets, credit and appropriate improved technologies*. Very often, interventions in these areas are likely to yield beneficial results without requiring change in tenure arrangements.

13. Nevertheless *research reveals growing inequalities in land access in various countries¹³*. In some cases, such as Rwanda, land is becoming increasingly scarce, plot sizes are diminishing, and land competition is growing. Across sub-Saharan Africa as a whole, greater tenure security and improved land access can be expected to strengthen income growth and asset status for the poor, livelihoods resilience, and ability to access credit, and compete in domestic and global markets.

¹⁰ The World Bank predicts that those living in poverty in Africa will increase to 353m by 2015. Regional fact sheet from *World Development Indicators 2005*, Sub-Saharan Africa, World Bank, www.worldbank.org/data/databytopic/ssa_wdi.pdf.

¹¹ Africa's urban population will increase from 37.9 percent of the total population in 2000 to 46.5 percent in 2015, and 54.5 percent in 2030, but 500 million Africans will still live in rural areas in 2015. *UN World Urbanization prospects: the 1999 revision*.

¹² Data on economic and livelihood dependence on agriculture and natural resources are difficult to obtain and not comprehensive. In a five country study (TS Jayne et al 2002, see footnote no. 3), households with smallest land holdings all earned more than 50 percent of their income (more than 80 percent in Rwanda in Kenya) on farm, despite very small plot sizes. Across sub-Saharan Africa 78.6 percent of exports were primary natural resource products, providing 21.2 percent of GDP in 2000, and much more in some West and Central African countries (UK Government 2005 *Our Common Interest: report of the Commission for Africa*).

¹³ Data analysed by the study by TS Jayne et al (2002) cited earlier showed growing land inequalities in Kenya, Rwanda, Ethiopia, Mozambique and Zambia in the 1990-2000 period.

14. Increasing urbanization is caused by high population growth in some countries and *rural–urban migration, resulting from the search for non-farm employment*, and weaknesses in the agricultural sector which has failed to deliver sufficient employment and livelihood opportunities, particularly for youth. There are also continuing pressures from domestic and international commercial interests on land resources for mining and forestry, tourism and wildlife. As a whole, these trends involve growing competition for land in higher potential rural areas and at the peri-urban interface, where in-migration and land development undermine tenure and livelihood security, and increase demand for land and shelter. In response to these dynamics, Africa will require renewed approaches to rural and local economic development including both agricultural investments for the rural poor and livelihood diversification.

15. Within these trends, evolving development policies of particular relevance to Africa's land policy and agrarian reforms include:

- *The growing importance of governance, decentralization and institution building:* owing to post colonial priorities of national integration and dominance of state-led Africa's highly centralized rural development institutions have inhibited development of local institutional capacity and resource mobilisation, while undermining popular accountability and participation. Decentralization programmes are now underway in many African countries to create more responsive and equitable governance¹⁴. These include development in some cases of local land administration services and support to customary systems of land management. However, in avoiding the traditional elite and urban biases of centralized land institutions, and building skilled capacity at local level, these programmes can have high resource costs and long time lags.
- *The growth of infrastructural investment* is likely to drive up land values and impact on existing land occupation, creating needs to clarify land rights, assure adequate compensation for land losers and equitable governance of the land development processes¹⁵.
- *Increasing importance of a pan-African partnerships and alliances:* the New Partnership for Africa's Development (NEPAD) provides the framework for African nations collectively to take forward programmes for development of capacity building, improved governance and poverty reduction, in partnership with G8 nations and other donors. Within NEPAD, the Comprehensive Africa Agriculture Development Programme (CAADP) offers a framework for agricultural development tackling poverty and food insecurity. Its core objective is a sustained 6 percent annual growth rate in agriculture. Since investments in high productivity commercial production will impact on existing land use and land rights, CAADP will need to find ways of addressing tenure and equity issues at local level. *African regional economic integration organizations* (REIOs) take growing interest in the development of convergent land policies, lesson learning, future scenario planning, trans-frontier resource management and migration. Southern Africa Development Community (SADC) is developing a regional land reform technical support facility to help address unequal and racially skewed land distribution amongst other issues.
- *A slowly improving trade policy environment:* continued removal of trade barriers, phasing out of agricultural subsidies, and investments in trade capacity should allow Africa to reverse

