



# DARFUR LAND ADMINISTRATION ASSESSMENT - ANALYSIS AND RECOMMENDATIONS -

**UN**  **HABITAT**  
FOR A BETTER URBAN FUTURE

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GLOBAL LAND TOOL NETWORK

## DARFUR LAND ADMINISTRATION ASSESSMENT: ANALYSIS AND RECOMMENDATIONS

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## GLOSSARY OF TERMS

<b>Ada:</b>	custom, tradition or habit
<b>Amir (emir):</b>	tribal leader, ruling several <i>Omdas</i> . In some cases, the <i>Amir</i> is the same level as the <i>Nazir</i>
<b>Ashwaey:</b>	informal settlement or slum
<b>Clinkab:</b>	physical entity to demarcate the boundaries between two farms
<b>Damra:</b>	small pastoralist village
<b>Dar:</b>	territory of a specific tribe or clan
<b>Diwan:</b>	guest house with a room for male guests separated from the main house
<b>Fareeq:</b>	pastoral group travelling together. Also used to refer to the temporary houses of a specific group of pastorals when they stop to rest during their travels
<b>Feddan:</b>	measurement of land corresponding to approximately 4,200 m <sup>2</sup>
<b>Fur:</b>	people who had a sultanate before the British colonization
<b>Hakuma:</b>	government or state, from <i>hakm</i> , to rule or govern
<b>Hakura or Hakora:</b>	estate of land in Darfur, historically administered on behalf of the head of the tribe
<b>Housh:</b>	house of an extended family that includes more than one small family. Also used to refer to the yard area in a single house
<b>Idaraahliya:</b>	Native Administration. System of government through local authorities, established under British administration
<b>Jobraka (or najjadh):</b>	small garden attached to the house
<b>Judiyya:</b>	customary system of mediation in Sudan based on third-party mediators
<b>Khotta iskanya:</b>	site and service settlement plan
<b>Mahaliya:</b>	locality, an administrative unit between wilaya (state) and the administrative unit
<b>Mahar:</b>	dower
<b>Mahkam Ahlyya:</b>	level of judiciary system where the judge is the <i>sultan/nazir</i> or <i>omda</i>
<b>Majlis:</b>	council, legislative assembly
<b>Manzila:</b>	larger area within the stock route corridor where the cattle stay for a long time period
<b>Masarat (sing. Masar):</b>	traditional stock route
<b>Mewat:</b>	land left undeveloped where no one claims ownership (dead land)
<b>Mirath:</b>	inheritance
<b>Mutamad:</b>	commissioner of a locality
<b>Nazarah:</b>	territorial unit in native administration
<b>Nazir:</b>	highest rank in the native administration

<b>Omda:</b>	local leader, normally of a town, large village, or group of villages
<b>Rakoba:</b>	traditional conflict resolution mechanism between tribes in Darfur
<b>Sharia:</b>	Islamic law, or the sources of Islamic law (literally 'the way,' 'the path')
<b>Shartay:</b>	hereditary chief responsible for a <i>Dar</i> (Daguor Kanuri language)
<b>Sheikh:</b>	local tribal chief at the village or pastoral group level
<b>Sinyya:</b>	area within the stock route corridor where pastoralists stop to give their animals a short rest
<b>Sultan:</b>	highest rank in the Native Administration of some tribes
<b>Wadi:</b>	seasonal water body
<b>Wali:</b>	state governor
<b>Wilaya:</b>	federal state
<b>Zakat:</b>	one of the Five Pillars of Islam, a religious obligatory form of giving for all Muslims, determined by the taxation of wealth and income

## ACRONYMS & ABBREVIATIONS

<b>CCA:</b>	Common country assessment
<b>CEDAW:</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CERF:</b>	Central Emergency Response Fund
<b>CoFLAS:</b>	Costing and Financing Land Administration Services
<b>DLC:</b>	Darfur Land Commission
<b>FAO:</b>	Food and Agriculture Organization of the United Nations
<b>GIS:</b>	Geographic Information System
<b>GLTN:</b>	Global Land Tool Network
<b>GPS:</b>	Global Positioning System
<b>HAC:</b>	Humanitarian Aid Commission
<b>HLP:</b>	Housing, land and property
<b>IASC:</b>	Inter-Agency Standing Committee
<b>IDP:</b>	Internally displaced person
<b>IFAD:</b>	International Fund for Agricultural Development
<b>IOM:</b>	International Organization for Migration
<b>ISF:</b>	Integrated Strategic Framework
<b>MoTPD:</b>	Ministry of Transport and Physical Development (the Ministry has been changed to Ministry of Transport and Infrastructure in September 2019)
<b>MoPI:</b>	State Ministry of Planning and Infrastructure
<b>NCPD:</b>	National Council for Physical Development under MoTPD
<b>NELGA:</b>	Network of Excellence on Land Governance in Africa
<b>NFI:</b>	Non-food item
<b>NGO:</b>	Non-governmental organization
<b>NUP:</b>	National Urban Policy
<b>OCHA:</b>	United Nations Office for the Coordination of Humanitarian Affairs
<b>OHCHR:</b>	Office of the United Nations High Commissioner for Human Rights
<b>Pinheiro Principles:</b>	United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons
<b>RSPSD:</b>	Regional Spatial Planning Strategy of Darfur
<b>STDM:</b>	Social Tenure Domain Model
<b>UN:</b>	United Nations
<b>UNAMID:</b>	United Nations - African Union Mission in Darfur
<b>UNCT:</b>	United Nations Country Team
<b>UNDAF:</b>	United Nations Development Assistance Framework
<b>UNDP:</b>	United Nations Development Programme
<b>UN-Habitat:</b>	United Nations Human Settlements Programme
<b>UNHCR:</b>	United Nations High Commissioner for Refugees
<b>UDHR:</b>	Universal Declaration of Human Rights
<b>UNISFA</b>	United Nations Interim Security Force for Abyei
<b>UNITAMS</b>	United Nations Integrated Transition Assistance Mission in Sudan
<b>VGGT:</b>	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security

## EXECUTIVE SUMMARY

The **objectives of the report** are to assess the statutory and customary land administration systems and practices in the five Darfur states of Sudan, and to provide guidance to relevant stakeholders on how to support the tenure security and housing, land and property (HLP) rights of people voluntarily returning to Darfur and of other vulnerable people, such as IDPs, refugees, women and youth. Although the primary focus of the report is on securing the land rights of returnees, vulnerable and displaced people, the findings and recommendations are relevant to the overall Darfur population. An adequate and effective land management system will be essential for supporting Darfur's transition from the humanitarian to the development phase, ensuring the social and economic development of Darfur in the years to come and is one of the preconditions for the success of peace and stabilization efforts. The report targets key land sector stakeholders – particularly national and state level actors, the UN and their partners. The analysis and recommendations are drawn from consultations with multiple stakeholders in Darfur and Khartoum, as well as from lessons learned in other countries. The recommendations should be presented to the different land sector actors of Sudan for debate, prioritization and adjustment.

Darfur is a region of Sudan composed of five states. The region has seen armed conflict, tribal disputes and humanitarian emergency since 2003. In 2019, Darfur counted at least 1.64 million displaced people (OCHA, 2019) and more than 7.5 million inhabitants (CBS, 2009). While most land-related conflicts have been occurring between pastoralists and farmers, there are other causes of conflict related to customary and statutory land governance, environmental issues, poverty, ethnical identity and exclusion. These challenges are aggravated by the inadequate **land registration and land administration** system. Less than one percent of Darfur's land is registered and most of it is found in the main cities. If land registration continues at the current rate and with the land administration approach presently used, the process could take a very long time and require an unaffordable amount of money to the Darfur administrations. In the meantime, voluntary returns are likely to occur in a haphazard way, with a less than optimal land management, which could lead to further land-related conflicts in the future.

There are varied **key stakeholders** in the Darfur's land sector including federal government institutions, Darfur states ministries, Native Administrations, IDPs, civil society organizations, private developers and other actors who are involved in different aspects of formal, traditional or informal land administration, including dispute resolution. An efficient and conflict-sensitive land administration system is crucial to prevent and resolve land-related conflicts at the local, community or individual level.

Chapter 2 of the report provides an overall **assessment of the land tenure system** in Darfur, which includes a review of existing land tenure types in the statutory, customary and informal land tenure systems. Registered freehold, registered leasehold, tenure type Grade IV, customary ownership and land use arrangements, informal tenures in urban areas, land tenures held by IDPs inside the camps, and women's land rights are described. The report outlines the key land administration processes for registering and leasing residential and agricultural land, planning and allocating land rights.

Chapter 3 presents the **legal and institutional frameworks** shaping the Darfur's land sector. The report includes a review of the federal and state-level legal frameworks - which impact Darfur's land management and protect different land tenure types - and a review of the institutional frameworks, including key ministries and committees responsible for land planning and management. The procedures for land registration in Darfur are complex and the full land registration of a single village requires many steps to be completed, including planning, surveying and demarcation. In urban areas, the

government surveys and plans many land parcels in bulk, and then leases them to the people but the sites are not linked to an overall spatial development strategy, they are often not serviced and far from livelihood opportunities. The process of village planning mostly involves re-planning existing villages which have been inhabited for years and where the local community holds customary land rights. In rural areas, most people access land through the customary land system managed by the Native Administrations, and land is allocated through local knowledge and oral records. Local knowledge is also used to solve local land disputes with the support of eyewitnesses. A “no-conflict” certificate can be issued to allow customary farmers to shift from customary land to leasehold land registered in the statutory system, but the process is complex and would require simplification and a shift towards fit-for-purpose land administration. The main challenges and areas of improvement regarding the legal and institutional frameworks of the land system in Darfur are: the complexity of the land legislation; the legal recognition of only few land rights among the many types existing de facto in Darfur; and the provision of land tenure security and land-related services to the most vulnerable, including those living in IDP camps.

Chapter 4 assesses the **land administration capacities** of the key Darfur land sector stakeholders. The customary land administration system has been carrying most of the land administration responsibilities in Darfur with limited resources and capacities. A political and technical vision for land governance and land management, including facilitating return and land tenure security for IDPs and vulnerable people, is needed before defining a capacity development strategy for the Darfur states and the key interventions to be prioritized. It is important to ensure that statutory and customary land administration systems work together and support each other in the prevailing context of legal pluralism. Institutional, financial and human resource-related capacities will need to be increased both for statutory and customary land administration actors. The chapter provides an analysis of challenges, opportunities and preliminary recommendations on how to develop the overall capacity of the land administration system in Darfur to perform its functions and provide land tenure security to returnees, IDPs and other vulnerable people.

Chapter 5 provides an overview of land-related **international frameworks** and briefly presents **mandate and work of UN-Agencies** with land-related functions in Sudan.

In Chapter 6, the report provides a set of early **recommendations** on options to improve land administration in Darfur with a specific focus on the provision of land tenure security and protection of HLP rights of returnees, IDPs, women and vulnerable people. The intended audience for these recommendations are the Darfur land sector stakeholders, particularly government representatives, the Darfur Land Commission, the United Nations, and other humanitarian and development actors. The first set of recommendations put forward a set of points for discussion regarding **high-level strategies** that will inform policy-formulation and decision-making to improve land management and land administration. The recommendations address: the importance of better understanding the land-and-conflict nexus, the need of broadening the range of land tenure options legally recognized and formally acknowledging the role of customary land administration actors. The improvement of existing land-dispute resolution mechanisms and women’s land rights, the need of shifting towards fit-for-purpose land administration approaches, the definition of roles and responsibilities of state and federal institutions, and the importance of partnerships within and beyond the Durable Solutions Frameworks are presented in this section.

The **technical recommendations** provide further detail on clarifying and improving land administration functions of different levels of governments and among statutory and customary actors, including strengthening government and Native Land Administration’s capacity to undertake planning, surveying, land regularization and expropriation,

regularization of IDP settlements, improving land information management and financing, and developing land administration and HLP rights capacity of key stakeholders. The report also includes a set of **recommendations for concrete actions** on land governance, land-use planning, land information management and dispute-resolution mechanisms and propose some capacity development approaches for government, Native Administrations, community-based and civil society organisations, academia and land professionals.



# CHAPTER 1

## BACKGROUND

## **1.1 Introduction**

### **Objectives of the report**

The objectives of the report are to assess the statutory and customary land administration systems and practices in the five Darfur states of Sudan, and to provide guidance to relevant stakeholders on how to support the tenure security and housing, land and property (HLP) rights of people voluntarily returning to Darfur and of other vulnerable people, such as IDPs, refugees, women and youth.

The field assessment and analysis were finalised in the first quarter of 2019, while the first edition of the report – which is considered a living document and was enriched by the comments of the UNCT and UNAMID - dates July 2020.

After the establishment of the new Transitional Government of Sudan in August 2019, the peace talks took place in Juba, South Sudan. The issues of land tenure security, land rights and land administration mechanisms were highlighted as an important element in the peace negotiations. This report can provide useful elements on which to base such discussions, also in support to the National Protection of Civilian Strategy of the Government of Sudan, developed in the first half of 2020.

Although the primary focus of the report is on securing the land rights of returnees, vulnerable and displaced people, the findings and recommendations are relevant to the overall Darfur population. An adequate and effective land management system will be essential for supporting Darfur's transition from the humanitarian to the development phase, ensuring the social and economic development of Darfur in the years to come and is one of the preconditions for the success of peace and stabilization efforts.

The report covers the assessment and recommendations for all five Darfur states and the federal level where needed. It supports the work of the Darfur Land Commission (DLC), the Darfur State Ministry of Planning and Infrastructure (MoPI) and other key land stakeholders in addressing the HLP needs of vulnerable people through the following specific objectives:

- Identify the institutions, organizations and individuals involved, which include the government, customary institutions, non-state actors and the UN agencies.
- Describe and clarify land-related policies, land administration systems, dispute-resolution mechanisms, tenure typologies and technical processes, both statutory and customary. Determine gaps in the overall capacity and the capacities needed to face the challenges.
- Describe and clarify the land-related activities carried out by the UN. Determine capacity gaps and which capacities are needed to face large scale displacement, returns and land-related, peace-building challenges.
- Identify appropriate and affordable solutions, including capacity development, that can be scaled up to address voluntary returns and the tenure security of vulnerable people.
- Identify sets of early recommendations, strategies and priorities.

### **Background of the report**

The report incorporates the findings from two land conferences held in Sudan in 2018. The first one, co-hosted by UN-Habitat and DLC in April 2018, was Sudan's first ever Land Conference. The event was held with the support of the Ministry of Transport and Physical Development (MoTPD), DLC, the Qatar Fund for Development, the UN Darfur Fund, UN-

Habitat, UNDP, FAO and the Global Land Tool Network (GLTN). The participants discussed the challenges and opportunities in supporting peace and stability in Darfur and identified several land management challenges faced by DLC and the Native Administrations in the five Darfur states. The second land conference was held by DLC in December 2018 as a multi-stakeholder workshop within the Strengthening Land Management for Peaceful Co-existence Programme in Darfur.<sup>1</sup>At the point of finalization of the data collection and analysis for the report, Sudan is undergoing a period of transition and major re-arrangement of the governmental institutions.

UN-Habitat has been providing technical assistance on securing HLP in Sudan particularly to the conflict-affected states. The assistance includes the development and implementation of a sustainable National Urban Policy (NUP) and the provision of innovative approaches for achieving adequate and sustainable shelters for the vulnerable population affected by conflicts such as IDPs, returnees, refugees and hosting communities.

