

Training Material for an Executive Course on:

HOW TO DEVELOP AN INCLUSIVE LAND POLICY



Adapted for the Somali Region

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Training Material for an Executive Course on: How to Develop an Inclusive Land Policy - Adapted for the Somali Region

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Further information and contacts can be found at www.gltm.net

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Acronyms and abbreviations

FFP:	Fit-for-purpose
GLTN:	Global Land Tool Network
IDP:	Internally displaced person
NGO:	Non-governmental organization
UN-Habitat:	United Nations Human Settlements Programme

Background and descriptive information about the training material

Purpose of the training course

UN-Habitat and the Global Land Tool Network (GLTN) have developed this training course in response to the increasing demand for greater knowledge exchange and capacity in the field of land policy development and housing, land, and property rights in the Somali Region.

The aim of the training is to strengthen the capacity of Somali Government representatives and other relevant land actors in developing, implementing and monitoring land tenure security and inclusive land policies. The training course offers a way forward based on the experiences gathered in other countries, particularly in Africa and Asia. The course also outlines a process that can be adapted as appropriate to the situation and the specific aspect of land policy that needs to be addressed. The modules are designed for and adapted to the Somali context but can be relevant to other countries too.

Content of the training material

The content of this training course is based on the guide *How to Develop an Inclusive Land Policy* developed by UN-Habitat and the Global Land tool Network (GLTN) in 2007. The content and design of this course have been enriched by the experiences of GLTN partners, facilitators and key resource people.

The training material is arranged in six modules, each covering a different topic, presented thus:

Module 1. **BRIEF BACKGROUND ON LAND ISSUES IN THE SOMALI REGION**

Module 2. **INTRODUCTION TO INCLUSIVE LAND POLICY**

Module 3. **MANAGING CONFLICTS AND POLITICS**

Module 4. **ADDRESSING THE TECHNICAL ISSUES AND KEEPING PEOPLE INFORMED AND INVOLVED**

Module 5. **SUPPORTING APPROVAL AND IMPLEMENTATION**

Module 6. **THE LAND POLICY PROCESS**

Overview of the course modules

Module	Content	Synopsis
1	Brief background on land issues in the Somali Region	This module introduces the background and the relevant core land issues in the Somali Region.
2	Introduction to inclusive land policy	This module introduces the concept of “inclusive land policy” and explain the importance of developing such policy.
3	Managing politics and conflicts	This module addresses the political and technical issues that can arise in the development of inclusive policies and proposes a strategy to manage potential conflicts.
4	Addressing the technical issue and keeping people informed and involved	This module outlines the importance of having the right stakeholders involved in the process and how to keep them involved in policy development.
5	Supporting approval and implementation	This module outlines the fundamental steps to get a policy approved and implemented.
6	The land policy process	This module identifies the pivotal role of land tools and the ten components of a land policy process.

Targeted group and duration of the training course

This training course is intended for Somali Region government representatives and other stakeholders and policymakers addressing land issues, such as humanitarian and development actors, donors, land professionals, consultants, NGOs and civil society representatives, who are involved in developing, implementing or monitoring land policies. Indeed, the inclusion of all these groups and the combination of skills is vital for the resulting policy to be politically acceptable, technically feasible, inclusive for all people and groups, and capable of being enforced. The modules can be used as a reference tool and as source material for training workshops or discussion sessions, as well as serving as a toolkit for a dedicated, two- to three-day training course.

Learning objectives of the training course

After taking this course, trainees will be able to:

1. Describe the key aspects of the process of developing an inclusive land policy.
2. Explain the importance of a multi-stakeholder, gender and age inclusive process.
3. Analyse the political and technical aspects of developing and implementing a land policy.
4. Engage in and successfully lead or contribute to inclusive land policy processes.

Notes for the facilitators

Planning the course

Training needs and situations can vary, therefore the planning should anticipate and take into account the variables such as the length and the approach of the workshop, the experience of the facilitators, the knowledge and skill level of participants and the training context.

A good learning process has three distinct steps: preparation, activity and follow up, even though there may be some overlap between the steps and sometimes looping back is necessary. The table below summarizes the good practice components of each step in a learning activity, which stresses that preparation and follow up are equally important as the activity itself.

Good practice components of a learning activity		
<p>Preparation</p> <ul style="list-style-type: none"> - Clarify the purpose of the activity in terms of the specific needs to be addressed - Identify the right entry points and negotiate using them - Identify the right target group: agree on criteria of suitability participation and negotiate to get the right people in the room (this is possibly the most important preparation step of all) - Consult and formulate appropriate learning objectives based on the 	<p>Activity</p> <ul style="list-style-type: none"> - Use the right tools and sequence of steps to create a process that fits the needs, but be flexible and change if necessary - Take time before starting the substantive steps to clarify expectations and objectives - Have appropriate and adequate people and resources available to support the process - Facilitate rather than teach, using a mixture of methods as appropriate 	<p>Follow up</p> <ul style="list-style-type: none"> - Ensure that follow-up activities are built into the design from the start - Where possible, ensure that the participants return to an environment that enables them to apply what they have learned - Never forget that some of the best learning comes from the challenges and failure that can occur when trying to apply new learning - Find ways to provide participants with active encouragement and

<p>existing capacity and needs of the participants</p> <ul style="list-style-type: none"> - Involve the participants in some form of preparation activity (reading, self-assessment, preparing contributions, etc.) - Make sure there is enough time for adequate preparation of: the design of the learning process; those who will facilitate it; any materials or resources needed 	<ul style="list-style-type: none"> - Ensure all participants can contribute their knowledge, experience and ideas to the shared learning process - Create an environment that fosters openness, honesty (especially about failures), inquiry and willingness to share - Review progress 	<p>support to deal with problems in a way that leads to deeper learning</p> <ul style="list-style-type: none"> - Make resources available
<p>The ingredients for success include:</p> <ol style="list-style-type: none"> 1. Selecting the right participants 2. Involving multiple partners 3. Adequate preparation and context sensitive design 4. Participants and facilitators are all: <ul style="list-style-type: none"> • Curious for new, innovative ideas, insights, perspectives and approaches, and are willing to grapple with complexity • Willing to share knowledge and experiences in an open and honest way, to listen to each other and value what they hear • Willing and able to learn, apply, adapt, improve and learn again, especially from challenges and failure 5. Adequate and sustained follow-up to support application of learning. While not always possible, when it can be done this adds enormous value 		

Source: UN-Habitat, GLTN (2016). *Learning for Land Tool Development and Implementation. A Good Practice Guide*

Training needs assessment

Assessing needs is an essential step in the planning of an effective training programme. A training needs assessment usually focuses on current and desired skills, knowledge and attitudes of the trainees and it uses this information to determine if and how the training can be effective.

Training needs assessment must be a flexible process starting with a broad assessment that gradually becomes more specific. The process has seven steps, some of which can be carried out in parallel:

1. Verify demand and root of the problem
2. Identify key stakeholders
3. Identify desired capacity
4. Identify current capacity
5. Understand how to develop the current capacity
6. Understand whether the training can contribute to capacity development
7. Identify the training needs

Further information on how to carry out a training needs assessment can be found in the manual *Training Needs Assessment and Training Outcome Evaluation in an Urban Context*, UN-Habitat (2012).

Who can be a facilitator?

There are generally two key subject competencies required to deliver this course: in-depth knowledge of land rights and issues within the Somali Region and good capacity development skills.

These could be found in one person, or more typically in a team of facilitators (perhaps two) who complement each other's expertise.

As the training should be adapted to local settings, it is preferable to have someone who speaks Somali and who is familiar with the Somali Region context. If the facilitator and trainer(s) are not Somali-speakers, professional interpretation should be provided.

The number of facilitators required depends on the size of the workshop group. In larger events, there is likely to be different delivery roles in the programme for the organizers, facilitators and additional resource people. It is vital to clarify the roles and ensure harmony. Advance briefing sessions with facilitators (and resource people) are also strongly recommended, to ensure maximum benefit from their participation, and their inputs.

Capacity development

Capacity development is a complex process that requires an integrated approach, designed to deal with particular situations in a comprehensive manner. Different types of capacity are required, in combination, to face complex challenges, these are usually identified as "hard" technical skills and "soft" social capacities, both crucially important.

One of the failings of previous approaches to capacity development was the assumption that people with expert capacity in a particular field or discipline, for example land administration or land governance, automatically had the necessary skills to develop that same capacity in others. This means that the more traditional approaches of transfer of knowledge or "know-how" do not apply. Instead, it is necessary to put together teams and build entities throughout the land sector that have enhanced and combined skills not only in the content and process of innovative land tools, but also in local context and knowledge, and in training and learning practices relevant to the culture and context.