¹⁴ World Bank, 2000 *Can Africa claim the 21st Century?*, citing McLean K, G Kerr and M Williams *Decentralization and rural development: characterising efforts of 19 countries* World Bank 1998.

¹⁵ *Our Common Interest* (report of the Commission for Africa, UK Government 2005) recommended increasing infrastructure investment to \$10 billion per year by 2010 and to \$20 billion per year over the following five years, to expand road and irrigation networks and major power plants.

its declining share of world trade. Greater access to global markets will benefit Africa's farmers, but will also increase demand and competition for land and secure land rights.

- *The continuing priority of sustainable natural resource management is a key parameter for land policies, land reforms and development planning as a whole, to safeguard the economic resource base and quality of life of present and future generations.*

2. Agrarian reform, tenure and land policy: current arrangements and challenges

2.1 Predominance of customary tenure

16. Except where land has been nationalised and where private title has been conceded by the state, Africa's tenure arrangements in rural and many urban areas are based on a continuing and overwhelming predominance of customary practices of land allocation and transaction. Often these include complex sets of individual and collective primary and secondary rights to land and natural resources¹⁶. Despite their extent and legitimacy, customary systems are under strain, because of demographic pressure, land scarcity and competition, growing urbanization, inter-group and wider civil conflicts, breakdowns in customary authority, and pluralistic systems of law. African nations continue to grapple with the co-existence of customary and formal tenure systems, symptomatic of the "bifurcated power"¹⁷ of the colonial state. Although post-independence legislation and institutions have to varying degrees recognised customary rights, and informal systems of land rights or deeds documentation have begun to emerge, governments are generally not fully able to resolve the problems of conflicting tenure rules, exacerbated by multiple layers of legislation and responsibilities for land allocation, which lead to widespread uncertainty, insecurity, and disputes, restraining investment and land development.

2.2 Tenure reforms

17. There is a history of unsuccessful attempts, from the mid-twentieth century onwards, to extinguish customary rights and replace them with formal title, ignoring customary institutions and concentrating instead on development of formal ones¹⁸. The capacity and coverage of formal land administration systems, however, remain extremely limited and confined largely to core urban areas, former colonial commercial farms and state land development schemes¹⁹. Most African nations are now seeking harmonisation or integration of customary and formal tenure systems, through legal recognition and empowerment of local institutions for management of land rights and transactions. With variations in the degrees of formalised documentation of rights, these approaches are strengthening security of tenure and facilitating access to credit. Yet tenure reforms in Africa still confront considerable challenges, including weak implementation capacity of land sector institutions, vested interests, rent seeking and reluctance to implement change, requiring gradual institution building within broader public sector reforms.

¹⁶ P Lavigne Delville, Toulmin C, Colin JP and Chauveau JP 2002 *Negotiating Access to Land in West Africa: as synthesis of findings from research on derived rights to land* . IIED / GRET.

¹⁷ Mahmood Mamdani, 1996 *Citizen and Subject: contemporary Africa and the legacy of the late colonialism* , Princeton University Press.

¹⁸ see for example *Evolving land rights, policy and tenure in Africa* Camilla Toulmin Julian Quan 2000 DFID/ IIED/NRI March.

¹⁹ Clarissa Augustinus *Land Administration in Africa* unpublished background paper for World Bank Policy Research report on Land, DFID 2002.