## 1.2 Methodology

### Information collection methods

This report was developed through three information collection methods: multi-stakeholder consultations, literature review and key informant interviews.

**Multi-stakeholder consultations.** It includes the multi-stakeholder process and findings from the two land conferences in 2018 and the lessons learnt from the implementation of the Strengthen Land Management for Peaceful Co-existence Programme in Darfur.

**Literature review.** It includes the review of the key literature available on Darfur and Sudan and of other documents (see references), and the analysis of the key international work carried out on land administration in Africa.

**Key informants' interviews.** Further information was collected through semi-structured interviews tailored for different types of stakeholders and key informants in North Darfur, South Darfur, West Darfur and Khartoum.

The interviewed stakeholders include: (1) participants of the Darfur National Land Conference held in Khartoum in April 2018 and the Darfur Land Conference for Peaceful Co-existence held in Khartoum in December 2018; (2) representatives from DLC; (3) key land actors from ministries of the Darfur states; (4) Voluntary Returns Commissioners coordinating the voluntary returns between the government, the UN and the IDP camps; (5) women and youth from the Darfur states; (6) other stakeholders related to land administration, such as the Native Administration; (7) key informants from national-level institutions, academics and research hubs (see Appendix 1).

Interviews with state-level representatives were conducted in the capital cities of the Darfur states in most cases in the presence of UN-Habitat. To know the situation of IDPs in the camps, representatives of government and civil society organizations working with IDPs were interviewed. Six focus group discussions were also conducted. The report describes the overall capacity assessment and it does not present the views of specific stakeholders.

To conduct the interviews, questionnaires were used to: (1) identify the main stakeholders at the state level; (2) understand the role of the Native Administration from the point of view of the citizens; (3) identify the main resources available in the land-

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<sup>1</sup> UNDP/UN-Habitat/FAO (2016). Strengthening Land Management for Peaceful Co-existence Programme in Darfur. <http://mptf.undp.org/document/download/15868>.

related departments (surveying, planning and land); (4) understand the potential of using STDM and other open source software at state level.

**The capacity assessment model.** The capacity assessment model used for the statutory land administration aspects was based on “a global land management perspective” (Williamson *et. al.*, 2010), *Land Management Paradigm* (Enemark, 2005) and *Land Administration Toolbox-based Assessment Methodology* (de Vries, 2014). This approach was previously piloted at the country level in Uganda through GLTN-supported work (Musinguzi, 2017).

The interviews to assess the statutory and customary systems focused on the capacities in term of land administration, land tenure, land use, land development<sup>2</sup> and land information infrastructure. The interviews regarding voluntary return and vulnerable populations focused on the main challenges/problems and concerns, current performance, capacity gaps, who/what can bridge that gap and how fast.

The capacity assessment focused on priority issues related to institutions, organizations and individuals. These include technical skills, explicit knowledge, tangible and visible capacities, operational capacities (e.g. culture, values, leadership, experience, problem solving, communication), adaptive capacities (willingness to learn and change, ability to analyse, empowerment), and organizational capacity in terms of mandate (responsibility and authority), motivation (incentives and accountability) and means (finances, staff, knowledge and skills, processes and procedures).

Performance was also assessed in terms of leadership (e.g. does the leadership have policies and procedures in place to meet the challenges?), strategy (e.g. are the objectives of the organization oriented towards results on customary tenure, peacebuilding, returnees?), and partnership (e.g. is there coordination across different government agencies that facilitates processes?).

The main challenge of the statutory and customary systems that was raised in interviews was the sensitivity of some issues, such as the history of tribal conflicts and gender issues. Regarding the latter, a separate study should be carried out to access useful information, however, this report presents the initial findings and recommendations on women’s access to land and land rights and peace building between tribal groups.

### 1.3 Overview of Darfur

Sudan is a federal state composed of 18 states. Each state is headed by a governor (*wali*), a state legislature and different ministries such as the MoPI. Darfur is a region in the west of Sudan, and it is composed of five states: Central Darfur, East Darfur, North Darfur, South Darfur and West Darfur.

Darfur, named after the *Fur*, which means people who held the sultanate before the British colonization, is bordered by Libya, Chad, Central African Republic and South Sudan. It is home for more than 160 tribes with different ethnicities, some of which have their own local language, culture and traditions. This diversity is a fundamental feature in Darfur and Sudan’s history.

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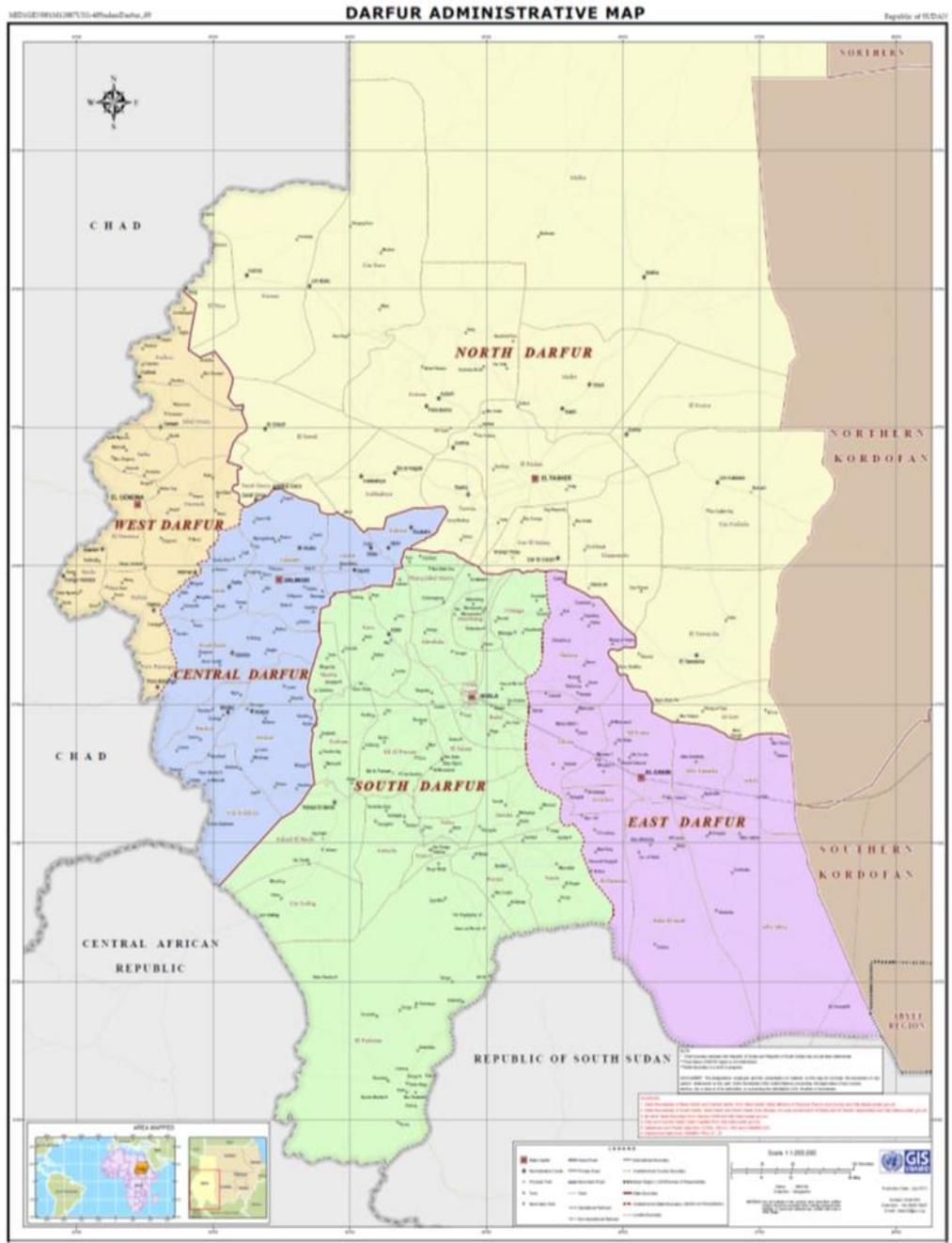
<sup>2</sup> Land development means the processes of implementing land-use planning or development proposals for building new urban neighbourhoods and new physical infrastructure, and managing the change of existing urban or rural land use through granting of planning permissions and land-use permits. Depending on the scale of the development project, the process may include a range of activities such as land acquisition, subdivision, legal assessment and planning consent, project design, construction works and the distribution of development incentives and costs. The process also includes a range of actors such as landowners, developers, public authorities, building contractors and financial institutions.

The combined effects of severe drought, large scale environmental degradation, and population displacement were aggravated, since 2003, by armed conflict, tribal disputes and a humanitarian emergency. Most of the conflicts are between two groups - pastoralists and farmers - competing for land and natural resources. But while the conflicts manifest as a competition over land use, there is a range of root causes that are related to customary and statutory governance, environmental challenges like drought and desertification, and poverty, identity and the politics of exclusion.

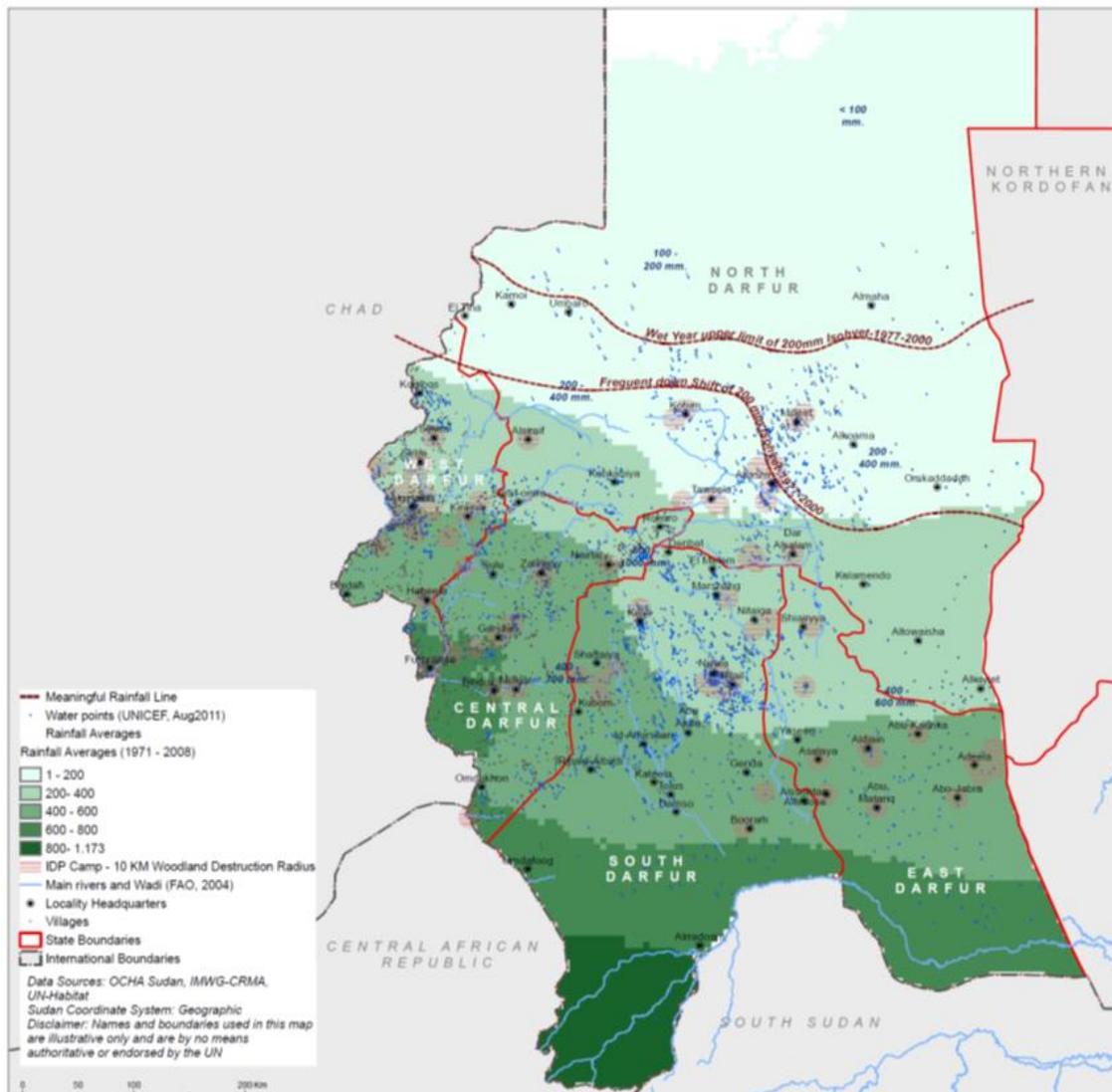
The violent conflicts in Darfur ultimately led to a humanitarian crisis with thousands of deaths and at least 1.64 million IDPs (OCHA, 2019). More than 650,000 Sudanese refugees living in neighbouring countries, including Chad and South Sudan (OHCHR). About 300,000 refugees from Darfur are currently living in UNHCR and government-run camps in eastern Chad (UNHCR).

The humanitarian emergency was addressed by the UN Security Council resolution 1769 of 2007 and through the mission of UNAMID. The focus was on the restoration of laws, protection of civilians and improvement of the security-related, social and economic conditions of IDPs and refugees. The latest Security Council Resolution 2525 extended the mission mandate until December 2020, with the mutual goal of the drawdown of the mission. The Darfur Peace Agreement of 2006 followed by the Agreement of 2011, which included provisions for customary land issues, led to general peace in Darfur, although acts of violence still periodically flare up in some areas.

The main types of land conflict in Darfur include: disputes between farmers and pastoralists on migratory/livestock routes; disputes between investors and local communities; disputes among returnees, IDPs and host communities; disputes between armed groups (militia) and local communities; disputes over the occupation of land belonging to absentee owners; incongruencies between formal land rights (land titles) and customary or informal land rights; competition for fertile land between investors, returnees and local communities; inheritance of land; contested land acquisition processes (military, elite, politicians, armed groups); contested secondary rights (seasonal lease, rent, sharecropping), and disputes between big land holders and small land holders.



Darfur states (UNAMID/GIS, 2012)



Map of Darfur showing IDP camps (UN-Habitat; Regional Spatial Planning Strategy, 2015)

## 1.4 Land challenges

To achieve sustainable peace and social and economic development in Darfur, the shortcomings of land management need to be addressed. The key priorities are protecting the land rights of vulnerable people and facilitating voluntary returns. Once peace is established and there is a safe place to stay and settle, displaced people are likely to return voluntarily. Voluntary returns are likely to occur in different ways, however, all of them need some form of land management. Of the 1.64 million displaced people in Darfur (OCHA, 2019), many are living in urban areas or in camps adjacent to urban areas. OCHA says that it is not possible to assess the numbers of IDPs living in rural or urban settlements outside of the camps as registration process is inadequate (2018).