The GLTN Capacity Development Strategy is intended to be used by all GLTN partners and the Secretariat. The strategy offers a dynamic action learning approach to capacity development that incorporates a range of methods and techniques, regular feedback, review, discussion and improvement.

Source: UN-Habitat, GLTN (2014). *The GLTN Capacity Development Strategy*

Training method: a participatory approach

Choosing appropriate training methods to achieve the training objectives is an important task of the facilitator. The training is conceived as a participatory learning process in which the facilitator will have to use different participatory methods to ensure the active participation of the trainees. Such methods include:

- **Discussion method:** learning derives principally from the participants themselves rather than from an instructor. It is normally recognized to be of three main types: directed discussion, developmental discussion and problem-solving discussion.
- **Experiential method:** it occurs when a person engages in some activity, looks back at the activity critically, abstracts some useful insight from the analysis and puts the results to work.
- **Case study method:** a real scenario is presented to participants for their analysis to provide possible solutions to the problems identified.
- **Role play:** participants are presented with a situation which they are required to explore by acting out the roles of those represented in the situation.
- **Brain storming:** This is a technique used for finding solutions by means of stimulating ideas. A small group of people with or without conscious knowledge of the subject meets and contributes any suggestion or idea that strikes them. All suggestions are encouraged and

criticism is not allowed at this stage, although contributors are later invited to explain their ideas. Subsequently, all the ideas submitted are sifted and assessed.

A participatory approach is fundamental for a successful capacity development strategy as it allows all the participants to contribute to the training by bringing to the table their own knowledge, background and expertise. Moreover, this approach helps to link the training to the local context and needs, and allows participants to elaborate on solutions to specific challenges, keeping them interested and motivated throughout the training.

Selecting participants

Generally, a minimum of 12 and a maximum of 30 participants is recommended. The selected participants should have some knowledge, experience and interest in land governance, and they should be with a different backgrounds and expertise. The overall composition of participants should have a good gender balance.

For a positive outcome of training, it is essential to target the right participants. Participants should be selected through a nomination or motivation process to ensure that only 'the right people' will be in the room. A participant nomination form (see Annex 1) can be useful in managing this process.

Pre-training assignment

The pre-training assignment is a vital tool in a participatory learning process. Here, the organizers contact participants prior to the workshop with specific queries or tasks (often to be used at the workshop). The pre-training assignment encourages the participants to prepare for the training, reflect on their own roles and inputs and bring materials from their respective organizations to the workshop.

Pre-training assignments are useful to understand what knowledge and experience participants bring that could contribute to the success of the process, what they want to learn / take away, how they would apply it in their work, and how they can best learn. Such information can be collected through a pre-training assignment form which assess participants' profiles, expectations and knowledge/expertise (see Annex 2). The form can be modified and/or implemented to better suit the training needs.

The completed pre-training assignments must be received by the facilitator before the training so they can be analysed and incorporated into the training programme. Ideally, the whole training package should be sent to participants in advance so that they can start to familiarize themselves with the content, and they should be encouraged to enrich the course with their own land-related case studies and examples.

How to schedule the course

The planning process will determine the optimum duration of the training programme. The training can begin at 9 am and end around 3.30 pm. The schedule should allow for breaks, lunches and specific needs such as prayer time, and should consider the number of activities and allocate adequate time for each session (presentations/ group work/ discussions and plenary feedback).

The opening session should ideally provide an overview of the context and general objectives of the course. It is an opportunity for the hosts/organizers to get to know the participants and discuss

expectations and objectives of the training. An expertise matrix exercise (see Annex 3) is a good way for participants to share their areas of expertise and possible inputs.

Each module has been planned to take approximately 90 minutes. It is suggested that working sessions do *not* continue for more than 90 minutes without a break to avoid exhausting participants, particularly given the technicality, complexity or intensity of the topics.

Facilitating the modules

Each module should open with few questions or a short icebreaker to engage the participants. This can be followed by a short presentation by the facilitator drawing on the PowerPoint slideshows available in the training package.

Following the presentation, the facilitator should encourage group discussions and propose exercises based on a case study. The case study can be suggested by the facilitator or can arise from the group discussion. The facilitator should suggest questions which derive from the case study, but which also relate to the whole module.

Group work and exercises (see Annex 4) are then featured that aim to enable participants to translate theoretical principles from presentations / readings into a practical context. The facilitator may also opt to include a role-play session (see Annex 5). Participants will be encouraged to bring their own country contexts into the discussions and reflect on them. The course programme also includes an action planning session to encourage individual follow-up (see Annex 6).

Delivering presentations

The presentations by facilitators should be kept short as they are intended to stimulate participants to think about their own experience and to offer opinions for discussion. The facilitator should share the PowerPoint presentations with the participants beforehand where possible. Always allow time for questions and general plenary discussion, with the timing and manner of interventions explained at the beginning.

Facilitating groupwork

In most of the exercises, there is no “one right” answer, but a range of possibilities with different merits. Exercises are best done in small groups, the size depending on the number of course participants and the number of groups. The smaller the size of the group, the more likely it is to involve participants and generate a wider level of discussion. Often, groups need more time for discussions than allocated, so it is important to monitor their progress and give them notice that their time is up. Yet, after discussion sessions, each group should be given the opportunity to make a short report, which would feed into the plenary. A summary of these presentations and the discussions should be recorded and then collated (e.g. by the supporting resource person) as a record of all the proceedings.

Dealing with debate

While encouraging constructive debate on relevant issues, the facilitator must be able to draw a line where strong disagreement about fundamental values arises. The facilitator should flag this and praise it, noting that debate is welcome but not all debates can be resolved in the course. Most

importantly, the facilitator should ensure that every participant (within reason) is able to make their point and that everyone's views are treated with respect. This is particularly true for minority opinions at the workshop, which the facilitator must allow space for.

Action planning

The training should conclude with a dynamic action planning activity (see Annex 6). Action planning offers participants a chance to reflect and understand how they are going to use and apply their learning when they return to their places of work, and what support they would need to enable them to do that effectively.

Evaluation and follow up

What happens after a training is as important as the training itself. Follow-up should always be considered from the outset, starting by questioning what the participants will do with their new knowledge and skills. Training resources and additional informative material should be made available for the participants. When possible, remote coaching should be provided to anyone facing challenges in applying knowledge and tools.

Feedback from participants on content and process is necessary for improving the course content. Evaluation could be held at the end of each day and/or at the end of the workshop (see Annex 7). The forms should be filled in anonymously. For the daily evaluations, a short summary of the feedback can be provided by the organizers at the start of the next day. If this is done, it is important to ensure that the organizers and facilitators also consider changing some aspects of the course depending on participants' feedback and what is possible to change. If the course includes an action planning session, it is important that the organizers explain how they intend to follow up on the actions proposed.

Useful tools

Some useful tools for planning and delivering the training are:

- UN-Habitat, GLTN (2014). *The GLTN Capacity Development Strategy*
- UN-Habitat, GLTN (2016). *Learning for Land Tool Development and Implementation: A Good Practice Guide*
- UN-Habitat (2012). *Manual Training Needs Assessment and Training Outcome Evaluation in an Urban Context*

About the Global Land Tool Network

The Global Land Tool Network (GLTN) is dynamic and multisectoral alliance of international partners committed to increasing access to land and tenure security for all, with a particular focus on the poor, women and youth. The Network's partners include international rural and urban civil society organizations, research and training institutions, bilateral and multilateral organizations, and international professional bodies.