2.3 Inequities in land access

18. In Southern Africa, there has been only very limited progress in reversing racially inequitable land distribution since independence and the end of apartheid. A purely market-based approach based on the principles of “willing seller, willing buyer” has proved incapable of delivering land to the poor on any significant scale, and the countries affected are now seeking to develop alternatives²⁰. Broader social inequities in land access and control persist across Africa. Women face discrimination under both customary and formal systems as a result of culturally embedded discriminatory beliefs and practices, male control of inheritance systems, and the spread of HIV/AIDS, which further weakens land rights and livelihood options of widows and orphans. Pastoralists and ethnic minority groups are subject to discrimination and conflict in securing access to grazing land and water sources, and in high population areas, youth face increasing difficulties in accessing land. Land policy and agrarian reforms offer an important route to attaining the MDGs in Africa through greater security and certainty of property rights, increased agricultural productivity, greater gender equality, increased assets for poor households and communities, and improved delivery of investments to generate economic opportunity.

2.4 Changing donor financial mechanisms and aid instruments

19. African nations need assistance to negotiate changing aid modalities to obtain effective support for land reforms, since these are long term processes that need sustained donor commitments. Based on the consensus achieved through recent World Bank and European Union consultative processes, there is a growing and constructive trend for coordinated multidonor approaches to land sector reform, but there is as yet limited experience. Donor financing mechanisms have shifted towards budgetary support for governments agreed through the framework of the PRSPs, but on the whole these have not proved effective in addressing issues of land, property rights and agrarian change, despite their strategic significance for growth and poverty reduction. Land ministries compete with high spending sectors of more direct concern to governments and donors. Africa’s land reforms will involve extensive capacity building, requiring finance but also technical assistance, facilitation, stakeholder dialogue and careful monitoring and evaluation, for which project based and sector-wide approaches are generally more appropriate.

2.5 Ways forward

20. To ensure that agricultural and wider economic development in Africa is pro-poor, it is necessary to *ensure a viable future for family farming and reconcile existing land rights and the need for investment*, through equitable frameworks for land access by both rich and poor men and women, and through strengthening market access, technical support, credit availability and farmers organizations.

21. Such an equitable, pro-poor development path involves a set of interrelated technical and policy measures to address the challenges of land and agrarian reform.

²⁰ Donor reluctance to commit funds to land acquisition and redistribution on the government’s terms led to a wave of state sanctioned land expropriation in Zimbabwe; Namibia has introduced a land tax and is proceeding with the redistribution of state acquired land. South Africa has asserted willingness to abandon willing seller - willing buyer and develop new approaches– see Edward Lahiff 2005 *From ‘willing seller, willing buyer’ to a people driven land reform*, PLAAS Policy Brief No.17.

- **Crafting appropriate land policy and law that protects customary rights and harmonizes statutory and customary tenure practices:** overcoming the legacies of colonial law and policy through stakeholder participation to achieve consensual policies and coherent new legal frameworks that secure property rights for rich and poor alike, recognise secondary and collective rights and avoid the pitfalls of drives for comprehensive individual titling.
- **Building effective, decentralized land institutions:** developing the human resources to increase the coverage of land institutions with clear roles for legitimate village based and customary bodies, and checks and balances against opportunism by traditional leaders and local elites; increasing accountability in land management and accessible processes to resolve disputes and uncertainties.
- **Addressing gender inequality:** building gender equity into constitutional law to reduce discrimination in formal and informal tenure and inheritance systems, including problems of inheritance; promoting progressive change in social practice through education; tackling human rights abuses while maintaining respect for cultural norms.
- **Mitigating landlessness caused by HIV/AIDS:** protecting the land rights of widows and orphans; addressing the impacts on farm labour, incomes and livelihoods; securing the land for future generations.
- **Enhancing the role of land markets:** granting legal status to customary land transactions in recognition of their prevalence and utility; improving documentation; recognising the limitations of formal sales markets as a means of land access for the poor and facilitating equitable development of rental markets.
- **Sustaining the commons, including pastoralist resource access:** guarding against the risks of individualisation, nationalisation and exclusive forms of control; granting collective community resource rights; strengthening local management institutions and negotiated agreements for sustainable resource utilisation by multiple stakeholders for common lands including trans-frontier resources.
- **Addressing the links between land and conflict:** resolving bottlenecks in formal judicial process; introducing alternative dispute resolution systems; focussing on rebuilding land institutions after violent conflicts and land access for refugees, returnees and displaced people.
- **Resourcing land distribution and supporting new small farmers in Southern Africa:** overcoming the limitations of current market based and willing seller, willing buyer approaches; introducing progressive land taxes; providing post settlement and livelihoods support; matching land supplies with demand; linking orderly land reforms with local economic development.
- **Promoting land delivery and planning in urban and peri-urban areas:** engaging with local government and customary land owners to provide secure rights and adequate compensation for the poor; managing the growth of small and medium towns; upgrading informal settlements; improving land delivery in urban areas; reducing land speculation, land conflicts and the loss of agricultural land.
- **Providing an effective and convergent institutional architecture on the part of international development agencies:** delivering global efforts to facilitate pro-poor agricultural development and economic growth in the context of the MDGs, including essential support to land reform and securing property and usufruct rights – something to which FAO can potentially make a major contribution.