Many IDPs are unlikely to return to their area of origin, even seasonally. Instead, they either move to urban areas for better security and services or to more fertile rural areas, and some IDPs continue to move to urban areas but farm elsewhere seasonally. Returns have already started, but often the returnees' land has already been taken by other groups. In response to this, the government has started to make land available so that

returnees can settle and this resettlement creates new areas for conflicting interests and rivalries with the host communities. While returnees need land, houses and services, host communities need to be comfortable with the new arrivals. Better figures on current IDP locations and the intentions regarding returns are fundamental for forward-looking strategic planning at the regional level. It is vital that the movement and settlement of people is supported by an efficient and conflict-sensitive land system in Darfur so that land-related conflicts are not triggered either at a local and community level or at an individual level.

## 1.5 Stakeholder mapping

The stakeholders in the land sector were mapped through this study and an analysis of the main observations and areas for improvements are presented in the following table.

Stakeholder	Main observations and areas for improvement
Federal government institutions (including: High Council for Physical Planning, Commission for National Land, Registrar-General; DLC)	<ul style="list-style-type: none"> <li>➤ There is a lack of comprehensive policy for voluntary returns</li> <li>➤ There is inadequate coordination and data sharing among the institutions</li> <li>➤ New regulations, improved coordination and targeted capacity development are needed</li> <li>➤ The Registrar-General is key for the delivery of registered rights, therefore the states cannot register land on their own</li> <li>➤ Currently, the registration system covers less than one per cent of land in Darfur, mostly in the capital cities</li> </ul>
Darfur states' ministries dealing with land issues	<ul style="list-style-type: none"> <li>➤ There is insufficient capacity to support voluntary returns with registered rights because of the huge scale of returns and the limited amount (one per cent) of registered rights</li> <li>➤ State level and local level land administration, planning and surveying has insufficient capacity to support voluntary returns in village re-planning, informal settlement upgrading and land dispute resolution due to limited coordination across the land-related government entities. There is inadequate staff capacity and equipment and their methods are generally outdated</li> <li>➤ No state has developed physical planning laws or has a master plan in place</li> <li>➤ DLC is actively studying the land sector in Darfur</li> <li>➤ There are some locality level tenure types such as Grade IV and Plot 1 community-based tenure that could be used for voluntary returns. Villages for returnees could be set up using registered group rights linked to small farms allocated more permanently by the Native Administration for sustainable livelihoods</li> <li>➤ Large-scale capacity development of the state and local level government is needed to support a voluntary return programme</li> <li>➤ A strategic action plan at regional level supported by low-cost, new technologies is needed for the overall management of the HLP of voluntary returns, including tracking trends</li> </ul>

Native Administration	<ul style="list-style-type: none"> <li>➤ Overall, the Native Administrations system has insufficient capacity to support large-scale voluntary returns</li> <li>➤ The Native Administrations have no legal land management role in customary-led areas to undertake land administration</li> <li>➤ The customary system could welcome returnees to their original rural area, but without awarding registered rights. With some adaptation, the system may also welcome them to rural areas, different from their area of origin, and not under conflict, but without awarding registered rights. There is inefficient mainstreaming approach for women-headed households</li> <li>➤ In parts of towns where customary traditions are in place, a form of tenure called <i>housh</i> (for extended families) could be used with rapid planning and surveying</li> <li>➤ Large-scale, targeted capacity building of the Native Administrations is needed to support any kind of voluntary returns interventions</li> </ul>
IDPs and civil society organizations	<ul style="list-style-type: none"> <li>➤ IDPs returning to rural areas will need both a house and a small subsistence farm</li> <li>➤ The size of the sites allocated to IDPs in camps is much smaller than the minimum national planning standards of 200 m<sup>2</sup>. Efforts are needed to re-plan and upgrade IDP camps</li> <li>➤ The Native Administration must carefully manage IDP claims on customary land where there are host communities on the same land</li> <li>➤ There are limited civil society organizations working on land issues in Darfur. Land-related capacity development is needed in civil society organizations</li> <li>➤ New regulations to allow exceptions in urban planning standards are needed</li> </ul>
Private developers	<ul style="list-style-type: none"> <li>➤ Due to the lack of official land use plans and policies for land allocation for private investment, private sector players have been acquiring land through non-procedural means</li> </ul>
Actors involved in traditional mechanisms for dispute resolution	<ul style="list-style-type: none"> <li>➤ The customary mechanism of dispute resolution (<i>Judiyya</i>) is still effective but there are no written records of the decisions taken by the <i>Judiyya</i> on the land conflicts they resolve</li> <li>➤ The <i>Judiyya</i> will not be able to support dispute resolution where the disputing parties do not accept and recognize this mechanism.</li> </ul>



## CHAPTER 2

# **DARFUR LAND TENURE SYSTEMS**

## 2.1 Land tenure in the statutory system

The statutory land tenure system has two main types of tenure (registered freehold and registered leasehold) and one minor type (tenure type Grade IV).

### Registered freehold

Freehold tenure was legal in Sudan prior to the 1970 Unregistered Land Act. All land that was registered prior to 1970 is still registered land and not pay rent to the government. No new freehold land has been registered since 1970. Registered rights are mostly found in the River Nile provinces and Khartoum while people in other parts of Sudan, of whom only a few had registered land prior to 1970, have been unable to access registered freehold rights. This includes the people from Darfur, except for some parts of the largest cities, such as Nyala and El Fashir.

People are keen to access registered freehold rights; they are the most secure form of land rights and do not involve any payment of rent to the government. Freehold land remains freehold even when it is subdivided providing that it does not extend the original boundaries. Based on anecdotal evidence, both men and women own these rights, though most owners are men. Legally, women are not restricted from owning land rights, however their *de facto* access to land is very limited. Women's access to customary land rights is problematic and hampered by severe gender inequalities and violation.

The Registrar General offices at the federal and state levels hold land records for all registered freehold rights. The land registry is not easily accessible to users from outside the capital cities of the Darfur states, so accessing those records and land information is a challenge for government officials at the local level as well as for citizens.

The most common disputes related to registered freehold are family disputes about inheritance rights, and disputes about the perimeters of the freehold parcel as these were surveyed several years ago with relevant accuracy. The major forum used for resolving disputes are the courts. Aside from commercial and financial cases, between 70 and 90 per cent of the other court cases are about land, which means it can take several years for a case to be settled.

### Registered leasehold

Leasehold land is the most common form of registered land throughout Sudan and it is the only kind of registered land available today. According to the government, any reference in the Doha Agreement to registered land is to registered leaseholds and not registered freeholds, while the people of Darfur interpret the Doha Agreement as referring to registered freehold. The government is the owner of the leasehold land and makes it available to the lessee for an annual rent or upon renewal of the lease. Leases vary between 20 to 50 years depending on the land-use zoning. The national government considers all land, including customary land in Darfur, as available to be leased according to the 1970 Unregistered Land Act, and leases can be registered through two types of registration: the applications for housing plans (site and service) and the re-planning/regularization of villages.

Registered leases are rarely found outside the capital cities of Darfur and do not exist in most small market towns, villages, farms or stock corridors. Also, women hold a lower percentage of leases than men. Despite these issues, registered leases are one of the most secure form of land tenure established by the statutory system, which makes them very desirable for people who cannot rely on customary tenure security and for vulnerable people and returnees who aim to move to urban or more fertile areas. This generates competition over land.

The records for all the registered leaseholds are held in the Darfur states' capital cities by the Registrar General offices of the federal government. No online records exist. The land registry is therefore not easily accessible either for land users not living in the capital city or for government officials at the local level. Additionally, most ordinary people cannot afford the cost of registered rights, which is about USD 200 per site. There is limited capacity for registering land rapidly at scale and - at the current pace and using the currently used land administration approach - registering land rights of the whole Darfur population would take a very long time and be financially unsustainable for the Darfur administration.

The most frequent disputes over registered leaseholds are: (1) between the government and the lessee about the extension of the expiring leaseholds and the rent cost; (2) between government and the lessee, when government wants to expropriate the land in the public interest, particularly about the compensation rate; (3) family disputes about inheritance rights. Courts are the major forum for resolving disputes. Excluding the commercial disputes, the remaining 70-90 per cent of court cases are about land and it can take years for a case to be solved.

### **Tenure type Grade IV**

In Darfur, there are three grades (Grade I, Grade II and Grade III – see section 3.1) of registered land leases for residential properties. There is also an additional, minor land tenure type, Grade IV, that is often considered to be of an inferior category as it cannot be registered until it is upgraded to a Grade III.

Grade IV tenure is found in villages and is used by local governments to deliver serviced land in rural areas. As this is not registered, there are no records held in the registry for Grade IV land, but local governments keep documents describing the rights. A policy change would allow it to be used as a form of entry-level or starter title without having to change procedures: the local government plans the area using Grade IV and soon after implementation of the plans, it requests the MoPI to upgrade the status to Grade III, which makes it possible for the land to be registered as a leasehold. This type of land right could be important for women, particularly widows, who require affordable registration of land rights.

## **2.2 Customary land tenure**

In Darfur, registered land rights cover less than 1 per cent of the land with a few parcels of registered leasehold in rural areas. Most rural land, including in returnee villages, is under customary tenure. Customary landowners consider their land as fully owned by them. Following the 1970 Unregistered Land Act, which made all unregistered land government land, the government does not legally recognize customary land ownership. It also does not consider customary ownership as giving any right of adverse possession or prescription over the land to customary occupiers.

There are different types of customary landowners: tribes (*dar*), small groups (*hakura*), family (*housh*) and individuals as explained below. The tenure forms vary according to the type of customary owner. In general, the Native Administration, which plays a key role in customary land management, uses oral history and witnesses to keep records of land management decisions with very few paper-based records. In general, people in Darfur can easily access the customary tenure system and they perceive it as being secure, especially in villages and farms in rural areas.

The main areas where there are disputes and where customary tenure is not perceived as sufficiently secure are: (1) the areas where there are conflicts, especially in pastoral, farm and village areas, and some IDP camps; (2) fertile areas where there is competition

over land, also that which involves returnees; (3) rainfed areas where there is competition from/over mechanized agriculture; (4) in buffer zones around villages near cattle corridors; and (5) where towns extend into customary areas. Disputes between those holding customary rights are resolved through the customary courts (*sheikh* and *omda* courts).

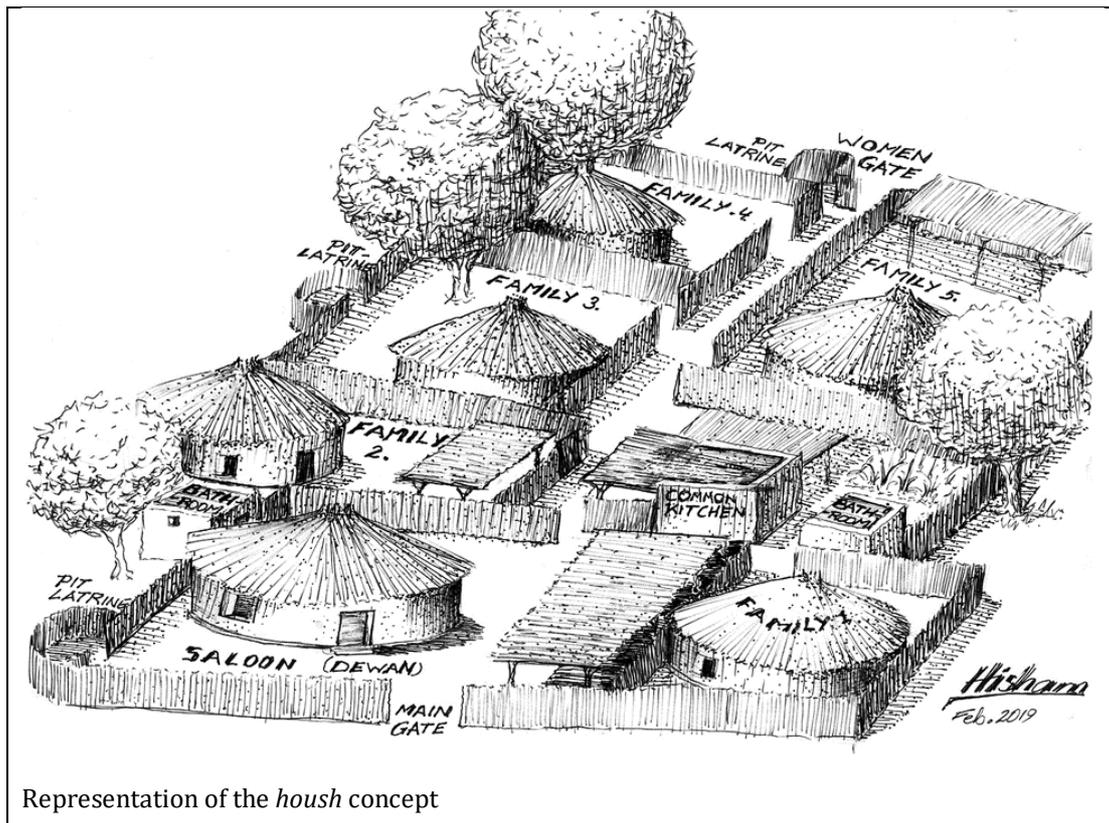
### **Types of customary land 'ownership' rights**

Different types of customary land 'ownership' or legitimate rights can be distinguished:

**Land belonging to tribes (*Dar*).** *Dar* indicates the territory of a specific tribe or clan such as *Dar Fur*, *Dar Masalit* and *Dar Rezigit* where the Native Administration of the tribe has strong authority over the people who live in the *Dar*. The head of the tribe, the *sultan* or *the shartai*, establishes the relationship between the Native Administration system and the land management system in the *dar*. This is normally regulated through the tribal hierarchy at the locality level, including the *omda* and the *sheikh*. The tribal hierarchy can be different from the hierarchy responsible for land management. The Native Administration at the level of *dar* has a number of important land management roles such as: signing no-conflict certificates that allow landowners to move from the customary system to the statutory system; agreeing to large-scale, land-based investments; dispute resolution, etc. So far, no requests have been made to register *dar* land as a stand-alone, registered leasehold as happened, for instance, in Uganda.

**Land belonging to small group of people (*hakura*).** The term *hakura* or *hakora* is recognized by the Doha Peace Agreement as the tribal entity most affected by the conflict. In general, *dar* (land of a tribe) consists of several small areas called *hakura*. In some cases, the terms *hakura* and *dar* are used interchangeably. A *hakura* is a piece of land assigned by a chief of a tribe to a group of people for a specific land use. It can also be assigned to a small family or an individual person, for a specific period or even against a set of agreements. All the people associated with *hakura* can use the land in common. The social norms of *hakura* groups differ from each other and are defined by each *hakura*, such as, for example, the time for farming and hunting.

**Land belonging to one extended family (*housh*).** *Housh* is customary land including areas that are owned under customary tenure as the residential area of a specific extended family. An extended family can share a fenced residential area which consists of several houses, each belonging to smaller families in the extended family. The house itself is also divided and each of the families inside a house have their own rooms. They can have a separate or joint kitchen. Often, there is also a house for guests (*diwan*), which is used by all the families and as a place for men to gather and eat. The *housh* land is under joint ownership and can be informally inherited by future generations. There are different tribal norms about who has the right to live in a *housh*, for example, daughters who marry 'foreigners' are expected to remain in the *housh* until the first child is born, or in some areas the son is expected to inherit.



Representation of the *housh* concept

**Land belonging to individuals.** Individuals can have customary ownership of a house or a farm. This could be in a village, a town, or it can be part of an agricultural area. There are lots of conflicts over this type of tenure as there is no documented proof of ownership. However, the Native Administration and tribal governance structure play a key role in resolving these disputes.