The GLTN aims to develop inclusive tools such as guidelines, methods and procedures, in key areas relating to land. It is developing tools in the following areas:

TRAINING COURSE ON HOW TO DEVELOP AN INCLUSIVE LAND POLICY

Land tool	Description
Access to land and tenure security	
1. Continuum of land rights	Recognizes a wide spectrum of tenure arrangements between the extremes of formal, individual titles to private property on one hand, and informal, community-governed, communal rights to land on the other.
2. Participatory enumerations	Local people gather data on their area, the ownership and occupancy patterns, and the infrastructure and services.
Land administration and information	
3. Social Tenure Domain Model	A concept, a model and a tool (software) that records 'people – land' relationships independent of the level of formality, legality and technical accuracy. It is a specialization of the ISO-approved Land Administration Domain Model (LADM).
4. Costing and financing of land administration service	Framework for decision making related to land reform, helps to identify the cost-implications of decisions and support fit-for-purpose approaches; a decision-support tool for the costing, financing and project design of land administration services.
5. Transparency in land administration	A training package for land administration leaders to improve transparency and combat corruption.
6. Fit-for-purpose land administration	Provides structured guidance on building the spatial, legal and institutional frameworks in support of designing country-specific strategies for implementing fit-for-purpose land administration. It contains the analysis and operational advisory guidelines to implement the approach.
Land-based financing	
7. Land-based financing	A training package for land administration leaders to improve transparency and combat corruption.
8. Valuation of unregistered lands and properties	Provides structured guidance on building the spatial, legal and institutional frameworks in support of designing country-specific strategies for implementing fit-for-purpose land administration. It contains the analysis and operational advisory guidelines to implement the approach.
Land management and planning	
9. Participatory and inclusive land readjustment	A way to rearrange the ownership and use of fragmented areas of land in and around cities so as to permit development, slum upgrading and regularization; it brings together land parcels belonging to different owners and treats them as a single unit for planning and infrastructure provision.
10. Tenure-responsive land-use planning	Guide on how to improve tenure security through land-use planning; complemented by an e-learning package that supports the efficient didactic coordination of knowledge, effective learning and knowledge dissemination.
Land policy and legislation	
11. Regulatory framework for non-state actors	Guide that provides viable ways to establish a non-state actors mechanism and to inform decision-makers engaged in the land sector, including national governments, bilateral and multilateral implementing agencies, about the non-state actors and their value-adding in land reform processes.
12. Pro-poor land policy development	Guide that outlines a participatory process for developing policies relating to land; it can be adapted as appropriate to specific country contexts; intended for ministers and senior policymakers responsible for land issues, donors, professionals, consultants and NGOs involved in developing land policies.

TRAINING COURSE ON HOW TO DEVELOP AN INCLUSIVE LAND POLICY

13. Land sector coordination mechanism	Guide on how to establish an effective land sector and coordinate different actors in the land sector; also offers viable approaches to pursue institutional harmonization processes.
Cross-cutting issues	
14. Gender	Criteria and guidelines for practitioners to ensure that women's needs for and access to land is adequately addressed in programming, as well as men's needs.
15. Youth	Criteria for assessing how responsive land programmes are to the needs of youth to ensure that they benefit from them.
16. Land and conflict	Guidelines on how to address land issues in conflict cycles.
17. Land and disaster 18. Land monitoring and indicators	Indicators and methodologies for monitoring the status of land-related issues, comparable across countries and land-tenure regimes.
19. Grassroots	Model, guidelines and training package for enabling the participation of local people in land-related initiatives.
20. Islamic land mechanisms	Training package on land, property and housing rights in the Muslim world and key principles and elements of Islamic dimensions of land; intended to provide a wider understanding of how to integrate Islamic dimensions into land projects and programmes.

Visit www.glt.net for more information.

Module 1. BRIEF BACKGROUND ON LAND ISSUES IN THE SOMALI REGION

This first module identifies the key core land issues in the Somali Region deriving from the absence of a clear land policy and legal framework. The objective of the module is to give an overview of current land governance and administrative practices in the Somali Region to provide a common understanding of the background in which the training curriculum is developed. Somalia's land issues are predicated on numerous factors that have contributed to the current system on land governance. Below are some of those factors.

1.1. Weak governance and legal pluralism

“Land governance concerns the rules, processes and structures through which decisions are made about access to land and its use, the manner in which the decisions are implemented and enforced, and the way that competing interests in land are managed.”¹ Land and the way it is accessed, used and controlled is a key element for sustainable, social and economic development, peace and stability, and the realization of human rights.² In Somalia, land is governed and managed by a complex system of **state institutions, traditional and religious authorities and community practices**. This complexity, aggravated by lack of clarity of mandates, roles and responsibilities, capacity gaps and weak legal systems results in weak land governance. The Somali Region, including its land sector, is governed by a **legally pluralistic system** where statutory laws, customary laws and Islamic law coexist, complement each other and overlap, resulting in a series of **common practices**, which seem to constitute the most solid element of such fluid governance system.

Under the **customary law**, land is treated as a sacred collective good and symbol of power inherited from the ancestors and is communally owned. Individuals have the right to use the land and these rights can be transferred from parents to children or granted by the community elders, who act as customary land administrators. Elders also have the right to resolve property-related disputes among clans and sub-clans, playing the important land administration function of customary land dispute resolution.³ **Islamic (or sharia) law** is a system of religious rules derived from the Koran and hadiths; it has a stronger power and it is more respected than the customary law although, at times, applied in an approximate way. The **statutory law** is the codified law developed by formal state institutions, a process still under consolidation and revision due to the recent transformation of Somalia into a federal government. The Somali legal pluralism offers different entry points to enhance tenure security at multiple levels through the continuum of land rights approach.

Islamic land and property rights

Under Islamic theory, the state in land management is seen as supervising land ultimately belonging to God, for the benefit of the community. The state is mandated to administer land, efficiently and fairly, in accordance with God's laws and ethical and moral principles.

Islamic property rights are conditional on the requirement that properties are not used wastefully or exploitatively or in a way that will deprive others of their justly acquired property. Land ownership in Islam is based on productive use of land as evidenced from the principle of ownership of dead land (*mewat*) through reclamation. Land rights are, thus, linked to land use. The person who uses the land will have priority over another with access to a patch of land but who has failed to use it. Unworked land in principle cannot be owned. Thus, Islamic principles have potentially important implications for access to land and secure tenure.

Source: UN-Habitat, GLTN (2010). *A Training Course On Land, Property and Housing Rights in the Muslim World*.

¹ UN-Habitat/FAO (2009). *Towards Improved Land Governance*.

² UN-Habitat, GLTN (2017). *Land Governance: A review and analysis of key international frameworks*.

³ UN-Habitat/IOM (2017). *Kismayo Urban Profile*. Working Paper and Spatial Analyses for Urban Planning Consultations and Durable Solutions for Displacement Crises.

1.2. Unclear land rights

Discussions with key informants about land rights are often restricted to the provisions of the 1975 Land Law enacted by the Siad Barre government, which still constitutes the main legal basis of the prevailing land rights. Under this legislation, ownership and control of land was transferred to the government. The law made it compulsory for all individuals to register their landholdings within six months from the enactment of the law. The **1975 Land Law formally eradicated customary land tenure**, substituting it with state leasehold title as the only means of claiming land rights,⁴ pushing millions of Somalis into informality. At the time of the 1975 Land Law, Somalia followed a socialist economic model which informed the state land ownership policies that were in place. In policy development, it is important also to note that economic systems inform policies and legislations. Today, Somalia's free market, liberal economy allows for private ownership and land can be used a useful tool to drive economic development.

Despite the enactment of the 1975 Land Law, in practice **most of the land remains unregistered** because of various constraints associated with the cost and bureaucratic procedures of land registration. The land registered after the law came into force was mostly in urban centres, or was tracts of agricultural land put to cash-crop farming and for export (investment driven rather than subsistence driven), a challenge that remains unchanged to this day. The registration process responded better to the needs of the urban elites and did not correspond to the contemporary criteria of inclusiveness and fairness. "Little registration by local farmers and, unfortunately, a significant amount (of registration) by well-connected outsiders" took place.⁵ The land registration process was characterized by **corruption, lack of transparency and inadequate land administration support**.

The Siad Barre land recordation system is still considered the most reliable and authoritative source of land rights documentation. Based on interviews with government officials and other key informants, the Siad Barre era land records are the primary source of uncontested land documentation that prove land ownership. The following administrations **lacked the required uncontested legitimacy** and land documents issued then do not hold the same level of validity than the ones issued during the Siad Barre government. Because of the protracted conflict following the fall of the Siad Barre government in 1991, land records that originated from that period define what is still considered to be "registered land", while the rest is defined "unregistered land". After the civil war, a public official who had the dossier of land registry and title deeds fled with the original documentation to Europe. It then became common practice that those who had the financial means would buy back these title deeds to use as documentary evidence during any legal proceedings. Of course, this level of institutional collapse has led to further marginalization of the public and a promotion of elites with access.

Most citizens are settled on the unregistered land, with no documentation to prove ownership. Many such **settlements are in unsuitable locations** and lack the necessary services and access to livelihoods. If no area-wide planning is undertaken and such settlements are reconnected and integrated in the city as neighbourhoods, they will develop into peri-urban slums. The need for a strategic spatial development plan is very apparent.

⁴ UN-Habitat (2018). *Women and Land in the Muslim World: Pathways to increase access to land for the realization of development, peace and human rights*.

⁵ Norton, G. (2008). *Land, Property and Housing in Somalia*.