3. FAO strategies and interventions

3.1. Overview

22. FAO is a recognized global leader in land issues and through the Land Tenure Service serves functions as an institutional “warehouse” of knowledge and expertise in providing technical assistance, as well as legal expertise through the work of FAO’s Development Law Service. FAO interventions on land and agrarian reform comprise a *programme of normative work*, advice, support and publications on international good practice, and a *field based programme of technical support* in specific countries. In a number of cases there is direct synergy between areas of normative work and technical interventions.

23. Work under the normative programme involves a number of themes:

- contributions to FAO’s wider work on *Integrated Use of Information for Sustainable Development*, including a global land tenure database and a series of studies on **HIV/AIDS and** land tenure;
- *land tenure institution building for food security and rural development*, developing methodologies, policy guidance and training materials on issues such as decentralized land administration, common property regimes (CPRs), community land demarcation, and tenure conflict management for government assisted land projects.

The normative programme has generated a range of useful publications, including:

- *FAO Land Tenure Studies*: concise authoritative guidelines for practitioners and policy makers on key land issues²¹;
- *FAO Land Tenure Notes*: in a format for use by grassroots organizations and practitioners at local levels (notably a recent manual on land leasing arrangements);
- a *Multilingual Thesaurus on Land*;
- *FAO Land Reform Bulletin*, publishing analytical articles on land and agrarian reform.

24. The Land Tenure Service also contributes actively to the interdisciplinary and cross-sectoral work within FAO, such as the development of training resource material on natural resource conflict management and the Livelihood Support Programme (LSP). FAO work on conflict management is intended to introduce a strong livelihoods perspective into FAO’s work and field activities, and has generated a useful set of studies.

25. The field programme involves the expertise of staff and consultants from FAO Headquarters and decentralized offices in providing technical assistance to field activities in direct support to or in partnership with governments, donors and other organizations. The programme involves two broad types of intervention:

- Technical advisory support (often in close collaboration with FAO’s Development Law Service): situation analysis, studies and diagnostics to assess existing land tenure and institutional arrangements (land access, land allocation, rights, security, gender issues, vulnerable groups, conflicts, weaknesses and gaps) and developing recommendations and

²¹ *Good practice guidelines on agricultural leasing arrangements; Land tenure and rural development; Gender and access to land; Decentralization and rural property taxation; Access to rural land and land administration after violent conflicts among others.*

strategies for improvements (legal and institutional reform and development, community based management, decentralized land administration and governance systems).