### Types of customary land-use rights

A range of secondary rights exist on land held under customary tenure. This allows people or groups to use land customarily owned in a variety of ways, including renting it to outsiders, etc.

- **Seasonal use.** The tribal system accepts foreigners and migrants in *dar* and the *hakura*. A tribe as a group, as well as individuals from the tribe, can give an outsider or foreigner the right to use land. The Native Administration can allocate land to people who are not from the tribe using a temporary land-use agreement known as "*takol goom*" which means 'use and go'. This gives the right to cultivate the land only for one short period during the rainy season and the land user is expected to move after they harvest. In some circumstances, the land user might be allocated another piece of land instead of the initially used plot under the same *takol goom*. This extension is done deliberately by the Native Administration to limit any relationship between the person and a parcel of land, and to deny any long-term claims to a piece of land by people who are not part of the tribe. The *takol goom* land-use right is allocated for a limited time and under an agreed rent that can be paid in cash or by giving part of the crops produced on the land. Also, the customary owner can hire another farmer to cultivate the land. This arrangement of allocating temporary land use rights is problematic for returnees who are aiming to become subsistence farmers in an area outside of their own

tribal area when they find that the customary owner is reluctant to extend their land use rights on the same plot. The temporary allocation prevents them from long-term investment in developing the land. They also lack security of tenure in their own farms. This form of arrangement is limited to agricultural land use and does not include housing.

- **Pastoral corridors** (seasonal moving use). Pastoralists have been part of the Darfur community for generations. There are numerous Darfurian tribes that are pastoralists who move with their cattle from the north of Darfur to the south during the dry season and return to the north in the rainy season. The pastoralists use traditional animal corridors known as *masarat* (singular: *masar*). The *masar* includes four main types of land units: the corridor, the *sinyya*, the *manzila* and the *damra*.

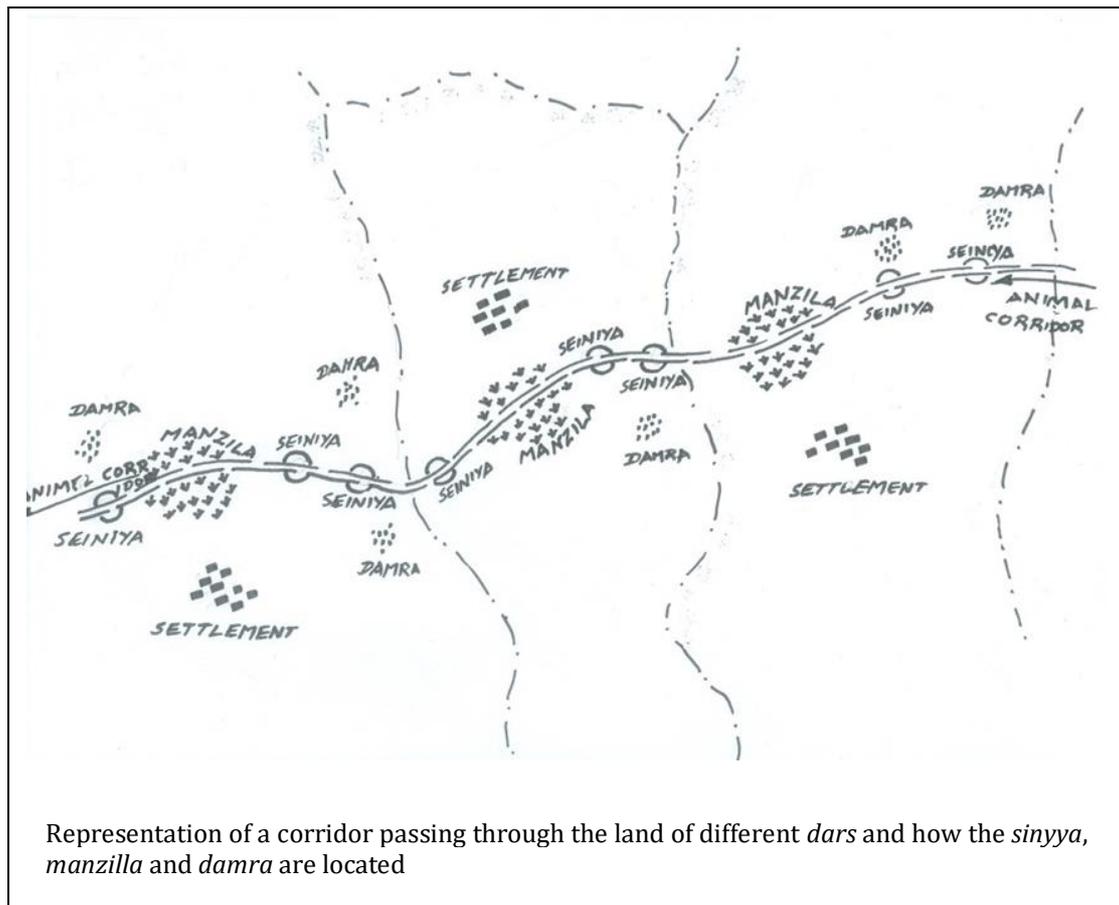
The corridor is a route in which the width changes depending on whether the area is agricultural or not. The corridors can be more than a kilometre wide in non-agricultural areas and shrink to only 200 metres when they pass through agricultural land. They can also be several hundred kilometres long. There are more than 10 *masar* in Darfur, most of them surrounding the Jebel Marra while going south, which makes the Jebel Marra area a “hot spot” of conflict.

**Sinyya.** After a long walk, the cattle need rest. A *sinyya* is an area within the *masar* corridor where pastoralists stop to give their animals a short rest (4 to 5 days). The area is a circle of about 5 kms in radius, which generally includes a source of drinking water and pasture with good access for cattle.

**Manzila** is a larger area with a radius of about 30 km containing enough water and pasture for the cattle to stay for a longer period (3 to 4 weeks). The pastoralists wait there for the weather to change before proceeding to their destination. After every two *sinyya* areas or more, there will be a *manzila*.

A **damra** is a small pastoralist village, which pastoralists create for temporary stops or for settling along the corridor. They leave part of their families in *damra* while they move south and north with the cattle. A pastoralist might leave a wife, when he has more than one, in such a village. Elders are normally left in *damra* to take care of the place.

The customary land rights are based on ancient tradition. Thus, there are few paper-based records of these pastoral corridors and the land units linked to them. Traditionally, the customary land-use arrangements for pastoral corridors have provided a good level of land tenure security and land use rights for all parties concerned, however, seasonal, environment-related challenges have sometimes caused conflict between farmers and pastoralists. There is an agreement between farmers and pastoralists about the timing of the cattle movement. Cattle and pastoralists can pass farmland only when the crops have already been harvested and transported to the villages, but not when the crops are growing. The movement of cattle usually happens around mid-February each year. Disputes occur when these rules are not followed by the pastoralists due to desertification, land degradation, and some disputes are related to the use of water and wells.



### Women's land rights under customary tenure

Women's access to customary land rights is problematic and hampered by severe gender inequalities and violations, particularly regarding land ownership. During the development of this report, the information collected on the subject was insufficient to address the complexity of women's land issues exhaustively, and dedicated, more detailed research is needed, highlighting the specificities that exist in the different Darfur's tribes. From the available information, it clearly emerges that women are the major workforce in Darfur, particularly in agricultural production, even if men hold the customary tenure rights for houses and all the land. The only customary tenure rights held by women are kitchen gardens and small farms attached to the house which are fenced by trees and associated with the house, called *jobraka* or *najjadh*. Women own this land and fields alongside men.

Tribal culture is the key reason for women's limited land tenure rights. It is customarily understood that any land allocated to a woman will be transferred to another tribe through marriage, whereas the prevailing culture is to keep the tribal land within the tribe. There are a few examples of women owning customary land that they obtained through inheritance (*mirath*) or as a dowry (*mahar*). Women usually raise crops and livestock on the land for the family to prepare for the rainy season before the agricultural production from the large fields arrives. Women are also allowed to harvest from the *jobraka* and sell products in the village or the seasonal markets. Due to overuse, most *jobraka* land is degraded.

## 2.3 Informal land tenures in urban areas

There are different types of informal settlements in urban areas called *ashwaey*. An *ashwaey* includes both informal and formal settlements such as slums, degraded areas, and areas lacking basic services. These are located either in the urban area or on the urban fringes and the occupied land is either: (1) unplanned and owned by the government with customary tenure; (2) planned and owned by the government, for example government reserves, service areas, markets etc.; or (3) privately owned by individuals. Most slums are found on this type of land. Often, the owner has not been able to develop the land and displaced people and migrants have occupied it.

In Darfur, informal settlements are widely spread and the government deals with them using different approaches. For unplanned government-owned land, the customary rights holders are somehow compensated and the *ashwaey* is re-planned and upgraded. In a few cases where the government has needed the land urgently, the *ashwaey* located on government land has been demolished and the land converted to new use. For planned government-owned land, it can be re-planned, regularized and assigned to the occupants. Where the land is owned by a private individual, the government evicts the occupants and relocates them to another plot. Often the relocation plot is far away from occupants' markets and jobs.

### Land held by IDPs in and outside of the camps

In Sudan, the National Policy for IDPs (2009) covers all phases of displacement and applies equally to IDPs and returnees. It is based on the global Guiding Principles on Internal Displacement, but the definition of an IDP in the National Policy is limited to Sudanese citizens only. IDP camps are based on site planning and services to accommodate temporary IDPs. Some of the camps are planned in blocks and squares with 25 homesteads, some shared toilets and showers for each square, with an average of 100 m<sup>2</sup> per plot/family. This means that the plots are almost three times smaller than the third-class residential plots allowed under Sudanese planning law which have a 20-year lease and are 300-400 m<sup>2</sup> - 200 m<sup>2</sup> at the absolute minimum. The government allowed small-sized plots for IDPs because they are supposed to be a temporary land allocation. Some other camps have more basic planning and IDPs have constructed their own houses with shared community facilities put in place. To upgrade the IDP camps and expand each plot, significant resettlement and re-plotting is required, but only a few IDPs will be able to live in the newly upgraded area (UN-Habitat, 6/2018).

#### ***The example of El Fasher, North Darfur***

A useful example of urban tenures occupied by IDPs and land regularization is the recent work carried out in El Fasher by UN-Habitat. No city master plan existed and revenue-driven interests shaped urban growth. IDPs live in camps, towns or in peri-urban areas with host communities and some either rent or buy houses while others occupy non-serviced, private land. IDPs who move outside camps lose their IDP status, however most of them receive humanitarian services such as food and non-food items (NFIs) provided by the NGOs.

The government's recent approach has been encouraging the resettlement of IDPs outside the camps by offering land on the outskirts of the main urban settlements, with one such area in the new town of Al Salam outside El Fasher. The government is also producing layout maps on the upgrading of the Abu Shouk, Salam and Zam Zam IDP camps, in addition to areas of urban extension along the *wadi*. It is estimated that more than 50 per cent of IDPs will remain in the urban area and will be accommodated in these plans. While the layout maps and reports are finalized, negotiations with

landowners on compensation are underway. The current El Fasher land that is occupied for humanitarian interventions has not been included in the urban development plan of the city as it is considered to be private land. UN-Habitat says that a specific mechanism is needed to grant affordable residential plots linked to incremental housing to enable IDPs to make informed choices.



## **CHAPTER 3 DARFUR LEGAL AND INSTITUTIONAL FRAMEWORKS AND PROCESSES**

This chapter reviews the legal and institutional frameworks relevant for land administration in the five Darfur states that will support the provision of security of tenure for voluntary returnees and vulnerable people, and that will be the basis for broader land management interventions. The chapter also identifies the implications of these frameworks for voluntary returns.

### **3.1 Legal frameworks**

#### **The constitution and the National Land Commission**

The 1998 Constitution of Sudan, Article 23, stipulates that citizens should have free choice of movement and settlement. The 2005 Interim Constitution of Sudan includes provisions that relate directly to land and natural resource management. Article 187 of the constitution established an independent National Land Commission based on the representation of different government administration levels in Sudan. The main functions of the commission include: to arbitrate on land disputes; implement and enforce the law in disputed areas; make recommendations on land reform policies; adopt customary rights and customary land law; decide on the appropriate compensation for land; and provide advice to various levels of government on the coordination of their policies and projects related to land rights.

Article 186 of the 2005 Interim Constitution relating to the regulation of land was repealed on the 4 January 2015 and was replaced by the amended Article 186-1, which states: (1) the acquisition and exploitation of land and the exercise of rights shall be the common power exercised at the level of the relevant government in accordance with the provisions of the law. (2) The president of the republic, from time to time, may issue decrees to determine which lands are exploited for purposes of investment and how to dispose the proceeds of its investment and to determine the level of government concerned for its administration and exercise of rights.

While the National Land Commission has been established, its structure has still to be fully developed, including its relationship to the different commissions such as DLC. The 2005 Interim Constitution was suspended by the Transitional Military Council on the 11 April 2019. A new constitutional declaration was drafted by the Transitional Military Council and the Forces for Freedom and Change and signed on the 4 August 2019. Sudan's Constitutional Charter (2019) recognizes all the rights and freedoms contained in international human rights agreements, pacts, and charters ratified by Sudan. Article 42.2 of the Charter says the international instruments that Sudan is party to shall be considered an integral part of the Constitutional Charter, a key legal framework of the country to govern the transition. The Constitutional Charter recognizes issues of land and tribal lands (*hawakir*) (article 68.g), compensation and restoration of property (article 68.k) and obliges the state agencies to work within the transitional period to return properties belonging to organisations and individuals that were confiscated due to war in accordance with the law (article 67.i).

#### **The Darfur Peace Agreement of 2006 and the Doha Agreement of 2011**

Both agreements recommended the establishment of the Land Commission for Darfur. The 2006 agreement included the commission as caretaker, while the 2011 Doha agreement established DLC. Its responsibility was to address issues related to traditional and historical rights to land and review land-use management and natural resource development processes. Moreover, the 2011 agreement notes the need to protect HLP rights for IDPs and returnees, saying that 'individuals in the local communities may register their customarily owned land as their own lands'.

## **National Dialogue Conference of 2016**

In October 2016, the National Dialogue Conference recommendations were approved. These emerging policies, that could also influence constitutional amendments, include several land-related recommendations such as:

- the establishment of the National Land Commission responsible for arbitration and settlement of land conflicts
- the restitution of the land taken during the conflict to its customary owners
- the development of an advanced surveying and planning system for different purposes
- the respect and consideration of individual and collective land rights in the processes of allocation and registration in accordance with the Land Disposal Act and in accordance with the local customs and traditions
- the legalization of the *Judiyya*, the customary mechanism of dispute resolution, through the Native Administration and the enhancement and the independence of the latter in arbitration and conflict resolution
- the recognition of the historical rights of the Sudanese in all the *dar* and *hakura*, wherever it is located, and the registration of their agricultural and residential land

## **Historical overview of land and planning laws**

Sudan's history has a strong impact on the land situation today. The *funj* and *Fur* sultanate originally undertook land tenure and land management while the Turco-Egyptian authorities in the early nineteenth century granted land rights to administrators and influential people. During the Mahdiya period in the late nineteenth century, the focus shifted to land use for social integration, pushing populations to migrate to Omdurman.