1.3. Land registration system

Land registration is one of the most pressing problems to be solved in the short term for two key reasons: unlocking the social and economic potential of urban and agricultural land and gaining the required legitimacy in the eyes of the population. **Occupation, sale, and resale of property** since 1991 has made it difficult to provide original ownership; deaths of original landowners in the diaspora has led to **multiple competing claims** by their surviving relatives, and **false documentation** is ubiquitous, so possession of a deed is no guarantee of ownership. The dysfunctional land registration system causes and is aggravated by the common practice of **illegal occupation or land grabbing**. Land grabbers often use their alleged ownership to sell the land that is bought “legally” by third parties, creating an intricate scenario of land claims and land rights - a breeding ground for conflicts.

The gangs of land grabbers

Land gangs are organized into three groups, each with a specialized function. The first group, known in Somali as *indha indheeyayaal ama dhegadhegeyayaal* (identifying and gathering information), is located in different places and villages in Kismayo. The main task of the group is to identify vacant plots of land and the group then gathers information related to them.

The collected information is then submitted to the second group, typically consisting of people with military experience, including retired police and army officers. The group spearheads the operations associated with the seizing the targeted parcels of land. Once this occurs, the third group - *ili ma aragto* (the unseen group) emerges. This group is never present in any form of public contestation over the said land; its task is to finance the activities of the first and second groups. It typically comprises of businessmen, *qat* sellers - particularly women and some high-ranking officials from government bodies and the military. This third group pays the cost of developing the plot of land, including building a corrugated iron sheet house, a perimeter wall or others landmarks, and the cost of preparing fraudulent land documents. The slogan by the land gangs is “*dhul ninkii dhistaa leh*”: the land belongs to the one who invests on it or physically develops it.

Most of the time these groups grab land which is unregistered (*obosibo*). It is often the case that members of such gangs are witnesses for themselves when a dispute over this land is brought for arbitration. For fear of armed revenge, members of the public are often not willing to provide evidence against land gangs. In most cases, the grabbed land belongs to women, minority groups and absentee owners not resident in Kismayo or who live abroad. Claiming back the land is often complicated by the widely accepted concept that the “land belongs to the one who develops it”.

Source: UN-Habitat, GLTN (2018). *Land and Conflict in Jubaland. Root Cause Analysis and Recommendations*.

1.4. Statutory land governance institutions

The little literature that exists on land governance in the Somalia depicts generally weak systems and multiple land governance challenges such as the need for greater transparency and certainty in land tenure regimes.⁶ Many state **institutions remain weak or lack legitimacy**, including those with a role in land governance. Some of the causes of such institutional weaknesses are linked to the **political situation** of the country, other weaknesses are inherent to the specific institutions and include **lack of clear roles and mandates** for the different public institutions at the federal, state, province and district levels; **weak capacities and lack of resources**. Clarity on what is decided and legislated at the federal level and at the state or district level with regard to land is yet to be given.

⁶ Burman, J., Bowden A. and Gole A. (2014). *Land Tenure in Somalia: A Potential Foundation for Security and Prosperity*.

Moreover, in several areas of the country, the protracted conflict resulted in the **substitution of the state** by various forms of armed groups in decision making, including land governance. Political and military power, often expressed through ethnic identities, replaced the state as the centre of decision making.⁷ The land dynamics are often subjected to the change of government regimes which have tended to favour their respective clans (or groups), capturing state instruments to the advantage of a particular group. The tendency has been for “governing clans” to exploit and grab registered or unregistered land, government land and other open spaces.

The clans

The official discourse presents the Somali people as falling into four major clans: the Dir, the Darod, the Digil & Mirif and the Hawiye, split into sub-clans, sub-sub-clans, etc. A fifth group, comprising of several minority clans, completes the set. Such setup, formalized by the new federal constitution, has implications on how positions of power in key government institutions are shared amongst different clans. This clan-based approach is a new political and governance model in the making, one that is yet to mature and where there is space for continuous review and upgrading.

Evidence from literature demonstrates that clan politics is a pervasive phenomenon that manifests itself in many facets of life, including types of past and present land conflicts. Undoubtedly, the ubiquitous nature of clan issues is reflected in both urban and rural contexts. Clan issues often determine how settlements are organized in urban areas, with people opting to settle in clan-based neighbourhoods.

The collapse of the state institutions and the years of conflict led to a situation where the state authority gradually declined to a point where the clan substituted government as the most influential authority among citizens. In this context, clan identities and related politics have been assuming more and more importance and are continually manipulated, fostering clan-based fragmentation and a strong clan-based narrative in both development and humanitarian communities. Clan dynamics are critical in the land conflicts landscape and hence assume a central role in peace building and conflict management.

Source: UN-Habitat, GLTN (2018). *Land and Conflict in Jubaland: Root Cause Analysis and Recommendations*.

1.5. Politics of exclusion

Politics of exclusion is an important root cause of land-related conflicts that finds fertile ground in the weaknesses of the land governance and land administration described above. One illustrative example of politics of exclusion is the **land dispossession** carried out under Siad Barre. The 1975 Land Law effectively **eradicated customary tenure** and put all lands under state ownership, creating the conditions for a land registration process that suited best the urban elites and the rural large-scale investors to the disadvantage of broader sectors of the society. Smallholder farmers **are among the key categories that experienced land dispossession as a result of politics of exclusion**. The politics of exclusion continued following the collapse of the Siad Barre government, when the state authority gradually declined to a point where the **clan substituted government** as the most influential authority among citizens, with clear disadvantages for minority clans and groups.

⁷ Rift Valley Institute (2017). *Land Matters in Mogadishu. Settlement, ownership and displacement in a contested city*.

An inclusive approach: the continuum of land rights

Land tenure arrangements in the Somali Region are frequently described in opposing terms: legal/illegal, registered/unregistered, *de jure/de facto*, exacerbating the politics of exclusion. However, a wider and more complex spectrum of tenure categories exists between these extremities and land rights can be seen as a continuum between informal and formal rights.

The continuum of land rights is an inclusive approach that incorporates documented and undocumented tenure rights, formal as well as informal, for individuals as well as groups, including pastoralists and residents of slums and other settlements, which may be legal or not legal. The continuum of land rights approach advocates for the identification and progressive strengthening of the range of appropriate and legitimate land tenure arrangements already existing in a specific context as the most effective, scalable and time-efficient way to improve access to land for all in a relatively short timeframe. The most appropriate form of land rights' recognition depends on context, on what best suits the social, cultural and economic needs of local communities, what the existing capacities of recognizing and managing such rights are and the what the land administration authorities require. The rights so identified can be progressively upgraded over time, through incremental approaches.

In the context of the Somali Region, both formal and traditional, the identification of the most common types of land tenure should be undertaken through a participatory approach that involves all key stakeholders. This would allow for agreement on which types of land tenure should be recognized and regulated by the policy, legal and institutional frameworks.

Source: UN-Habitat, GLTN (2018). *Land and Conflict in Jubaland: Root Cause Analysis and Recommendations*.

1.6. Displaced people and returnees

Voluntary and involuntary migration is an entrenched feature of Somali society. The involuntary movements caused by conflict and reoccurring natural disasters such as droughts and famines has resulted in the monumental problems related to access to land and tenure security for the various categories of displaced people, who can be broadly categorized as IDPs, returnees, refugees and migrants. Each of these categories has similarities and differences when it comes to challenges related to access to land and related conflicts, aggravated by poverty and by the relations with “host communities”, or communities in a position of power. Social, economic and spatial integration of IDPs has largely not been possible in the Somali Region for “reasons (that) may include the fact that they do not have security of tenure for the land on which they are living, that they belong to different ethnic or tribal groups, and therefore they are **perceived as outsiders**, or because local authorities are prepared to offer them a ‘temporary sanctuary’ but not permanent residency”.⁸ Even if a **large number of Somali returnees** seeks access to land through the legal land market, they often end up buying unregistered land which is prone to contested ownership due to the **malfunctioning of the land market**.

⁸ ReDSS (2016). *Durable Solutions Framework - Local Integration Focus: Lower Juba Region*.

Module 2. INTRODUCTION TO INCLUSIVE LAND POLICY

The second module introduces the concept and the advantages of “inclusive land policy” and explores the political and technical challenges that may be encountered during the development and implementation process. The objectives of the module are: to open a debate on reasons why such a policy is needed and which issues it should address; to present an overview of the challenges to be considered while developing an inclusive land policy.