- **Direct technical assistance:** development of land policies and legal frameworks; enhancing effectiveness and performance of decentralized land administration systems; mainstreaming livelihood-based natural resource conflict management approaches, by designing adaptive training programmes and through negotiated participatory approaches such as territorial agreements; increasing civil society engagement in land-related issues and building capacity of the poor e.g. through producer organizations; integrating land rights, tenure security and land access issues in broader development initiatives.

3.2 Specific examples

Mozambique land policy and legal process

26. Recognizing the need for a new national land law, Mozambique requested FAO to provide technical assistance in crafting an innovative approach to land rights that allows both local residents and investors to gain. The implementation of a new policy and legislative framework, which FAO assisted, enables local communities to map the boundaries of land they have customarily used, and proceed to land titling. The law protects against inadvertent dispossession of community land and facilitates community negotiation with commercial investors. Civil society groups have been successfully involved in the reform process and are playing an important information dissemination role. FAO support to a Judicial Training Centre targets the new generation of local judges to better understand the letter and the spirit of the land law.

27. FAO has also initiated an institutional participatory approach to the formulation and testing of new territorial planning legislation, which in combination with ongoing work to implement the land law, would aim to strengthen communities involvement in the management of natural resources on a broader scale. Building on experience of Mozambique, FAO is preparing normative materials on resource tenure targeting Lusophone countries.

Research and networking on land, gender and the impact of HIV/AIDS in Eastern and Southern Africa

28. FAO has commissioned several country and regional studies on gender and land rights covering gender and land sector institutional reforms, gender and changes in customary land tenure, HIV/AIDS and land rights of AIDS widows, gender and peri-urban land tenure and the economic implication of women's independent land rights. Study findings were presented at several regional workshops²². With the Oxfam Land Rights Network, FAO has now established a regional and international network on women and land rights including UN agencies, government bodies, research institutions, NGOs and local women's groups. A regional workshop shared the experiences of different institutions and defined issues for action, further research, and mechanisms of future collaboration, at both policy and project/programme levels.

²² including the World Bank Africa Regional Land Policy Consultation Workshop, Kampala, May 2002 and a workshop held by EASSI (Eastern African Sub-Regional Support Initiative for Advancement of Women) in Kampala in 2001.

29. FAO also commissioned a series of empirical and analytical studies, and organized a regional workshop²³ on HIV/AIDS and land in Eastern and Southern Africa (South Africa, Lesotho, Malawi, Kenya and Uganda) examining the impacts on families, women, children and rural livelihoods. The challenges are now to formulate specific projects to address HIV/AIDS and land issues for negotiation with donors, and the mainstreaming of HIV/AIDS issues in rural institutions and livelihood programmes with a focus on the most vulnerable groups.

Peri-urban land issues in Eastern and Southern Africa

30. FAO has focused on peri-urban lands issues and urban agriculture through country studies in Tanzania, Kenya, Malawi and Uganda to examine the main issues, opportunities and constraints, and recommend preliminary strategies for peri-urban land tenure planning and regularization as a way of improving food security in particular and livelihoods. FAO has also explored common areas of work on women's rights with UN HABITAT including the impact of HIV/AIDS on urban and peri-urban informal settlements and specific collaboration on these issues in Lesotho.

Post conflict reconstruction and conflict management

31. FAO has assisted with initial studies, analysis of land related conflicts, legal and institutional frameworks, and definition of how to support future tenure arrangements in a variety of African post-conflict contexts.

32. In Angola, from the late 1990s during an intensive period of transformation and development, FAO has provided technical assistance to improving access to land by resolving conflicting claims for land arising from the settlement of Internally Displaced People (IDP) through several projects²⁴. FAO has supported negotiation processes between private entrepreneurs, local communities and traditional authorities on the settlement of displaced people, and participatory land demarcation for settlement, leading to provisional titling of displaced people on their customary lands. FAO is assisting the development of national land policy and law to better respond to future development needs by providing specific information and expertise and enlarging the public arena for debate. FAO has also supported improving the land administration capacity and the digitisation of land records, and stimulated debate on the appropriate institutional framework for land management and territorial planning.