During the British colonization of Sudan from the late 1890s to 1953, the colonial administration passed a series of land acts. Some of these still have partial influence in Sudan, such as the Land Registration and Disposal Act of 1925 that provides rules to determine land rights and to ensure land registration. The Land Acquisition Ordinance of 1930 also has partial influence; it gives the government the power to expropriate land for development and provides detailed procedures for land acquisition and rules for the value assessment and compensation payment. These laws ignored the customary norms and traditions for land tenure and land management that were in place and, instead, new types of land tenure were introduced that were not widely known in Sudan.

Later, the British colonial government tried to strengthen the local tribal leadership and their land management role in rural Sudan and in the process they created a new set of community leaders. The acts created two separate and unequal land systems, namely the registered freehold/leasehold system and the customary system, with freehold and leasehold considered to be superior to the customary system. Since Sudan's independence in 1956, consecutive national governments have not been able to address this issue of having two separate systems.

## **Unregistered Land Act of 1970**

The 1970 Unregistered Lands Act was a *de facto* nationalization of the land by the state. This act was followed by the abolition of the upper level Native Administration in 1971 and then by the abolition of the Native Courts in 1973. People's Local Councils replaced the former while People's Local Courts replaced the latter. The new structures lacked the capacity to manage access to land and to resolve land-related conflicts (Musa and Gert,

2006). In 1984, the government issued the Civil Transactions Act (see below) as a way of mitigating the consequences of these acts. Although the 1970 Unregistered Land Act was abolished by the 1984 Act, the intentions of the 1970 Act remained enshrined in the 1984 Act.

The 1970 Act consists of 10 articles and does not provide any practical regulations or guidelines on how the act should be implemented. According to the act, customary land rights had no formal legitimacy or juridical status. All land that was not registered at the time of the act became government owned according to the terms of the 1925 Land Registration and Disposal Act. The Unregistered Land Act was implemented more forcefully in the rain fed regions of the country where semi-mechanized farming had the greatest potential. The act also applied to states that had no previous history of land registration, such as Darfur and Kordofan. It de-legitimized the customary system of land ownership (*hawakir*) and transformed the private land ownership into government land ownership.

The 1970 Unregistered Land Act also had critical impacts on the Native Administration governance system from the family up to the *dar* level. The act directly challenged communal and tribal ownership and formally abolished the power of the Native Administration, which had been recognized since the British colonial times as the local administration structure responsible for allocating land rights in rural communities. The authority of the Native Administration was not replaced by any alternative institutional arrangement.

The Native Administration was later re-endorsed by the government and revived through the Native Administration Bill in 1987. However, its role, including in relation to land, was much more limited. Rural communities in many areas have continued to recognize the Native Administration's land-related roles and still do not recognize the land system introduced by the government through the 1970 Unregistered Land Act.

### **Civil Transaction Act of 1984**

The Civil Transaction Act of 1984 built on the 1970 Unregistered Land Act but was more comprehensive. It incorporated several laws, such as the Unregistered Land Act of 1970 and the Prescription and Limitation Act of 1928, that were in force when it was promulgated and codified them, confirming that the state owned the land. The central government at the time provided guidelines, regulations and details for its practical implementation. It maintained the basic principle of usufruct rights but stated that registered usufruct rights were equal to registered land ownership.

The act covered a range of issues fundamental to securing land tenure such as: the belief that land is for Allah and the state is the custodian; the procedure to transfer rights and inheritance of rights; the compensation requirements for the land expropriated by the state; the granting of land leases to cooperative bodies; the undivided shares in land; the family ownership; the sharing of houses and apartments; the conditions for obtaining usufruct land rights; the registering easement rights (rights of way); the *shofaa* as form of pre-emption; and the *waqf* land. The act states that 'the legitimate usufruct, even if not registered, is still protected by law within the limits of the actual usufruct and shall not be acquired save for the public interest and in consideration of a just compensation', giving rights to users of unregistered land, including in farming areas, and established the principle of compensation for such users in case the government required their land for public purposes.

## **Physical Planning and Land Disposal Act of 1994**

This act lays out the procedures and institutional responsibilities for physical planning, including the delimitation of town and village boundaries. It needs to be implemented in conjunction with the 1930 Land Acquisition (Expropriation) Act. In terms of this act, land must be expropriated by the government prior to planning.

The 1994 Act includes details on: expropriation of land for public interest, including settlement; compensation modalities for expropriated land (25 per cent rule of compensation in kind); disposal of government land through leases; and procedures for acquiring land leases. The act also divides the responsibilities between the federal and state levels, assigns executive duties and authorities to the state, and establishes the rights of the states to issue the relevant land and planning laws.

## **Investment Act of 1999**

The Investment Act of 1999 might have introduced contradictions in the legal and institutional framework regarding the devolution of powers, giving rise to conflicting sources of legitimacy regarding the legal entities that can have access to, and control over, land. This might have implications for voluntary returns to areas of high potential for investors.

## **The state planning committees**

In 1994, when the federal government system was created, a new act, the Physical Planning and Land Disposal Act of 1994, established the National Council for Urban Development and the state-level town planning committees in each state. The state town planning committee consists of two levels of committees:

- Level I:
  - The state planning committee.
- Level II:
  - The delegated planning committee;
  - The technical planning committee;
  - The planning committee for locality level.

The main mandate of the **State Planning Committee** and its sub committees includes:

- the preparation of the general planning and housing policy in the state, and the drafting of procedures for land allocation and land use. Its integration with, and consistency with, the national socio-economical strategies and plans;
- the approval of the state-wide structure plans;
- the approval of the main structure plan of the villages;
- the approval of the detailed plans of the urban and village areas;
- the approval of human settlement-related development projects (e.g. housing of the large-scale agriculture schemes);
- the determination of the grade of the ungraded land and the modification of the land grade in residential areas;
- the decisions on the planning requests submitted by individuals and institutions
- the approvals of the traffic and transport routes and main transport stations proposed by the traffic and transport authorities;
- the development of standards for heritage areas and the protection of buildings;

- the establishment of planning sub committees (subjected to the approval of the MoPI).

The head of the planning committee is the Director General of the MoPI. The planning committee, supported by a secretariat, consists of members from different government departments such as: the Director General of Surveying, Planning, Land Authority, Building; the Director General of the Ministry of Agriculture; two to three experts, such as university professors; and a representative of the police department.

### Legal framework for urban areas

The fundamental structure of the current urban planning system was introduced with the Urban Planning and Land Management Act of 1986, which clarified three governance levels of urban planning: federal, regional (currently substituted by the state) and local. The latest law on urban planning is the 1994 Land Act for Urban Planning and Land Disposal. This law established the National Council for Physical Development (NCPD) at the federal level and the State Planning Committee at the state level. Aside from urban planning, it covers re-planning of towns which must be done prior to the disposal of land. It has provisions for the expropriation of land for public purposes and measures for compensation.

The 1947 Town Land Regulation Act introduced three categories of land-use zoning and land subdivision regulation. Regarding planning standards and plot size in urban areas, this act introduced a range of plot sizes linked to different lease periods. Other regulations, which often change, accompany the act. There are three types of grades of registered land leases for residential properties (from Grade I to III, as described below), plus an additional pre-registration grade (Grade IV). There are also other types of leases for commercial zones, investment land etc.

Grades of residential land leases			
Grade I	Grade II	Grade III	Grade IV
Commonly distributed to high rank officials and through auctions. The minimum area is 500-800 m <sup>2</sup> and the building type is permanent and multi-story	Commonly distributed to mid class civil servants. The minimum area is 400-500 m <sup>2</sup> and the building type is permanent, with some variety of roofing	Commonly distributed to civil servants at labour grades. The minimum area is 200-300 m <sup>2</sup> and the building type is with local materials	All villages are in this grade, according to the National Council of Physical Development. The minimum site is 400 m <sup>2</sup> .

Since the 1994 Land Act, several national strategies have been developed which include urban planning components. However, there is no stand-alone national urban policy or national spatial planning strategy in place. The Comprehensive National Strategy (1992-2002) was formulated to respond to the specific requirements of the national strategy on urban planning and housing to ensure adequate living environment, health and sustainable development. Subsequently, the National Quarter-Century Strategy (2007-2031) was adopted with components addressing urban development, geared towards balancing development, provision of decent housing, reduction of housing cost, and revision of policies and by-laws that govern human settlements. To respond to the strategy, CPD, which was established in 1996 as the institutional body to coordinate and oversee physical planning and development at the national level, enacted general physical planning policies that have the following objectives:

- achieve a balanced physical development among Sudan's regions, rural and urban areas; use physical development policies to achieve a desirable population distribution;
- encourage preparation of national and regional physical development plans and urban master plans;
- provide adequate, decent housing and effective funding mechanisms;
- promote adoption of environment-friendly local building materials;
- develop legislations and train technical cadres;
- cater towards the physical environment at all levels – i.e. neighbourhood, city, regional, national.

Many initiatives and projects have been formulated including the preparation of a regional development plan and a national sustainable urban development strategy; the establishment of national, regional and local urban observatories; and the development of structure plans for State capitals. These objectives have not been fully achieved yet. As of 2017, only the state governments of Khartoum, North Darfur, South Darfur, Nile, Blue Nile and Gedaref have developed structure plans.

MoTPD, supported by UN-Habitat, developed the Regional Spatial Planning Strategy of Darfur (RSPSD) in 2018. The vision behind the strategy is to provide strategic guidelines for a more balanced and functional regional development of the region to facilitate conflict resolution, peace consolidation, economic recovery and long-term sustainable development, especially through deployment of a network of urban settlements that can benefit surrounding rural areas.

Ultimately, the RSPSD is designed to support spatial action planning in the short, medium, and long terms at the state and lower territorial levels across the length and breadth of Darfur and neighbouring areas. It maximizes the benefits of infrastructural investment against a background characterized by scarce resources and capacities. MoENPD has proposed action plans for five Darfur states to achieve conflict resolution, peace consolidation, economic recovery and long-term sustainable development that will be reflected in structural plans at the state level.

### **Informal settlement upgrading**

There are many IDPs living in camps in urban areas and in informal settlements outside the camps that need upgrading. Although Sudan does not have a specific legal framework for the upgrading of informal settlements, its current legal framework could be enough for these upgrades and one could build on the good experiences of past projects. For example, a pilot project was implemented from 2009 to 2010 in Abyei town at the border between Sudan and South Sudan through which the city was mapped, surveyed and planned with participatory approaches. Through this project, the infrastructure was constructed once all the stakeholders accepted the plan and the streets and plots were then surveyed. In the older parts of the town, the concept of *housh* was used for individual plots and blocks were created using a tractor to mark the ground. There was no demarcation of boundaries and instead general boundaries were accepted. No individual rights were adjudicated and people marked their plots on satellite images. About 9,000 plots were mapped and planned in 18 days using this technique. The project showed that participatory approaches are important in a post-conflict environment as the range of involved stakeholders and legal pluralism lead to different interests and ownership claims.

## **Legal framing of the public interest**

Under customary tenure, rights to land lapse if the land is not used for a certain period (e.g. three years in the *goz*<sup>3</sup>). The 1984 Civil Transactions Act states that all unregistered land is the property of the Government of Sudan. No court of law is competent to receive a complaint that goes against the interest of the state. The 1984 Civil Transactions Act states that 'the legitimate usufruct, even if not registered, is still protected by law within the limits of the actual usufruct and shall not be acquired save for the public interest and in consideration of a just compensation'.

## **Legal framing of family and women's land rights**

According to the Civil Transaction Law of 1984, families, rather than individuals, should get the available registered residential leases wherever possible, which ensures that most leases are held as joint ownership by husband and wife. Courts take cognisance of this and even when a man has acquired land before marriage, the property is considered as belonging to the whole family and the man cannot sell the property without his wife's consent. When land is made available through 'site and service' schemes (a common form of land delivery), the allocation should be made through a points system that prioritizes married people with children. Families are not allowed to own more than one registered land as property. The only way for an individual to acquire a registered lease is by way of exception, if they are widowed, or by buying an existing lease, or through the auction of residential land. In the case of divorce, the property is registered in the wife's name together with the sons and daughters.

## **3.2 Institutional framework**

Institutions that support land planning and management exist at both the Federal and State-levels. In 1986 the Central Urban Planning Committee was re-established at the national level, with sub-committees at the level of the various regions of Sudan. In 1994 the Federal system was consolidated, and States were given legislative power and more control over the land in their jurisdiction. Land was assigned to MoPI. In 1994, in accordance with the Physical Planning and Land Disposal Act, Central Planning Committees, known as State Planning Committees, were established at the State-level to carry out the same role as the former National Planning Committee.

In 1996, NCPD was established to coordinate and oversee physical planning and development at the national level; develop physical planning policies and strategies; and review and validate the master plans created by states. Regarding Darfur, NCPD is working at the policy and coordination level, not at the implementation level.

## **Statutory land administration system at state-level**

### **The Ministry of Planning and Infrastructure**

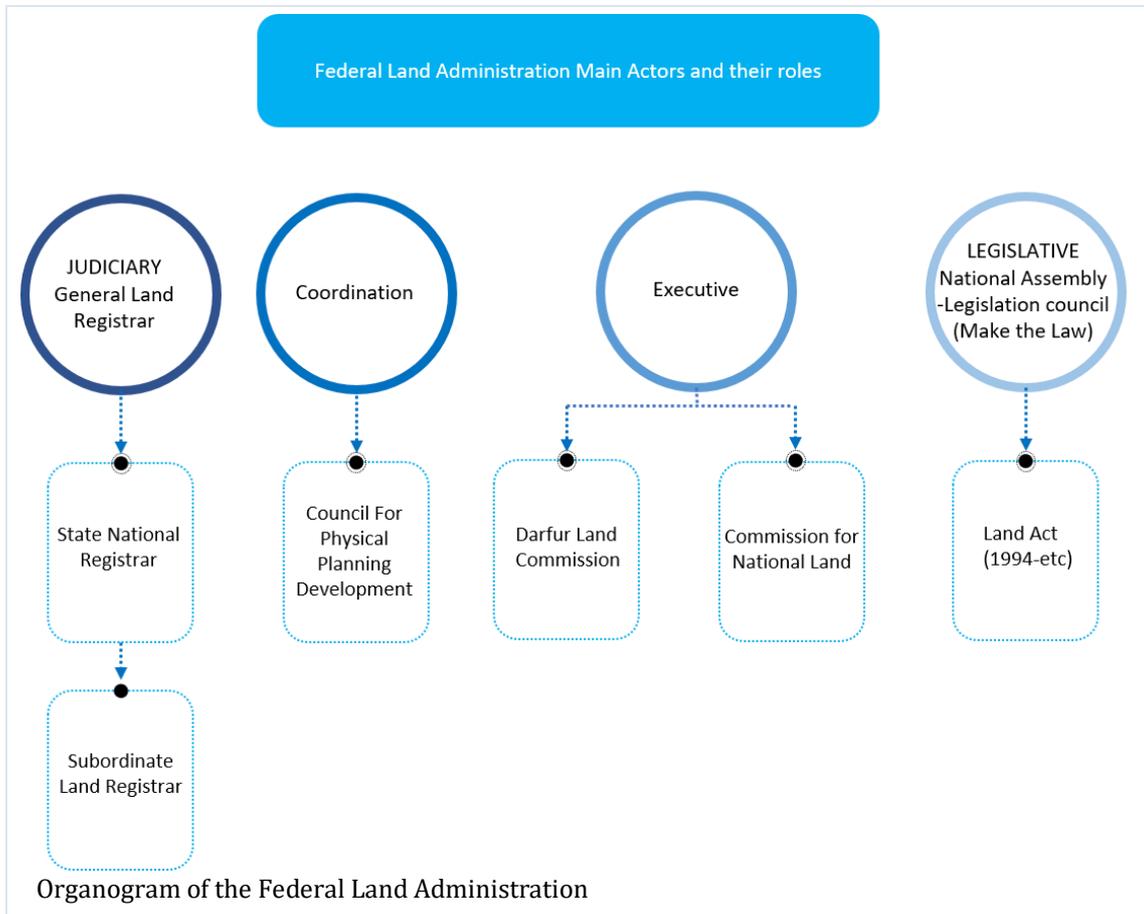
The Ministry of Planning and Infrastructure (MoPI) is the ministry concerned with the implementation of the Physical Planning and Land Disposal Act of 1994 at the state level. It deals with all land-related processes such as: surveying, planning, land-use management, building, monitoring and controlling of housing development settlements. The main departments in MoPI, in addition to the departments related to infrastructure (water, roads, public utilities etc) in Darfur, are:

- General Directorate of Surveying;

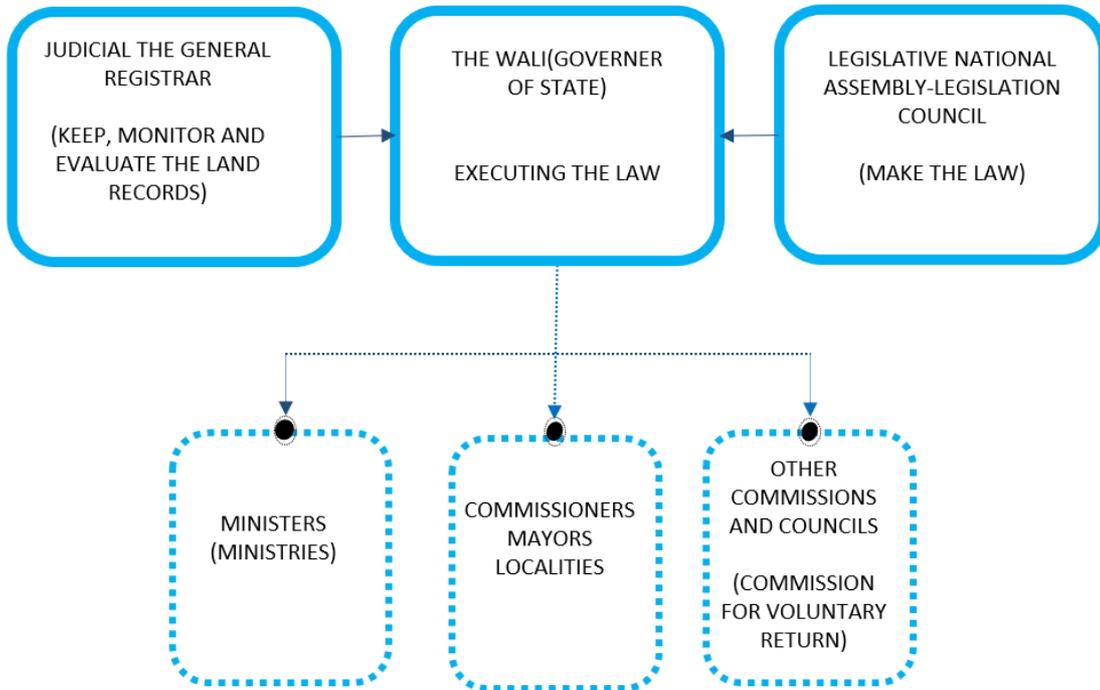
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<sup>3</sup> Low hills of sandy soils.

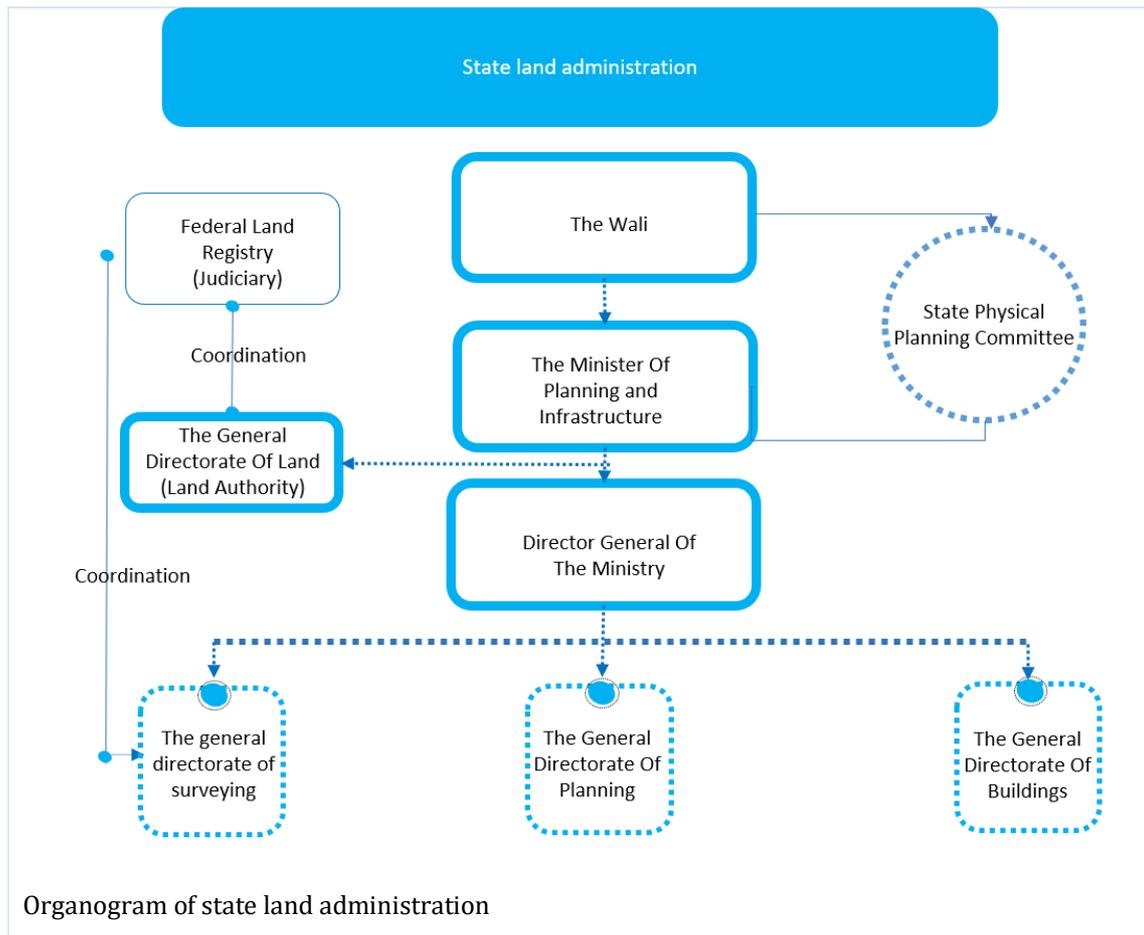
- General Directorate of Land (referred to in the 1994 act as the Land Authority);
- General Directorate of Buildings;
- State Planning Committee;



The structure of states in Darfur and its relation to land administration



Organogram Darfur State's structure and its relation to land administration



## The Land Registrar

Although the executive land management functions are assigned at the state level, the land registration itself is a federal-level function delegated/devolved to the state level. The land registry sits within the state level offices and it is managed and controlled by the federal judiciary system. Registry offices are established by virtue of a founding order issued by the Honourable Chief Justice of Sudan. The Registrar General established offices in all states of Sudan, including the five Darfur states, and the head of the state office is authorized to open additional offices in other localities or towns to manage the registration at these levels if needed. The main functions and processes of land registries offices at state level are:

- to register rights;
- to keep the records;
- to issue ownership certificates;
- to sell freehold tenure;
- to give/donate leasehold tenure;
- mortgage processes;
- disposal processes;
- wills and inheritance processes for registered leases;
- to supply land information to the government.

## **Data and land information management**

According to Article 12 of 1994 Act, the minister is obliged to publish a declaration in the Official Government Gazette about all intentions to plan any land and the information should include a map describing the proposal. However, Article 12 is not put into practice in Darfur and people are often unaware of plans until the implementation on the ground takes place. Officials, particularly surveyors, understand that public access to information is prohibited. The Registrar General does not share any information with the public, except to the owner of a specific land parcel.

In Darfur, most information in the statutory system is paper based and only the registered land records have been computerized with the support of the Registrar General. Similarly, all information on the planning process and maps are paper based and inadequately stored. Most of the archives of land information on urban areas and copies that the National Surveying Authority handed over to the city planning offices after 1994 have been lost.

## **Darfur Land Commission**

DLC was established according to the Darfur Peace Agreement of 2006 and it has a quasi-judicial character. It is based in Nyala, the capital of South Darfur, and has a representative in each of the five Darfur states. The general power and functions of DLC comprises of responsibilities around coordination, consultation, advice and political oversight. DLC studies and assesses land issues and liaises with the appropriate ministries at state level that are responsible for land use and natural resources. It also gives advice and guidance to these ministries and helps them to address any legal failures around the delivery of land certificates and amendments of wrongly issued certificates through special land administration procedures.

DLC was established as an independent and impartial body to perform the following functions:

- Arbitration on land rights disputes;
- Submission of recommendations to the appropriate government level on the recognition of traditional and historical rights to land;
- Assessment of appropriate compensation in connection with the applications submitted to it. Such compensation may not necessarily be limited to financial compensation;
- Advising the different levels of government on how to coordinate policies on projects of the Darfur State Governments affecting land or land rights, taking into consideration the Land Use Mapping Database;
- Establishment and maintenance of records on land use;
- Undertaking research and assessment into tenure of land and natural resources that includes natural resource' ownership and use;
- Reviewing the current mechanisms for the regulation of land-use and making recommendations to the competent authorities on necessary changes, including the restoration of land rights to their owners or payment of compensation to them.

DLC has no specific functions of land allocation for legal land or natural resources, land management, spatial planning or registration. DLC is currently managing the project of developing the Natural Resources and Land-Use Database and Map for Darfur and has already implemented projects related to land such as: collection and documentation of

traditional customs on land use in Darfur, 2008; traditional Land use and Hawakeer management Study, 2010.

### **The Native Administrations and their land functions**

Darfur consists of over 100 tribes all of which are ruled by Native Administrations. Each tribe has its own *dar* and each clan has its own territory. The Native Administration uses a strongly hierarchical approach for management, including of land, with three levels, the *sultan/Nasir* at the top, the *omda* and the *sheikh* at the bottom. Some tribes do not use the term *sultan* or *omda* but use other local terms, however the function is the same. *Sheikh* is commonly used, based on an Arabic word meaning wise and prudent man and the role of a *sheikh* is most closely linked to local communities. The Native Administration rules both the people and the land and, in most of the tribes, these are not split between different functionaries. However, in a few tribes there is a *sheikh* for the people and another *sheikh* for the land.

The upper levels of the Native Administration consider themselves as overall coordinators of the tribe's *dar*. They manage relationships between their own *dar* and that of neighbouring *dars*, including in neighbouring countries. They assign large tracts of *hakura* land to lower levels in the Native Administration or to other groups migrating into the area from other regions. They are responsible for protecting and defending the tribe and the *dar*, and representing it at governmental level. The middle levels are responsible for urban areas and large settlements. *Sheikhs* are responsible for villages and issues related to the temporary housing of pastoralists (*fareeq*) issues. The lower levels of the Native Administration can only assign smaller areas of land to smaller groups or families for housing, seasonal farming and subsistence agriculture. Land management is participatory, both in terms of responsibilities and revenues, and the taxes collected from the users of the land are divided between the three levels of the Native Administration.

### **Dispute resolution by Native Administration courts and *Judiyya***

The Native Administration courts and *Judiyya* are responsible for most dispute-resolution work in Darfur.

### **Arbitration**

The constitution and the conventions refer to the resolution of disputes by resorting to arbitration and good deeds. The procedure established by the Arbitration Law, passed in 2016, is nowadays common as it is perceived as being faster and a more effective way of adjudicating disputes without having to resort to costly, long-term litigation. Arbitration follows the sequence of negotiation, reconciliation, mediation, arbitration and judgment.

### **Native Administration courts (*mahkama ahliyya*)**

The Native Administration courts (Rural Courts) play a major role in the resolution of land disputes. Currently there are more than 800 such courts in Sudan using the rules of the native norms and good practices and they are organized according to customary law with a president, a vice president and members. There are two main levels namely the *sheikh* court and *omda* court. If the case cannot be settled at the local level in the court of the *sheikh*, it is taken to the next level in the *omda* court. The *sheikh's* court deals with small cases and has only a limited ability to prescribe punishment and penalties. The *omda's* court has greater ability, and so on up to the *sultan's* court and finally the government courts. People generally find these courts to be accessible and able to give them an acceptable decision quickly.

The courts are held once a week, during the rotating local market, or according to the need. The Native Administration courts are particularly effective in cases between farmers and pastoralists, where members of the court are drawn from tribes other than those in dispute. The Native Administration courts became less adequate as the Native Administration system became weaker. Currently an increasing number of cases go directly to the government courts. UNAMID has developed capacity in over 120 members of the Native Administration court to strengthen the rule of law.

### ***Judiyya***

Historically, people in Dafur relied on *Judiyya* to settle their disputes. The *Judiyya* Council consists of elders respected by the community and the parties in conflict, and it is a community-based dispute-resolution system for mediation, remission and compensation. It depends on concessions by the different parties and reconciliation, and is based on the Islamic principle, local traditions and community norms that encourage people to settle their disputes peacefully, which is considered the best settlement. It is believed that anyone who forgives and sets things right will receive his or her reward from God. Opponents of the *Judiyya* judgments are subject to community and tribal sanction and exclusion.

*Judiyya* is particularly important for family, tribal, land and natural resource disputes. *Judiyya* Councils also bring in the history of the dispute between the two parties, not just the current dispute, and reconciliation is often based on previous cases of *rakoba*, whereby judges consider previous decisions. The *Judiyya* Council meets either at the initiative of the council or because it has been requested by the parties in dispute. Often, judges at government courts request the parties in dispute to first use the community-based dispute resolution mechanisms prior to bringing it before the government court, as they are seen as a more effective and sustainable solution.

The *Judiyya* work in coordination with the Native Administration courts (*mahkama ahliyya*) at the lowest level of the judiciary system. Some *omda* have the authority of a second level rural court. While the decision of the Native Administration courts is binding, the decision made by *Judiyya* is voluntary and relies on community sanctions. However, the *Judiyya* are more successful in small cases and where the parties to the dispute agree to bring the case to them. Disputes between customary people linked to large-scale conflicts or with investors are not addressed by the *Judiyya*.