2.1. Choosing an inclusive land policy

Typically, and the Somali Region is no exception, there is the risk that land policies, laws and procedures discriminate against or are less beneficial to the poor, the vulnerable, the marginalized, the minorities and the women, even if these were not the intended objectives. The poor remain trapped in poverty in part because they cannot access and use the land they need to grow crops, build houses and establish businesses. Without secure tenure, they have no incentive to invest in the land. Many land procedures, such as registering a piece of land or transferring it to a new owner, are too expensive for poor people. The urban poor are forced to live in slums that lack such basic services as sewerage, running water and electricity, and rural poor people are deprived of access to grazing land, forests and water, and have no reason to prevent erosion or to invest in irrigation.

This is because the **process of policy development** itself is biased against such vulnerable groups. It is dominated by elites: politicians, commercial interests, landowners and developers, and technical specialists such as lawyers and surveyors. The vulnerable ones have little political clout and they lack the technical background and resources to contribute to the policy discussion. Inclusive policy processes are needed to overcome these barriers. Such policies should take into account and build on the continuum of land rights - a range of land rights suited to different areas, needs and situations. They should ensure that everyone has access to land and land services, at a price they can afford; they should give security of tenure, at a minimum, to prevent people from being arbitrarily evicted from their homes in urban or rural areas; and they should aim to redress injustices that force so many urban dwellers to live in unsuitable and underserved portions of urban land.

Adequate policy, legal and administrative frameworks need to be developed. Such frameworks have to be established at the federal level and interact at the regional level to address issues of subsidiarity and accountability. They will have to address, in an incremental way, the core land issues of the country: weak governance, unclear land rights, land-use management, physical planning, land administration and registration, land disputes resolution, land rights for all, including minority groups, youth, women, displaced people (IDPs, returnees, refugees, migrants) and the landless. The policy frameworks will have to address both rural and urban areas (or separate policies will have to be developed) and technical as well as human rights challenges.

Such processes will require time to be established and it is important that **adequate time and resources** are allocated to them. The following Global Land Tool Network tool on inclusive land policy development can assist this process and learning exchanges with countries that have been undergoing similar exercises in comparable contexts could take place. In the meantime, other **short and medium-term interventions both at the state and at local levels** can be made in preparation for the policy and legal reforms to take place and to address immediate needs.

2.2. Political versus technical issues

Land is one of the most sensitive political issues in any country. It is also complex, both in technical and legal terms.

- Land is linked to **political** patronage and the vested interests of elites; it is often a politically explosive issue and the source of many potential and actual conflicts.
- Land is also highly **technical**: it involves skilled professionals dealing with complex legal procedures in a complicated historical, cultural and economic context.

It is vital to deal with both political and technical aspects. Several countries have tried to keep the process entirely political and have had to go back to the drawing board and re-design the process to take technical constraints into account. Some countries have tried to keep the process entirely technical and have struggled to get new laws and approaches enforced and operational on the ground.

This guide outlines a way to reconcile these difficulties.

2.3. Timeline for the policy process

Reforming land policies and land administration systems involves many issues and concerns numerous government agencies and other stakeholders. Expect that it could take a long time, up to 10 years. That requires a long-term, high-level commitment from all parties such as government, civil society and landowner groups, land professionals and banks.

With such a potentially long process, it is a good idea to outline strategies for the short, medium and long term. Make sure the budget is adequate; it should cover not just the costs of the series of workshops outlined in this guide, but all related activities: studies, consultancies, training, and the management of the planning process itself.

2.4. Linking products and processes

It is necessary to think in terms of both “products” (revised policies, draft laws, land information systems etc.) and “processes” (how to get agreements to get to these products). The perfect policy, or the perfect technical solution, is useless if the various stakeholders do not buy into it – and they are likely to reject it if they have not been involved in the drafting process.

Keep in mind also that the 10 years needed for an overhaul of the land system is a long time in politics. Politicians and other stakeholders need to be able to show that they are making progress to their various constituents and supporters. That means that the process has to produce outputs – policy proposals, draft laws, etc. – frequently. In turn, that means slicing the topic area into manageable chunks that can be dealt with within a reasonable time.

An agreed “road map” for each of the phases of the land policy process will be needed and at the national, regional and local scales. There may be major differences within the country, from one province to another, or between urban, farming and dryland areas. It may be that one solution does not apply everywhere. The reforms may have to start in one area before they are implemented in others.

Module 3. MANAGING CONFLICTS AND POLITICS

The third module highlights possible strategies to resolve the conflicts arising among organizations and groups with differing views on land issues and contrasting political interests. The objective of the module is to suggest a way to resolve conflict and to keep all the stakeholders involved in the process without compromising the integrity of the process itself.

3.1. A tentative approach

- **Set up a coordination unit** to manage and plan the land policy process. This unit is best located in the lead national ministry and should be staffed with credible government representatives. It should maintain linkages to multi-stakeholder networks and expert groups throughout the entire process.
- **Gather background information** on the existing land systems and the problems they entail. Information can be gathered in various ways: participatory appraisals, discussions with NGOs and community organizations, formal surveys, review of secondary data, and public hearings. Analyse what is found, preferably together with the people who implement or are affected by the systems. Then develop short concept papers describing the problems, summarizing the various positions and changes needed, and suggesting a rough outline of how to develop new policies. These will probably have to be continually reviewed as people think them through over time.
- **Plan a series of workshops.** A participatory and consultative approach is key to developing an inclusive land policy, reaching and involving a wide range of stakeholders. Workshops enable all the various stakeholders to discuss and contribute to the development of national and federal policies. The stakeholders should be able to state their positions, document existing systems, identify problems and possible solutions, plan the process of developing new policies, and negotiate details. A single workshop is not enough; a series of workshops, over a long period, will be needed – perhaps at federal, national, regional and local levels. It is not necessary to have a precise blueprint at the outset but have an initial idea how each workshop feeds into the national land policy process. Adjust the process if necessary as you go along.
- **Make sure all stakeholders are represented** at the workshops, especially those with enough political clout to prevent success. Key stakeholders include government (local, state, national), land professionals, civil society and researchers. Invite additional people who are relevant to the topic of each workshop. Make sure to invite all key stakeholders – and do not omit civil society in a mistaken effort to avoid argument. Getting participants' buy-in is vital, so outline the process envisaged to them early on, and incorporate their ideas.
- **Start with the politics.** The first workshop(s) should get the political positions on the table and get buy-in and trust for the process. Until this happens it will be difficult for the participants to focus on technical issues. Do not just focus on political issues, though; the early workshops should also include some technical issues to build capacity. The political issues can always be revisited later in the process if needed. This may depend on elections or other political events in the country. Always be aware of political sensitivities and be ready for troubleshooting.
- **Go on to technical issues.** After getting political buy-in, move on to discussing the technical topics. The workshops should seek to identify and get agreement on specific problems, then identify solutions. Continue to include all stakeholders in workshops. That keeps people involved.
- **Develop an action plan.** Once the technical discussions have started in earnest, a structured action plan can be developed. This should lay out a road map for achieving a set of outputs –

draft policies that can be presented to decision makers. It should handle both political and technical issues. The budget must be realistic.

3.2. Establish an action plan of activities

The activities in the action plan may include:

- Workshops on specific issues and at national, regional and local levels;
- Study tours and evaluations of systems in other countries;
- Special studies;
- Presentations of “best practices”;
- Public consultations and discussion in the mass media;
- Activities to build political alliances;
- Improvements to the suggested model;
- User surveys and participatory assessments;
- Institutional and legal assessments.

Establish working groups on specific themes. It can be easier to find solutions to problems in a smaller group than in a large workshop. Arrange problems into themes and convene working groups of various stakeholders active in that field to deal with them. Working groups are also useful to ensure debate is constructive and honest. For example, if NGOs want free land services, the technical experts can explain why this is not possible. And if technical people say what a brilliant system they have and that all they need is more resources and not large-scale reform, the NGOs can show how the service is not operating well.

3.3. Thematical working groups

Working groups are a good way to focus discussion on details that are hard to deal with in plenary.

Consider having working groups on the following themes:

- Institutional reform issues;
- Technical systems and standards: surveying and information management;
- Information, communication and dissemination;
- Education and capacity building;
- Legal issues, including conveyancing and land record systems.

Keep working groups diverse; include users and politicians as well as technical specialists. Appoint unbiased chairpersons to guide the discussion. Have a rapporteur from each working group report back to the plenary.

3.4. Taking gender into account

Gender is a vital topic in land issues.