33. In Sudan, FAO has assisted post-conflict reconstruction through the resettlement of IDPs and minimisation of land conflicts as a foundation for sustainable development²⁵. FAO's in-depth diagnostic work helped to establish a planning framework for the Government, Sudan People's Liberation Movement (SPLM) and non-government organisations (NGOs) to work together in

²³ in collaboration with Human Sciences Research Council, South Africa (HSRC).

²⁴ OSRO/ANG/002/ITA: Provision of agricultural Inputs to Vulnerable Farming Families within Huila and Huambo Provinces; GCPS/ANG/005/ITA: *Projet pour la Sécurité Alimentaire de la Province de Uige*, Angola; MTF /ANG/028/NET: Support to a Decentralized Land Management Programme; An initial programme for decentralized land management in support of the return of IDP (pilot case in Huila province); TCP/ANG/0168 *Renforcement de la sécurité foncière pour les populations déplacées et les communautés résidentes*.

²⁵ GCP/INT/758/EC-SUD: Support to IGAD Partner Forum Working Group on Planning for Peace; OSRO/SUD/409/HCR Land and Property Study of Sudan: scoping of issues and questions to be addressed; and OSRO/ SUD/415 NET Technical assistance to secure and reconstitute land rights, address land and property dispute resolution and negotiate consensual land management.

rehabilitation of war-affected areas, emphasising rapid transition from humanitarian relief to programmes for restoration of self-reliance and sustainable livelihoods. This in turn led to preparation of a project to support land rights restitution and security, reduction of land and natural resource conflict (including for pastoralists) and negotiated consensual planning in pilot areas. The approach involves a set of coherent and complementary activities to develop decentralized participatory land management, legal security for customary rights, minimal land administration and information capacity, and practical land dispute resolution mechanisms to protect the rural poor against land grabbing and speculation.

Natural resource conflict resolution processes and training

34. In Ghana, with support from the United Kingdom's Department for International Development (DFID), under the LSP program, FAO's Land Tenure Service worked with the a gamut of government and civil society partners to pilot a conflict management approach involving locally negotiated agreements with cycles of training and mentoring for those involved. This is now being mainstreamed through the a World Bank-supported Community Based Rural Development Project in Ghana, and a similar initiative launched in Central African Republic to mainstream a capacity-building and training initiative for natural resource conflict management, with a focus on farmer-herder conflicts.

35. In Angola FAO has undertaken significant training in the resolution and prevention of land conflicts for government land institutions and civil society organizations in negotiated and participatory land demarcation and territorial negotiation, land registration GIS mapping systems and other new technologies, and similar training activities will be integral to post-conflict work in Sudan. Practical training is backed by guidance materials produced by the normative programme²⁶.

Support to redistributive land reform

36. In Namibia FAO has provided technical assistance in support of the Agricultural (Commercial) Land Reform Act through a technical collaboration project and consultancy²⁷. The principle focus included assistance in the preparation of regulations for the implementation of a land tax. The tax is intended to discourage non-productive and speculative landholding, and the revenues generated are to be used to acquire commercial land for resettlement and improve smallholder production.

FAO legal work on land

37. In Niger, FAO assisted in the establishment of a legal framework that provided long-term security for farmers who migrated to new areas to gain access to land, the *Code Foncier Rural*²⁸. The legal framework provides assurance for incoming farmers in their agreements with traditional land owners, allowing them to make long-term investments for sustainable agriculture. In Mali FAO supported the elaboration of a Pastoral Charter to ensure equitable access and

²⁶ e.g. *Negotiation and mediation techniques for natural resource management* Antonia Engel and Benedict Korf 2004, output of the FAO interdepartmental Livelihoods Support Programme; *Access to rural land and land administration after violent conflicts* FAO Land Tenure Studies No.8.

²⁷ The consultancy was financed through the UK/FAO Consultants Trust Fund.