Regarding land, the main types of disputes addressed by the Native Administration dispute-resolution mechanisms are *clinkab*, the violation of forest product collection rights by another clan, and disputes over *hakora*, with the last needing documents to find solutions. The main source of disputes relates to *clinkab*, whereby the physical boundary mark, a tree, a stone or a river between two pieces of land, especially agricultural land and small farms, has been moved or ignored. Disputes arise between neighbours when one of them leaves the land for a long time and the other farmer uses the land. *Clinkab* disputes often involve returnees moving back to their areas of origin.

### **Academia, civil society and private land professionals**

Other, non-public and non-customary institutions and stakeholders are directly or indirectly involved in land governance in Sudan, which include academia, civil society and land professionals.

## **Academia**

After the division of the main universities in the region, each Darfur state has its own, often modest, university. These universities are active in community issues with academics, in some states, working on land. The West Darfur University has a Centre for Conflict and Peace Studies working on land and conflict resolution which also exists in the other four Darfur states.

Numerous publications about Darfur have been published since the beginning of the twentieth century. After the conflict in Darfur, a few individual researchers conducted research in Darfur with NGOs and the UN. The studies and reports were mostly for the international community or organizations. DLC has commissioned extensive studies on land and natural resources in Darfur, however, there has recently been a drop in the demand for academic research on land there.

## **Civil society**

Civil society organizations are concentrating on conflict and humanitarian issues, and, to some extent, on gender and social protection. Few civil society organizations specialize in land-related issues, except where there is ongoing conflict between farmers and pastoralists.

## **Land professionals**

Most people working in the land department come from a social science background and they have insufficient technical knowledge and skills required as a surveyor, lawyer or valuer. There are land brokers who are not specialized in land expertise and, instead, also cover other markets. A national union of land brokers was established but it is not active in Darfur. The Surveying Association has been established in Khartoum but, as of the time of writing this report, it does not have activities in the five Darfur states.

## **3.3 Statutory processes and economic dimension**

After having outlined the legal and institutional frameworks shaping land governance, the aim of this section is to address some key processes of land management in Sudan, such as land registration, creation of leaseholds and planning.

### **Creation and registration of new land leaseholds**

The government is responsible for new land delivery using registered leaseholds. The creation and registration of new land leaseholds within the statutory system includes several steps. All these steps, including at the levels of the Registrar General and state level, are as follows:

1. The Director General of MoPI issues an approval to plan the area.
2. The General Directorate of Surveying conducts a detailed survey of the land to determine its boundaries and produces a location map.
3. The Land Authority coordinates with the Registrar General to check: i) if the land is unregistered; ii) if it is free of any type of disputes; and iii) if it is registered in the name of the Government of Sudan. If there are any owners of the land, whether registered or unregistered, the owners must be compensated before the new leasehold will be created.
4. The Planning Department produces a planning proposal based on the current master plan of the area or makes a local plan.

5. The proposal is submitted to the State Planning Committee for approval.
6. If the State Planning Committee approves the plan without comments, the approved plan is submitted back to the General Directorate of Surveying to demarcate the planned plots on the ground.
7. The General Directorate of Surveying produces a list of areas for the demarcated plots and passes it to the Land Authority with a copy to the Registrar General. Different forms are used for the residential and agricultural land (form 10 and 11 respectively).
8. After the land is registered, the Land Authority allocates the land to the beneficiaries and signs the lease contract with them on behalf of the Government of Sudan.
9. The Land Authority asks the Registrar General to proceed to register the land in the name of the new owners.
10. The Registrar General issues the leasehold document between the government and the lessee.

It should be noted that the full registration process for a single village must undertake complex processes to be completed, including planning, surveying and demarcation. Even the registration of a single parcel/case takes quite sometimes if the beneficiary follows up the process diligently and it will take longer if there is no follow-up. The Surveying Department and the Registrar General are often seen as a bottleneck in the process as their current capacity and methods of doing business prevent them from processing large demands.

### **Creation of new residential leaseholds**

The government surveys, plans and leases land parcels to the people. Based on the processes described above, the surveyed land should be free of any registered or unregistered rights before the government starts the planning stage. If any rights are found on the land, the government must compensate the owners of the existing lease before proceeding to the planning stage. Once the land is planned and approved by the State Planning Committee, a copy of their decision is sent to the Registrar General. The Land Authority then makes a lease contract with people following their internal procedures. These procedures depend on the type of land use and the systems for granting land to people. Most residential land is granted through one of two procedures:

- **Settlement plan** (*khotta iskanya*). This is a site and service concept where people apply for a piece of land. They are awarded the land on a case-by-case basis, depending on specific points and according to agreed criteria. If the applicant scores the required mark, he/she will be assigned a plot of land, subjected to its availability. The applicant is required to pay a specific amount of money at the application stage, as well as after he/she is granted the land.
- **Public land auction.** This is used for land that is well located, land of higher value, or land that would attract investors.

The Ministry of Finance requires the MoPI to raise some of its own budget by using the statutory process for planning and land delivery as a source of revenue to fund the ministry and localities. In cities, some planned areas, remain unused and empty because not serviced.

### **Village planning process**

The process of village planning involves the re-planning of an existing village. The village has usually been inhabited for several years or where the local community has land rights,

mostly agricultural land rights. The re-planning introduces planning standards to regulate plot sizes, improve road access, open spaces and provide space for services such as education, health and other infrastructure. Aside from producing a planned settlement, security of tenure is also increased and there can be a rapid increase in the land value of individual plots, even within a year. The re-planning of a village follows a set of steps.

**Step 1:** The Director General of MoPI announces that the village is subject to re-planning and directs the General Directorate of Planning to start the process. This step is intended to give notice to all people who claim any land rights in the village to come forward with their claims. A community planning committee is created and serves as the point of communication with the planning authorities. This committee holds numerous local meetings about the re-planning.

**Step 2:** The Director of the General Directorate of Planning requests the General Directorate of Surveying to map the village. The Director of the General Directorate of Planning requests the Directorate of Land to conduct the village household survey.

**Step 3:** The General Directorate of Surveying conducts the survey of the village including the classification of the land use, developed and undeveloped (e.g. empty land). The Land Authority coordinates with the Registrar General to move the land from the registry of agriculture land and return the land to the registered ownership of the Government of Sudan. The Land Authority conducts a household survey to link the inhabitants of each house to its location in the presence of the community representatives, namely the community planning committee and the occupants of the land. The household survey is documented in a book with initial plot identifying numbers for each house.

The Land Authority checks that all the land is registered or has been re-registered in the name of the Government of Sudan. It also checks that, if necessary, all previously registered rights have been compensated for, as previously registered rights are acquired for the purpose of village re-planning.

**Step 4:** The General Directorate of Planning prepares a re-planning proposal and ensures that: (1) the planning proposal meets the state's master plan, if available; (2) no planned road is less than 8 m wide to ensure rights of way; (3) no piece of land is less than 200 m<sup>2</sup> in area; (4) the demolition of permanent houses is kept to an absolute minimum.

**Step 5:** The General Directorate of Planning submits the planning proposal to the Secretariat of the State Planning Committee.

**Step 6:** The Secretariat of the State Planning Committee checks that the proposal is completed, including the base map produced and officially signed by the Directorate of Surveying. At this point, the village land is officially subject to the planning process and all the necessary documents have been submitted. The Secretariat presents the planning proposal to the State Planning Committee at its next meeting for approval.

**Step 7:** If the proposal is approved by the State Planning Committee without any comments, the final map and the decision of the State Planning Committee is printed and signed by the Director General of MoPI, the Secretariat of the State Planning Committee and the Director of the General Directorate of Planning. The minutes of the meeting, the decision of the State Planning Committee and the final maps are circulated to the stakeholders and concerned authorities, mainly the General Directorate of Surveying and the Registrar General. If the proposal is rejected with comments, it will be returned to the General Directorate of Planning

to undertake the work needed to meet the requirements of the State Planning Committee prior to the resubmission.

**Step 8:** After receiving the final approved copies, the General Directorate of Surveying undertakes the following: field work to demarcate the new plan of the village; and production of the list of plot identification numbers and their areas for the Registrar General (form no. 10).

**Step 9:** After completion of the field demarcation and submission of form no. 10, the people of the village are asked to comply with the new boundaries of their houses. If 80 per cent of the households agree with the new plan, the General Directorate of Land will write to the Registrar General requesting the opening of the new registration book in the names of those who comply with the new plan. These people are then issued with a registered leasehold certificate, while those who do not comply with the plan can appeal to a special committee.

### **Creation and registration of new agricultural leaseholds**

The 1994 Land Act laid down very sophisticated land administration processes that often required a series of complicated steps. The act authorized the Minister of Agriculture to establish the Government Agricultural Land Disposal Committee at the state level. In Darfur, the ministries at state level understand the mandate of this committee in different ways.

Below is a description of the shifting of a parcel of farmland from the customary system to the statutory system, leading to its registration as a farm leasehold. The registration cost is higher than the price of the parcel. One expense, for example, is that the farmer who claims the registration has to hire a car so that the government official can inspect the land. Most steps must be initiated and undertaken by the farmers themselves.

1. Farmers obtain a no-conflict form from the Ministry of Agriculture, for which they pay a specific amount.
2. Farmers request the Surveying Department in the MoPI to survey and produce a map of their farmland. Farmers must hire a car for the survey and the necessary surveying (GPS) equipment because of the inadequate capacity in the department.
3. Farmers obtain the signature of the lowest level of the Native Administration system from the lowest level to the highest level (*sheikh, omda, sultan/shartai/nazir*). To obtain each signature, the farmers need to pay. In South Darfur, the farmers also need the neighbours' signatures to strengthen the validity of the certificate and to reduce the risk of conflict.
4. Farmers obtain the stamp of the administrative officer in the locality where the land is located to enter the government system.
5. Farmers return to the Ministry of Agriculture to arrange visits by the Forest Department and Department of Animal Resources to his farmland. Their visits are to confirm the land is not part of reserved forest area or within an animal corridor.
6. Farmers obtain the approval from the Government Agricultural Land Disposal Committee.
7. The land is transferred from the no-conflict form into a new form to start another process within the Ministry of Agriculture.
8. The Ministry of Agriculture works with the Registrar General to convert the land into a registered leasehold.
9. The Registrar General awards the leasehold to the beneficiary on payment of fees.

### 3.4 Customary processes and the economic dimension

As earlier noted, most of the land in Darfur is rural. The Native Administration uses a customary land system to manage the land and rural people access land through the same system. Rural land is also accessed by urban dwellers who own houses in their village of origin or in other fertile rural areas, so urban people are also closely involved in the customary land system.

In Darfur, members of a tribe can acquire customary land by virtue of their relationship to the tribal system, while non-members can acquire land from the *sheikh* of the village. In addition to a residential plot in the village, the person will also be assigned a place to cultivate in a rain-fed agricultural area close to the village. The people receiving the land must cede around 10 per cent of their crops to the *sheikh* - the representative of the Native Administration system. The *sheikh* uses these crops to take care of the administrative issues in the village and sends part of it up the Native Administration hierarchy. Sometimes, crops are given to the *sheikh* on a voluntary basis to distribute them to poor people and elders according to the practice of *zakat* worship in Islam. This involves 10 per cent of crops from rainfed areas and 2.5 per cent of crops from irrigated areas. The Native Administration uses these payments as a kind of proof of ownership of the land.

As there are no written records, rural land is allocated using local knowledge and oral records. Local knowledge and eyewitness support are also used to solve local land disputes. The customary system can manage local land-use changes but water sources are given priority over all other land uses, followed by residential land and then agricultural land. It is much harder for the Native Administration hierarchy to resolve conflicts related to immigrants from outside the area, particularly in a situation of armed conflict.

#### **The no-conflict certificate: where the statutory and customary processes meet**

The no-conflict certificate is used to move from the customary land to the statutory land, and from customary land rights to registered leasehold. This process was originally set up by the government to allow customary farmers to obtain micro loans and agricultural inputs by showing proof that they owned the farmland and practised farming activities. The Native Administration provides the proof of first rights that the farmer owns the land according to the customary tenure system. The Ministry of Agriculture accepts this proof after inspection, which then allows the land to go into the leasehold registration process using the Article 54 of the 1994 Land Act. This practice has now been adapted for other uses and it is starting to be criticized by the West Darfur Native Administration, among others.

As indicated above, in some cases, the farmland that IDPs and refugees use without any consent has been registered as a leasehold by a host community member using a no-conflict certificate. As Darfur does not have adequate cadastre maps, conflicts over boundaries can occur between neighbours allowing the person with the registered leasehold to claim some of the neighbour's land. The Native Administrations are not in a position to solve the dispute as they do not have the legal mandate over registered leasehold or access to the land records and maps. Some Native Administrations prohibit the use of the no-conflict certificate because they have been used, in some cases, to acquire registered leases on land owned by absent IDPs and refugees under customary practice.

### **3.5 Challenges, opportunities and preliminary recommendations**

Based on the above characteristics of the legal and institutional frameworks regarding land governance and management in Sudan and in Darfur in particular, several challenges and opportunities can be identified. These gaps and areas of improvement are related to the comprehensiveness of laws and to the relationship between different land laws, to the land policies, to the different land tenure systems and to the management of IDP camps. The aim of this section is to address key challenges in these areas, which will be developed more in Chapter 6 on the recommendations.

#### **Complex land legislation**

The settlement and grazing areas of the central Darfur tribes were encroached on by waves of displaced groups from Northern Darfur, especially areas used by the camel pastoralists, whose livelihoods were severely disrupted by the drought and famine of the 1980s. The community that lived in central Darfur, who have now been displaced, claimed the land based on their customary and traditional land tenure arrangements. Those who had been displaced from northern Darfur claimed the land in central Darfur using the 1970 Unregistered Land Act. Based on Article 23 of the 2005 Constitution they said they were Sudanese nationals with equal and unalienable rights over land and its resources. They also said that, since customary law had been de-legitimized by the 1970 Act, that the newcomers had as much claim to the land as did the original customary community with its unregistered land rights.

Darfur has a range of ethnic and tribal groups linked to specific territories. Peace building will need to be sensitive to this as some groups who have moved into the areas of others have justified their right to land using the constitution as justification. Clarifying, simplifying and making land legislation publicly known has a big role to play in this.

The key challenge that both landowners and land seekers face throughout Sudan is the lack of clarity on different land laws and acts.

There are several explanations for the limited comprehensiveness and transparency of the land laws: they are prepared with insufficient public engagement; they are only urban oriented; they emphasize the newly created individual rights rather than the existing community rights; and they lack the practical and technical tools to implement the laws.

#### **Land tenure security for vulnerable people**

As outlined in the Peace Agreements of Darfur and Doha, peace in Darfur cannot be achieved until land tenure security issues are addressed, and this includes giving legal legitimacy to customary tenure and providing land registration at scale.

The philosophy of the 1970 Unregistered Land Act, which did not recognize the Native Administrations role in land or the land ownership of the customary occupants, still prevails. To build peace in Darfur and address the needs of voluntary returns and vulnerable people rapidly and at scale, ways need to be found to increase acceptance of customary land tenure and the land management role of the Native Administrations system and to adapt this to the federal and state land administration. With a current level of less than 1 per cent of registered land in Darfur, registered leaseholds are highly desirable, particularly when there are disputes over land. However, in the current scenario, allocating registered rights for voluntary returns and vulnerable people is problematic because of the lack of registered land rights, the current legal framework and the insufficient capacity within the land administration system.