- Make sure that the interests of women and men are specifically addressed in the draft policies in a balanced way, especially in regard to inheritance issues;
- Seek a gender balance among workshop participants;
- Have special presentations on gender;
- Ask speakers specifically to address gender in their presentations;
- Have both men and women chair working groups;

- Make sure that capacity building and knowledge transfer on the subject is for men and women;
- Identify gaps. At the outset there is probably no overall description of how the country's land systems and laws operate. If this is the case, commission a study (or studies) by a relevant thematic group and have it presented at a subsequent workshop. The study should identify gaps, overlaps and conflicts in the various land policies and systems, including institutional systems; knowing these will enable the various policies to be aligned. Identifying and filling gaps is not just a one-off activity – this will have to be done continuously throughout the policy development process.

3.5. Building on what already exists

It is important to understand what already exists. Perhaps some aspects of the existing system can be tweaked to make it work better, or to benefit the poor more, without having to reinvent the wheel, while major reform is required in other parts.

Stakeholders may suggest ideas about good approaches or mention systems that “more or less” work and could be improved. Document these suggestions.

It may be possible to borrow and adapt approaches from other countries or regions. Consider using short-term consultants to propose ways to improve all these suggestions.

- **Deal with specific topics.** Once these gaps and overlaps are identified, convene meetings of experts to discuss specific questions. The results should be reported back to the wider stakeholder group. Consider engaging short-term consultants to address particular topics.
- **Produce outputs as you go along.** Remember the need to have tangible outputs at each stage of the process. The various stakeholders – especially politicians – need to be able to show their supporters that they are making progress, and that the process is not just a talking shop.
- **Draft the policy.** Write the final draft of the policy based on the outputs of the workshop series. This can be done in stages, along with a series of symposiums to review the draft. Drafting may well need assistance from national and/or international experts, as well as experienced drafters, before the policy is presented to the national parliament.

3.6. Managing the “politics” of the process

At the beginning of the land policy development process, the political should take precedence over the technical. Once the political cards are on the table, the discussion can focus more on the technical issues. The final policy should be both politically acceptable and technically appropriate.

Because land is such a hot political topic, it will be necessary to have good political antennae if the land policy planning process is to be successful. Some guidelines:

- **Be strategic.** Know who the stakeholders are, understand their positions, and try to design a process that takes these into consideration. Knowing the political situation will also give guidance in terms of timing of workshops and events, selecting themes, allocating chairs, etc.
- **Make sure the government takes ownership.** The relevant ministry or state government body must take full ownership of the programme and be accountable for the outputs. This can be difficult because ministries may want to avoid the perceived political risk or not invite important stakeholders.
- **Allow for fatigue and resistance.** Reforming land policy is a long-term process, so fatigue is understandable. The process may be fraught with vested interests and conflicts. Seek to build

alliances to make the process and outputs sustainable. Avoid relying on a single person or organization, even if this seems the most efficient way of getting things moving.

- **Build buy-in.** Give all the key stakeholders room on the agenda. That puts all the issues on the table and tells everyone they are being taken seriously.
- **Brief the facilitator and session chairs.** Choose the workshop facilitator and session chairs carefully. Ensure that they fully support the agenda, are aware of the politics, can guide discussion and understand what outputs are needed.
- **Lobby key politicians.** They can make or break the process, so brief them beforehand and make them accountable for the outputs. Make sure the minister supports the agenda completely; other politicians will take his/her lead.
- **Choose the right coordinator.** It will be necessary to spend a lot of time in the political preparation for the process, especially at the beginning. This requires certain political skills, a knowledge of the agenda, skills in building alliances, and access to the minister and other people of influence. Find someone who has these attributes.
- **Allow time for the political process.** The government must take ownership of the process and there must be a certain level of agreement from key stakeholders on the process and outputs. There is little to gain from moving on to technical details before these conditions are met, after all, political agreement is vital if the policy is to be implemented once it is finalized.
- **Allow momentum to build.** At the same time, do not wait for everyone to agree before starting work. For example, local authorities may be reluctant to change their procedures to conform to new national standards so get a few of them on board first; the others will follow when they see the benefits of the new system.
- **Build consensus.** Aim to build enough consensus from the major stakeholders to ensure that the draft policy has a good chance of being approved when it is presented to the legislature.
- **Keep donors in the background.** Support from donors may be vital for the reform process, but they should stay in the background. They must be flexible enough to accommodate a long-term programme where the ownership and risk is in the hands of the government.

Module 4. ADDRESSING THE TECHNICAL ISSUES AND KEEPING PEOPLE INFORMED AND INVOLVED

The fourth module identifies the main technical issues that may be encountered during the development and implementation of an inclusive land policy, and highlights the importance of keeping the stakeholders informed and involved at all times. The objectives of this module are: to suggest a way forward to fill capacity gaps and to identify the best technical approach; to be sensible over the importance of keeping people informed and involved.

4.1. How to address technical issues

There are many vested interests among the technical specialists involved with land issues; the public and private sectors, different levels of government and multiple agencies each have their own history, views and procedures. There are likely to be gaps, overlapping mandates and duplicated activities, so it is important to have the right technical and institutional stakeholders involved in the redesign process in order to lend credibility and to ensure that the designs are feasible.

Each group may have its own ideas for the way forward. Workshop presentations on technical issues, and the discussions in working groups, will probably not produce a structured way forward from the outset. Instead, the result may be a wish list that is insufficiently structured and even contradictory. It is important to look for diversity in the group of technical experts and varying opinions, thoughts and backgrounds should be included.

Technical people are often over-confident about their systems and propose sophisticated, high-tech ways of expanding them. They may resist change, especially if it does not match their technical vision which may also be unrealistic – it could be too expensive or it requires too many skilled people to run. How can this be counteracted?

- Have ‘outsiders’ (people from another context) assess the system and get the technical people to agree on their findings.
- Enable users of the system to comment on it. They may point to problems such as lack of coverage, access for the poor and for women and so on. Make sure that those in charge of the system accept these comments.
- Estimate the costs and human resources needed for the high-tech vision. Are they realistic?

It is difficult to move forward unless those in charge of the existing system accept that the current system is not good enough, that it is not possible to realize the high-tech approach of their dreams, and that the system has to work for the majority of the population, including the poor and women.

Once those responsible have accepted these points, they are more likely to accept and/or develop alternatives that are realistic and inclusive. At this stage, if the political process is in place, it will be possible to re-think the technical and legal systems. This may include:

- Technical consultancies to assist in the re-thinking.
- Workshops to present the suggested changes, obtain stakeholder buying and allow users to assess the proposed new system.
- Different technical groups assessing each other’s systems.
- Institutional strengthening.
- Negotiations between different institutions over functional mandates, custodianship of databases, human resources and funding.

National and foreign consultants may bring in valuable experience from elsewhere. But use their services cautiously to avoid resentment. Employ consultants to provide support services rather than having them in a prominent role.

4.2. The importance of keeping people informed and involved

It is vital to understand the views and needs of the people and organizations that implement, use and are affected by the land systems under review. They should be given the opportunity to contribute to the new policy, which means talking not just with professionals and high-level government officials, but also with local residents, farmers, community groups and lower-level staff who actually implement the procedures and are familiar with day-to-day problems.

Because land issues are complex and the rules and procedures are often obscure, it may be necessary to educate people on how the system currently works before they can make meaningful contributions to the debate. The policy development process should be accompanied by a strategic awareness campaign to keep stakeholders and the public informed about, and involved in, current activities. Make sure enough time and resources are devoted to this effort.

Another awareness campaign will be needed after the changes have been put into place. This is necessary to make sure that all concerned understand the reasons for the new procedures as well as how to follow them.

Such a campaign is also key to risk management for the government as they can keep citizens informed on new issues discussed and stakeholders involved in the discussion in a way that builds trust and credibility.

Module 5. SUPPORTING APPROVAL AND IMPLEMENTATION

The fifth module highlights the fundamental steps to get a drafted policy approved and implemented. The objective of the module is to provide guidance on policy approval and implementation.

5.1. Steps towards policy approval and implementation

- **Get the policy approved.** It will be necessary to shepherd the new policy through the approval process in the relevant ministry and in the national parliament. This will require a champion (or champions) – an influential individual, a change team, or a coalition of interests. The champions are likely to have been involved in the process, are convinced of the benefits and are prepared to expend energy on getting the changes approved.
- **Mobilize resources.** Launching reforms and maintaining progress costs money, and it takes scarce management skills and staff time. This is not just a question of budgeting and workflow programming but also means ensuring that people have adequate incentives and are committed to the reforms.
- **Create a framework for implementation.** Once the land policy is approved, it must be translated into an implementation framework. That means assigning new objectives and tasks to various agencies, involving new partners, introducing new procedures, changing the structure of existing organizations, and perhaps creating new organizations. It will be necessary to prepare concrete action plans and set performance targets and standards. It may be best to introduce the reforms gradually, perhaps trying them out in a pilot region first before adopting them nationwide.
- **Build capacity.** New procedures mean developing human resources. It will be necessary to hire staff with different skills and retrain existing staff so they can handle the new approaches.
- **Implement and monitor progress.** Once the new policy is in place, it may need to be fine-tuned to make it work smoothly. Individual agencies should monitor their own activities, but new ways will also need to be found to monitor overall progress if more than one agency is involved. Non-government organizations can be especially useful for providing independent oversight of reforms.