²⁸ TCP/NER/6712: *Reglementation Fonciere Rurale*.

sustainable use of rangeland resources by herders, farmers and fisherfolk²⁹. Following an analysis of regional tenure practices, a national inventory of rules and customs related to pastoralism was prepared and, in parallel, existing legislation relating to pastoralism was examined. FAO helped develop a Pastoral Charter in Burkina Faso³⁰, supported the land law process in Mozambique, discussed above, and developed regulations for Guinea Bissau's 1998 Land Act. FAO legal work has been most effective when combined with in-country technical engagement with the processes of legislative development and implementation³¹.

Support to civil society engagement

38. In a number of countries, FAO provides support to the emergence and skills development of farmer organizations and promotion of their engagement in national and regional policy issues. In Burkina Faso FAO's work to strengthen the *Confederation Paysanne du Faso* (CPF) has provided a forum for exchange and debate on themes such as land tenure security in relation to farming as a "profession", family farms, agro-business, global trade policies and food security. CPF has provided inputs to national and subregional debates and strategies, including the "Reorganization Agraire et Foncière (RAF)" and the African Agricultural Policy of the Economic Community of West African States (ECOWAS).

Engagement with multi-donor land administration and reform programmes

39. In various cases FAO provides technical assistance to on-going multidonor supported land programmes, in some cases playing an important facilitative role in the early stages, for example in strengthening local ownership and stakeholder participation in the multi-donor Land Administration Programme (LAP) in Ghana³².

3.3. Overall analysis and assessment of FAO interventions

40. As an international public institution, FAO is uniquely placed as a neutral broker providing impartial technical advice and assistance on controversial and sensitive land reform issues, and accessing key stakeholders, notably government, in ways which certain bilateral donors may be unable to do.

41. FAO's mandate and experience provides the ability to initiate and innovate by mobilising appropriate, high quality and timely technical expertise at the beginning of land policy and post conflict reconstruction processes. Clearest successes are where leading edge diagnostic studies are translated into pilot actions and then mainstreamed through establishing new sustainable partnerships at country level. FAO has played important roles building land sector institutional

²⁹ TCP/MLI/6714: *Appui a l'Inventaire et a la Codification des Normes et Coutumes Pastorales et Foncières*, which resulted in *Loi No.01-004 DU 27 FEV. 2001 Portant Charte Pastorale du Mali*.

³⁰ *Loi No.034-2002/an portent loi d'orientation relative au pastoralisme au Burkina Faso*.

³¹ FAO's comparative analysis of legal issues in the wider areas of rural development, agriculture, natural resources and environment, made available as *FAO Legal Papers Online* <http://www.fao.org/legal/pub-e.htm> e.g. paper No. 39 *Legal frameworks and access to common pool resources*, Jonathan Lindsay, 2004; Paper 35 *Essai de presentation des tendances d'evolution du droit pastoral en Afrique de l'Ouest*, Ibrahima Ly 2004; also *Law and Sustainable Development Rio*, Ch 8 on Land law, FAO Legislative Study 73.

³² LAP (funded by World Bank, DFID, GTZ, KFW, the Nordic Development Fund and CIDA), aims to harmonize land policies, and reform the legal framework and sector institutions to develop effective decentralised "one stop shops", improve title registration and dispute resolution systems, support Customary Land Secretariats, and build training, research and private sector capacity.

capacity, enabling negotiated settlement and tenure solutions for displaced people, and in facilitating the development of good land legislation.