Module 6. THE LAND POLICY PROCESS

The sixth module highlights the pivotal role of land tools in the development of land policies and identifies ten key ingredients of the land policy process. The objective of the module is to give a comprehensive overview of the land policy process.

6.1. The key role of land tools

A failing of many country's land policies is that they lack key "land tools": procedures or methods for handling specific aspects of the land system. For example, there may be a need for:

- An inclusive regulatory framework covering the private sector involvement in land administration.
- Robust, inclusive land records.
- An inclusive land information management system.
- A sustainable capacity-development programme.
- An affordable cost recovery system in land administration.
- Options for group tenure rights, especially for tribal groups, rural communities, displaced communities, etc.
- Inclusive tools for land acquisition, expropriation and compensation in urban and rural areas. These must accommodate customary land law, take into account livelihoods and natural resources, and work where no land records exist.
- Land tools that fit with the variety of local conditions in the country.

UN-Habitat has established the Global Land Tool Network (www.glttn.net) to gather examples of such tools and developing new ones to fill important gaps. It may be possible to adapt these tools to suit conditions in the country.

6.2. Ten key ingredients of a land policy process

1. **Government and national leadership is crucial.** Outsiders cannot be the sole champions of change and political will from national leaders is fundamental. However, there is a clear need to identify champions at many different levels, including professionals, grassroots, academia and the media. National leadership and capacity building at all levels must be a priority throughout.
2. **Reconcile multiple stakeholders and visions.** Reform processes never run smoothly. Given the diversity of perspectives, the often-overlapping mandates between and within ministries, institutional competition and the vested interests of all concerned will always generate conflict. These differences must be brought out early and addressed continuously.
3. **Long-time horizons.** Land issues are extremely complicated and do not lend themselves to a two-year project approach. Be wary of rushing to implement long-term solutions; existing solutions may not work, priorities may change. Constituency building is not a one-off task but must continue over the life of reform implementation.
4. **Deliver both process and products.** How reforms are pursued can be as important as what policy products and outcomes are delivered. The support of policy champions and the creation of reform constituencies are important. Politicians are key constituents but are in office for three- to five-year terms, so the process needs to deliver successes on a regular basis, perhaps taking advantage of opportunities as they arise rather than being constrained by a predetermined calendar of deliverables.

5. **Managing political risk is crucial.** Politics is part of the process and cannot be wished away. Reforms can require strategies, structures and mechanisms that reduce or neutralize the dominance of powerful actors. Building alliances across stakeholder groups is vital.
6. **Many existing technical solutions are inadequate.** There is a big gap between policy and implementation. Many of the existing tools are inadequate: they are expensive, complicated and bureaucratic, and cannot cater to (for example) group rights or other innovative forms of tenure. Appropriate technical solutions must be affordable both for the government and for users.
7. **Combine technical and grassroots experience.** Policymaking is generally dominated by technocrats. Grassroots realities and grassroots solutions also need to be understood and incorporated in the reform process. That means using participatory processes and making sure that the process is not captured by technocrats or the better-off.
8. **Process support requires dedicated resources.** Technical solutions often attract donor and government interests, but support for participatory processes is often undervalued and therefore under-funded. A weak process can render irrelevant the most technically exciting solution – as shown by countless failed or stalled reform projects.
9. **An effective outreach strategy is critical.** Under pressure to deliver, reformers often neglect communication strategies. Yet without a dedicated outreach campaign, clients will rarely adopt the proposed reforms.
10. **Expect political ups and downs.** Because land requires long-time horizons for delivery it often becomes the tool of politicians (national and local government) and civil society and donors, and just when everyone agrees, political pressure introduces new dimensions. Sometimes it is useful to continue with appropriate technical work and, in that way, introduce political change.

ANNEXES

Annex 1. Participant nomination form

LOGO(s) of training organizers/sponsors

PARTICIPANT NOMINATION FORM
< **How to Develop an Inclusive Land Policy** >
Date, location (city and country)

Name of the nominating organization:

Details of the nominated participant

Name and last name:

Position/organizational role:

Sex:

Nationality:

Country of current residence:

Contacts:

Details of the nominator

Name and last name:

Position/organizational role:

Contacts:

Briefly describe how the participant is actively engaged in ongoing work on land issues

.....
.....

Briefly describe the participant's engagement or experience with developing land policy

.....
.....

Briefly describe how you think the nominee will benefit from this event

.....
.....

Briefly describe the participant's organizational and professional linkages in the land sector

.....
.....

Date: _____ Signature of nominator: _____

Thank you for completing this nomination. Please return by [date] to [name of person] on [email]

Annex 2. Pre-training assignment

LOGO(s) of training organizers/sponsors

PRE-TRAINING ASSIGNMENT

< **How to Develop an Inclusive Land Policy** >

Date, location (city and country)

Personal information

Name:

Position / Title:

Organization / department:

Years of work experience:

Years of work experience on land and/or gender issues:

Level of educational qualification achieved:

Work information

What is the theme or area of your current work?

.....
.....
.....

In your daily work, do you encounter land issues? Please describe briefly.

.....
.....
.....

Do you have the support of your employer to be at this training?

.....
.....
.....
.....

In your work, do you conduct research, evaluations or assessments? Please describe briefly.

.....
.....
.....

What are the main challenges or difficulties you face in your work? Please describe briefly.

.....

.....
.....
What are the main successes or achievements so far of your work? Please describe briefly.

.....
.....
.....
Give some thought to your present knowledge, skills and experience and then do a self-assessment.

1= strongly disagree 2= disagree 3= agree somewhat 4= agree 5= strongly agree

1. Experience in developing land policy

1 2 3 4 5

2. Understanding the need for inclusive land policy

1 2 3 4 5

3. Understanding of how land policies are biased against the poor

1 2 3 4 5

4. Skills and experience in managing land-related conflicts

1 2 3 4 5

5. Experience in dealing with technical issues

1 2 3 4 5

6. Knowledge of the work of GLTN

1 2 3 4 5

What do you hope to learn from this training workshop? Please describe briefly.

.....
.....
.....
How would you apply this in your future work? Please describe briefly.

.....
.....
.....

Annex 3. Expertise matrix

Sample of a professional focus/expertise matrix

This matrix can be used as an icebreaker when introducing participants to each other. The exercise usually takes 30-40 minutes, depending on the number of participants.

1. The facilitator will need a whiteboard or large sheets of paper and markers, to prepare the matrix.
2. In addition, each participant is handed a few post-it notes.
3. The categories in the matrix should be agreed jointly with participants, but a template can already be prepared beforehand by the facilitator to get the process started.
4. Each participant is then asked to take a few moments to reflect where they best fit in, in terms of their experience.
5. Participants are then invited to come up to the whiteboard or sheets, introduce themselves in a couple of sentences, and place the post-it note where it belongs in the matrix.
6. There may be participants who feel they do not fit into any category (or have a resistance to being "boxed in" or stereotypes into one category). In this case, the facilitator can welcome them to put their sticker anywhere on the board with any description they like of themselves.
7. The organizers may wish to place the completed matrix on one of the walls in the training room, so that it can be referred to, if needed, during the course. It can also be typed up and included together with a set of bios of the course participants in the final course report.

	Main field of work				
	Law and human rights	Land administration	Gender	Finance	Other
Academia and research					
NGOs and communities					
Private sector					
International organizations					
Government					
Other					

Annex 4. Group work: Managing potential conflicts and “politics” of the process

Instructions

Create groups of 5-8 people

The exercise usually takes 60 minutes, depending on the number of participants. 30 minutes for discussion and 30 minutes to report back.

Give concrete examples of when you were part of land policy development processes (or similar processes) and you had to deal with conflicts and politics.

1. What were the key issues?
2. How did you address them?
3. What else could you have done?

Annex 5. Group work: Role-play

Instructions

Part 1: Preparation

Each of you has been assigned a role.