42. In sum, FAO is addressing a number of important land reform challenge areas through research, diagnostics, programme design, pilot interventions, and ongoing technical support and mainstreaming, including:

- strengthening tenure security by incorporating the range of customary, secondary and common property rights in appropriate legislation;
- decentralized land administration and dispute resolution systems, with roles for customary institutions;
- coherent action to resettle displaced people, develop negotiated territorial planning and construct effective land agencies in a post-conflict context;
- analysing the impacts of HIV/AIDS and its implications for women's and children's land rights;
- use of land taxes to promote more equitable land distribution, more efficient land utilisation, revenue generation and the rule of law in land reforms;
- addressing land use change in peri-urban areas, and the growing significance of rural towns and rural-urban linkages;
- increasing meaningful engagement of civil society and farmers' organizations in land reform processes.

4. CONCLUSION

4.1 Ways forward

43. FAO's dedicated land policy and tenure expertise and specialised regional (and global) technical knowledge on land is an important asset in Africa's fight against poverty, based on its long historical experience resulting in a comprehensive understanding of the complexities of land reform in Africa. There is clear value in ensuring and further developing FAO's role, despite current funding limitations.

44. To build on FAO's strengths and successes as a key technical and normative agency addressing land and agrarian reform within the evolving global institutional architecture for poverty reduction in Africa, the overriding requirement for ensuring sustainable outcomes is to maintain a strong strategic focus buttressed by active alliance building with other UN agencies, multilateral and bilateral agencies, but also, critically, Africa's regional and subregional institutions and civil society network partners.

4.2 Specific recommendations and next steps

1. Consolidating a strategic approach within FAO

- a) Giving more systematic attention to further analysis, piloting and mainstreaming in specific countries and sub-regions, to address the specific challenges with which FAO now has solid experience.

- b) Strengthening growing synergies between normative, legal and technical work³³.
- c) Giving greater attention to sustainability and Land Tenure Service value-added in national contexts where FAO is not a major player and bilateral and multilateral donors play leading roles.

2. Promotion of balanced, comprehensive and inclusive policies

- a) Supporting improved secure land access for the poor and restoring alienated land rights, in parallel with modernisation of the agricultural sector and improving efficiency.
- b) Extending negotiated territorial perspectives on rural development and land access in Africa to deliver sustainable combinations of small scale farming and larger natural resource based enterprise, strengthened cross sectoral coordination, improved public-private-civil society partnerships, and better stewardship of the natural resource base.
- c) Sustaining work to protecting the rights and economic opportunities and social of women, vulnerable groups and future generations.
- d) Bringing together urban and rural lands issues within common legal, institutional and strategic frameworks.

3. Strengthening of multistakeholder engagement and partnerships on land in Africa

- a) Help to develop convergent action - through the holding of the International Conference on Agrarian Reform and Rural Development (ICARRD)³⁴ - to develop a lasting African learning platform on land and agrarian reform, working alongside the UNDP / UN Dryland Centre (UNDC) initiative on land in Africa.
- b) Engage with NEPAD and CAADP and the planned African Union / UN Economic Commission for Africa (ECA) initiative on land in 2006 -07 to promote a proactive approach to land by African nations, sub-regional economic communities and donors, to address priority issues, gaps and constraints.
- c) Extend collaboration with UN Habitat to support development of coherent policy and institutional frameworks for both urban and rural land issues, linking policy and technical guidance to joint country level engagement on priority themes:
 - i) Extending current collaboration on post-conflict issues - re-establishing land records, land restitution and settlement of displaced people and returnees.
 - ii) Fair compensation for people expropriated by land development processes.

³³ With better resourcing, FAO's considerable analytical / case-study output could be further developed into practical guidance material, and the *Land Tenure Studies* series could be more effectively disseminated and adopted. Some explicit focus on analysing and demonstrating the poverty impacts and linkages of land reforms in achieving the MDGs would also be useful.

³⁴ ICARRD aims to achieve establishment of a lasting Platform for learning and dialogue on Agrarian Reform and Rural Development, and stakeholder agreement on best policies, practices and lessons learned for priority action.

iii) Equitable and accountable use of state lands.

- d) Provide ongoing technical assistance for stakeholder capacity building to promote civil society engagement in land policy development and implementation, including community based and farmers' organisations.