Familiarize with your role:

4. What are your needs?
5. How do you access land?
6. Who administrates your land?
7. Which interests do you have in a land policy? How would it respond to your needs?

Part 2: Group work

Within your group, develop a land policy in a collaborative manner.

Step 1: In a group, discuss and agree what are three key priorities the land policy should address.

Step 2: Develop a short description (max two or three paragraphs) explaining what the policy should say about each of these priorities.

Step 3: Indicate which institutions have key roles in implementing what this policy provides for.

Step 4: Report back to the plenary, present a short description of the three priorities and the role of the institutions involved in the policy implementation.

Step 5: Reflect on the process and discuss the outcomes with the other groups. What can be improved?

Roles

ROLE 1: MAYOR

I have been mayor for two years. In my city, there is a positive economic development, but youth unemployment is high and capital investments in businesses, housing, hotels and offices is not as good as it could be. I do not have enough budget to invest in services and infrastructure, which makes it difficult for me to ensure garbage collection and provide water and sanitation services. Some neighbourhoods are doing quite well, but others are really poor and problematic, particularly as people do not have suitable houses. Moreover, there are many disputes over land and forced evictions that lead to security incidents. I cannot deal with everything at once, but during my term, I want to solve at least two main problems. The land policy process that just started is an important opportunity for me to achieve these changes.

ROLE 2: MINISTER OF LAND, HOUSING AND PUBLIC WORKS

I have just been chosen as the new Minister of Land, Housing and Public Works of the federal Government of Somalia. After several other jobs in the government and as businessman in Somalia and abroad, this is for me a great opportunity to improve things in the Somali Region. I have some knowledge on land, housing and public works and I want to implement a new policy on land that will fix most of the problems we are now facing. Many investors are coming to me with interesting proposals for developing basic infrastructure projects. Businessmen say they are ready to invest in hotels and offices and I want to make sure that land is made available for such projects. I also have to ensure that the implementation happens quickly so that some funds can flow into the ministry's account to do necessary works. There are many requests also coming from the states, each of which follows laws and processes that are similar but not identical. I need a system that is easy to manage and to be understood by everyone. The land policy process that just started is an important opportunity for me to achieve these goals.

ROLE 3: BUSINESSWOMAN

I was born and I lived in this town from most my life, although I spent few years in other parts of the country during the worst moments of the conflict. I managed to establish my own business, I trade different goods, mostly food, household items, clothes and construction materials. The business is going quite well, and I want to build my own house and shop. I have been renting for many years and I wasted a lot of money on rent and to move continuously from a place to another, as the landlords keep increasing rent prices without respecting our agreements. I am really struggling to get my own plot. The one that my father owned was taken by my uncle and he says that it is his and that I cannot even have a part of it. I made a payment for another plot nearby, but it came out that the person who sold it to me was not the real owner and this person gave me back only a small part of the money I paid. I heard that a land policy process just started, and I really hope it will solve these problems, so that I can find a permanent place for me to live in peace and for my business.

ROLE 4: INTERNALLY DISPLACED PERSON

My family is from a beautiful place in the countryside, about 40 km from this city. A part of my family still lives there and I also lived there for few years. I came to this city during the worst moment of the conflict. I tried to go back once, but I did not manage to start a life back there as I could not find a job that would sustain me, my wife and my four children. I have been in this city for almost 15 years and I always get short term jobs with very little pay, but some months are better than others. I lived in many parts of the city, moving from place to place. I do not have enough money to pay rent in better areas, so I have to keep moving as the city expands or people decide to buy and build. A few times I was kicked out from the place where I was living with no notice, losing most of the little funds I invested in my shelter. Every time I have to start afresh. I wish I could be at least told where my family and I can stay. If I were given a small plot of land to stay on, I could have some peace of mind and, with the community around me, we would have a place to start from. I am from this country, I have been here for years, my kids lived all their lives here; it is our right to have a place to live in peace.

ROLE 5: FARMER

I live near the river, 40 km outside town. My community has been farming for generations and we are still doing it for a living, although sometimes some of us get other, occasional jobs in town. The crops grow well and provide a good income if there is no drought or flooding, which is happening more and more. Two years ago, there was drought and the crops were very scarce. Because of lack of grass, some pastoralists crossed to the river and passed over our land, and the cows and goats ate most of our crops and in two days they destroyed the work we did in months. Pastoralists were saying that grazing and going to the water is their right. We were so upset. Other families had the same problem and there was a big fight with the pastoralists. Some people got killed. Finally the elders settled the matter, but the following year it happened again. One of the relatives of the pastoralists says that we cannot stop them, as we have no proof that it is our land. This year, my family and I want to patrol our farm. We fenced it and, if necessary, we will protect it with force.

ROLE 6: ELDER

I am a businessman and also an elder. Sometimes I do office work in different organizations and this keeps me very occupied and gives me a lot of responsibilities. I spend a lot of time solving disputes among members of our community or between different communities. This is a very important part of my life and I do it with pride and satisfaction. Sometimes, however, it is frustrating to be called to solve problems created by others that did not consult you before taking a decision. Once, for instance, there was a dispute between two brothers over the ownership of a big plot of land in the outskirts of the city. One was abroad and the other developed it as he thought was best to rent it to IDPs. When the other came back he wanted half of the land, refused to pay for the development done by the brother and wanted him to return the land to as it was before. He went to the court and paid a lot until reached the court ruling but the court decision could not be enforced. The conflict between the two became very problematic, also for the IDPs living on the land as they were threatened to be removed by force and even shot. I managed to solve the conflict with the other elders, but I wish there could be a better way to deal with such issues. I heard there is going to be a new land policy and I have many useful ideas on how land related conflicts could be prevented and solved in a practical way.

Annex 6. Action planning

Action planning, likely to be held at the end of the course just before the final evaluation, includes both individual and group work. The session usually takes about two hours, depending on the number of groups.

The objectives of this session are to allow each participant to:

1. reflect on what has been learnt in the preceding days of the course;
2. think about which future steps will be undertaken and how participants will act with regards to new knowledge acquired when returning to his/her workplace;
3. interact with peers for possible collaborator in national organization-level follow-up.

Session plan

Time	Session activity
10-20 min	Guidance on action planning: short introduction to action planning (why it is considered important) and to the session.
10 min	Individual action planning: This sub-session will consist of individual reading of materials that have been handed out during the preceding days of the course and consideration of how the participant, in his/her individual capacity, will be able to use the new knowledge and skills gained from the course when returning to his/her position back home. A handout will be given for each participant to complete to help trigger thoughts on this.
60 min	Group action planning: this sub-session will consist of three steps: <ul style="list-style-type: none"> • Discuss and agree what are three key priorities the land policy should address. • Develop a short description (max two or three paragraphs) explaining what the policy should say about each of these priorities. • Indicate which institutions have key roles to play in implementing what this policy provides for.
10 min per group + 10 min plenary	Report back to the plenary, including on three priorities, short description, and roles of institutions. Reflect on process.

Model for personal/country action plan

Your name and organization/professional background	
Idea to implement	
Internal context: problems/obstacles and strengths/opportunities	
External context: opportunities and threats	
Who must be involved?	
What resources are needed?	
How will you introduce this idea?	
When will you initiate it?	

Annex 7. Final evaluation form

LOGO(s) of training organizers/sponsors

EVALUATION QUESTIONNAIRE

< How to Develop an Inclusive Land Policy >

Date, location (city and country)

1= strongly disagree 2= disagree 3= agree somewhat 4= agree 5= strongly agree

A. Objectives and training scheduling

1. Clearly understood the training objectives.

1 2 3 4 5

2. The stated training objectives were fully met.

1 2 3 4 5

B. Inputs and discussion

1. The inputs were informative and stimulated my thinking.

1 2 3 4 5

2. The interaction and discussions deepened my knowledge and understanding.

1 2 3 4 5

3. I found the training consistently stimulating, of interest and relevant to me.

1 2 3 4 5

4. The training programme was designed in a sensible manner.

1 2 3 4 5

C. Perceived impact

1. The knowledge and ideas gained through this training are appropriate and adequate to engage in inclusive land policy development in the Somali Region.

1 2 3 4 5

2. Overall, I am very satisfied with this training.

1 2 3 4 5

3. When I return to my organization, I will inform my colleagues and other stakeholders about the training.

1 2 3 4 5

Which aspects of the course did you find most interesting?

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.....
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.....

How do you intend to apply what you have learned during the course?

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.....
.....

Which follow-up activities would you like to see?

.....
.....
.....
.....
.....

Other comments and suggestions:

.....
.....
.....
.....
.....

Thank you for your inputs!

Annex 8. Slides

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