The proposed formal role of the Native Administration over land, linked with that of the state, should be regulated in a transparent way to be able to monitor potential land grabbing and protect the land rights of vulnerable people.

Land rights that practical for vulnerable people and voluntary returns need to be clarified at the state level, and the regulations and administrative procedures agreed. The 1984 law gives options for other forms of land tenure that could be used to allocate land rights more rapidly, such as cooperatives, undivided shares, family ownership, community-based ownership (also known as Plot 1). While the legal framework does not specifically support the upgrading of informal settlements, practical experience has shown that it can be done within the legal and institutional framework, particularly by using community-based approaches (Plot 1) at the local level. It is unclear how much this approach can be replicated and scaled for the integration of IDPs.

### **The land tenure systems**

The statutory system is not sufficiently fit to support large-scale IDP voluntary returns and numerous adaptations and innovations are needed. There is a lack of clarity in the land laws and limited coordination among land-related government entities. While the customary system could play a role in securing the tenure of returnees, which cannot be covered by the statutory system, the customary system and the role of the Native Administrations in land are yet to be strengthened and recognized.

There are very few registered rights in Darfur and most of them are found in the capital cities. The processes for registering new leases, including new residential leases and converting customary rights into registered rights, are long and complex. The full registration of a single village takes several years, therefore alternative land tenure arrangements are needed to build on the existing statutory system and to allow incremental steps from an entry-level or starter title through ultimately to registered land rights. Alternative tenure types exist which could be used for returnees. These include a community-based tenure form (known as Plot 1) that could be used for the villages where IDPs are returning (return villages) and Grade IV land to upgrade IDP camps. These entry-level or starter titles would have to be politically acceptable given that the Doha Agreement promises registered land rights.

The national judiciary is responsible for registering leases, but a single lease process takes years. The State Planning Committee has the mandate to alter planning standards and set the grades of tenure on unregistered land and this might be used to make exceptions for IDPs. The Darfur states can adjust their planning and building standards and adapt them for rapid voluntary returns for the vast proportion of their land that is unregistered. The adapted standards would have to be linked to alternative tenures such as Grade IV.

There is provision in the law to convert customary land rights to statutory land rights using a no-conflict certificate. This, however, can be misused to allocate the land of displaced people to new people and it could also be used for land management in peri-urban areas.

Family rights are very strongly protected by the land registration and court systems, and women and children's access to land is protected through these mechanisms. There are exceptions for individuals to acquire a registered lease, such as divorced or widowed women. Information, advice and support about this should be readily available to returnees.

## **The customary system and the role of the Native Administration**

The customary system can support some of the voluntary returns to rural areas under certain conditions, but it is not adequate to support voluntary returns for many. Although the customary system is dominant in Darfur, it is not sustainable as the Native Administration's role in land management is not recognized by the national legislation. Customary approaches also vary across the different states, localities and groups and are often complex. A practical legal framework that supports Native Administrations land management would be useful to facilitate voluntary returns at large scale.

In some customary rural areas, the Native Administration lacks capacity, therefore alternative mechanisms for land management for returnees are needed. These include IDP camps with alternative forms of land administration, host communities, rainfed areas with lots of competition over land, large-scale conflict areas and tribal groups.

The Native Administration can be used for dispute resolution through the *Judiyya*, where they have credibility with all parties in the dispute but they will not be able to be used to solve large-scale disputes or when some parties do not accept their judgments, based on community sanctions, so alternative mechanisms need to be found.

Women's land rights and women-headed households are not sufficiently supported in the customary system. The only land rights women have, according to the customary system, is the *jobraka* or garden linked to the house. Therefore, a policy that strengthens women's land rights is needed.

In those parts of towns where customary traditions are in place, the form of customary tenure called *housh* could be used with rapid planning and surveying.

Some of the land rights allocated by the Native Administration are for seasonal use only. They are usually allocated to people who are not from the local area with limited tenure security for their livelihoods. A policy allowing foreign returnees long-term access to use rights is needed.

Environment-related challenges in the north of Darfur are causing pastoralists to move south earlier in year, which impacts on the season for crop harvesting and creates conflict between pastoralists and farmers. A settlement policy linked to environment-related mitigation is needed.

## **IDP camps**

The current legal framework cannot accommodate the upgrading and the adaptation of the IDP camps. The camps are not planned in principle to transform to affordable residential plot development linked to incremental need of housing for IDPs. Policy, plans and administrative procedures are needed. Government provided the land for the IDP camps, some of which is private land supplied on the understanding that it was a temporary arrangement and that it did not have to follow the land and planning framework.

The legal framework for planning has as a minimum plot-size for urban areas and villages. The plot size of the IDP camps is often as much as three times smaller than the minimum site allowed under national planning law. To upgrade the IDP camps, significant resettlement and re-plotting would be required and only few IDPs could live in the newly upgraded area. The government is encouraging resettlement out of the IDP camps by offering land on the outskirts of the main urban settlements, but these areas have no services and are often far from livelihoods.



**CHAPTER 4**  
**ASSESSMENT OF THE LAND**  
**ADMINISTRATION CAPACITIES IN**  
**DARFUR**

This chapter discusses the results of the capacity assessment of land governance. The purpose of the capacity assessment is to analyse the current local land administration capacity - statutory and customary - in the five Darfur states to support the HLP-related voluntary returns and the security of tenure of vulnerable people. The chapter looks at the institutional, financial and human resources capacity of the key land sector stakeholders as well as the capacity of the UN system to support national actors.

While the observations made are valid for the five Darfur states, there are significant differences between the states due to several factors, including history, location, size, etc. The main cities of North Darfur and South Darfur, now capitals, have been key urban centres for decades and this gives them an edge on land governance-related issues. The legal framework of all the states is based on the national legal framework for land, surveying and planning, however, it is used differently in the five states depending on context. In North Darfur and South Darfur, town planning is commonly used, whereas West Darfur has much less capacity for planning towns.

The land markets in North Darfur and South Darfur urban areas feature high land values, whereas in West Darfur there is hardly any land market and values are low. Digital mapping in South Darfur is advanced compared to North Darfur, and in West Darfur, East Darfur and Central Darfur there is no digital mapping yet. Also, the institutional framework linked to land administration is clear in South Darfur and North Darfur, whereas it is still being built in West Darfur. The spread of land, planning and surveying departments at the local level is uneven across the different departments and states. The Land Department is fully represented at local level in North Darfur, whereas the planning and surveying departments have insufficient capacity at this moment. In South Darfur, about half of the localities have planning and surveying departments. In West Darfur, all eight localities have surveying and land departments but none of them having planning departments.

## **4.1 Capacity of state-level statutory land administration system**

### **Institutional capacity**

**Accessibility and delivery of land administration offices.** One of the key gaps in the statutory land administration system is the limited capacity of the land administration offices in Darfur. The Registrar General's office currently serves an estimated 1 per cent of the Darfur population. South Darfur has two offices while in North Darfur the number of offices has dropped from three to two as, after the first year of operation, only 68 applications had been submitted and processed. Comparatively, Khartoum state has 14 offices with advanced telecommunications, infrastructure and road connectivity that serve 6.5 million people living in 22,000 kms<sup>2</sup>. A comparable level of services - such as telecommunications, infrastructure and road connectivity - would be required in Darfur to ensure that the Registrar General's offices have enough capacity to service the current population and an increasing number of returnees. The offices have high standards of information security with specific requirements for their buildings that limit the ability of both the Registrar General and local government to expand the number of offices, and therefore the geographical coverage. More Registrar General offices are needed for each Darfur state, as well as the effective integration of surveying, planning and registration offices, and stronger coordination with other land-related authorities such as the Ministry of Agriculture. Some functions would need to be assigned by the Land Authorities to the local administration.

**Land-use management.** The delivery of planned, surveyed plots in Darfur and other parts of Sudan is revenue driven; the Ministry of Finance is the main driver of land development as it sees land sales as a way of generating funds quickly to cover the state's

budget deficit. The Ministry of Finance instructs the other ministries, particularly MoPI and the Ministry of Agriculture, to plan land and sell it to people. The land offer is high, the prices relatively low (a plot can sell for less than a government officer's monthly salary), but most buyers do not intend to develop the land, which results in large numbers of planned plots being left vacant and undeveloped. In El Genina in West Darfur State, for example, it is said that there have been 80,000 land plots planned in the city since the 1980s. Once the land is allocated, brokers often quickly buy it again. Land authorities are focusing on planning and selling land plots, however, low attention to longer term land-use management. Further, the supply of registered land is linked to people who have access to the official system and connections. This adds a layer of complexity for IDPs, returnees and poor people, who are less educated and less connected in general.

**Spatial planning.** State planning authorities in Darfur must deliver their mandate with limited guidance on how to manage development, as there is no master plan covering the region or the cities and no national land policy yet. Planning authorities carry out planning functions without linking them to broader planning logics and land-use considerations.

**Surveying.** According to legislation and practice, land cannot be planned for development without first being surveyed. With the inadequate equipment in the surveying departments in all Darfur states, it could take 10 years at a minimum to map the return villages. If single plots need to be mapped, a private person must hire a surveyor, rent equipment and join the government's waiting list. The transport also substantially increases the cost of surveying. Structured mechanisms for surveyors to share maps and land information is largely absent and most land information is outdated and has low accuracy with little detailed information beyond topographic information.

**Access to finance.** There is a gap between land administration and access to finance. Financing by the banks and credits are linked to registered leases and, as noted above, the access to registered land is limited. This makes it harder for IDPs or poor people to obtain loans. Even when there is a guaranteed revenue stream from farm productions, for example, financing cannot be secured. IDPs are unlikely to be able to access bank finance using their land as collateral. Returnees are unable to get funds to capitalize their businesses and return to previous activities. More recently, they have not been able to access bank credit for building houses as the government has restricted the banks from financing housing in order to stop inflation.

## **Financial and technical capacity**

**Cost-effectiveness and financial sustainability.** As often happens in comparable contexts, the current fee for land registration does not cover all costs incurred by the government to undertake the process; therefore, land registration for returnees, IDPs and other vulnerable groups cannot be subsidized from registration fees from other land users. Land registration for vulnerable people would need to have its own separate budget.

**Use of new technologies and fit-for-purpose land administration approaches.** Most staff are not trained in the use of advanced and low-cost mapping and planning technology such as satellite imagery and GIS. Aside from the UN-Habitat pilot project introducing the advanced land administration approaches (described in the next chapter) and one intervention by FAO to use new technologies in the Ministry of Agriculture and the establishment of a digital mapping centre through the provision of hardware and training, no fit-for-purpose, low-cost, new technology - such as satellite imagery and aerial photography - is used in the five Darfur states. Many of the government officials interviewed were not very familiar with the Darfur Natural Resources Mapping and Database Project undertaken by DLC using the GAF company or the Regional Spatial

Planning Strategy of Darfur (RSPSD). Officials are using different mapping software and spatial information (such as maps) from a variety of sources rather than DLC's software and spatial information.

Overall, the use of new technologies and fit-for-purpose land administration approaches would require substantial vision building, coordination efforts and a steep curve to be applied at scale and institutionalized. The cost of setting up an effective land administration system using new technologies will be extremely expensive for Darfur states, and is probably unaffordable under the current financial circumstances without additional support from the federal government or external funding.

**Equipment.** There are very limited IT equipment used for surveying work in North Darfur, South Darfur and West Darfur, and there is only one computer in each state for each Land Department, mostly used for writing reports and letters. The Planning Departments have more computers, with a total of around 20-30 computers across the states, but most of those are in South Darfur where the top management had put particular attention on digital development.

Each Surveying Department has only a few vehicles even though the purview of the department covers large areas and many localities. The Central Darfur Planning Department is the only planning department with a vehicle. In South Darfur, the Land Department has two cars and in Central Darfur the Land Department has one vehicle. The Land Departments in North and West Darfur do not have the one.

### **Human Resources' Capacity**

There are insufficient human resources in Darfur's statutory land institutions. Government departments' employees have limited delegation of authority to take decisions, which can undermine their effectiveness. There is a high rate of staff turnover due to low job satisfaction and interest in government service, particularly by competent young employees which are attracted to better paid jobs.

There is no training budget dedicated for continuous professional development courses and the upgrading of professionals' skills is generally not prioritized.

Across all the states there are very few female surveying engineers, due to a composition of reasons, including that – until recently - women were not accepted into surveying departments at the universities. However, in the Planning and Land Departments, the male-female balance is more even, except for North Darfur where there are twice as many women with tertiary qualifications compared to men. A gender-balanced work force is one of the preconditions to ensure both men and women benefit from land services.

### **The enablers for the statutory land administration system**

The current statutory land administration system in Darfur has been rapidly assessed regarding the main enablers for the voluntary return process. These are leadership, strategy and partnership.

**Leadership.** Does the leadership have policies and procedures in place to meet the challenge of voluntary returns?

Top management has good intentions to develop a vision, mission and overall objectives for authorities. However, staff turnover at this level has reduced the opportunity to undertake this work and build the required capacity. In some Darfur states, governments are re-organized very frequently. There is no overall national policy or consistent state-level policies outlining clear procedures on land management and this affects the management of displaced people's voluntary returns, which then impacts the performance of the leadership in handling the voluntary returns. The leadership will need

to address this key challenge if it is to succeed in addressing land issues in general and to facilitate returns.

**Strategy.** Are the objectives of the organization oriented towards customary tenure, peace building and accommodating returnees?

The land authorities have not developed specific technical procedures to manage voluntary returns. Most interventions only occur at the political level and there is no official strategy at state level, although some states have annual plans and budgets. No strategic plan has been developed or implemented. Most of the land-related authorities' work is carried out in urban areas and not rural areas, however, even in urban areas there is no entity responsible from developing strategies for planning and finding solutions for the IDP camps. There is no approved policy to deal with customary land regarding investors and return villages. The government receives sporadic applications from owners for the conversion of customary land into a registered lease. Investors who need land must first negotiate for land with the local communities through the Native Administrations. Once the land has been purchased by the investor, he or she should submit a request for registration of the land in the statutory system. For return villages, the government should consult in relevant procedures with the host community before they can plan return villages.

**Partnership.** Is there coordination across different government agencies to facilitate processes?

Coordination and cooperation between the government bodies is insufficient. Cooperation is based on personal connections between employees in the different governmental organizations. The inadequate coordination between MoPI and the Ministry of Agriculture regarding rural areas could affect the peaceful coexistence between subsistence farmers and pastoralists. For example, this could impact the voluntary returns and settlement already occurring around stock routes (*damra*), which reflects change, albeit slow, in the lifestyle of pastoralists. There are no policies to manage this kind of transformation or to include it in the planning of land management. In urban areas there is better coordination between the different land-related authorities, and there is a gradual improvement regarding IDPs. The settlement of IDPs linked to voluntary returns policies and strategies is largely supported by the UN and NGOs. However, the policies and strategies need a monitoring and evaluation and tracking framework that is conflict sensitive, builds peace and limits further conflict. This is needed to support sustainable IDP returns to villages.

## **4.2. Capacity of customary land administration**

As each state, locality and area in Darfur has its own history, norms and traditions, there is a wide variety of norms and traditions regarding the Native Administrations' land governance, land allocation and land administration practices. These norms and traditions are assessed below.

### **Institutional capacity**

**Status and legal pluralism.** The inadequate recognition of the customary land administration system and the role of Native Administrations under Sudanese law is the main challenge of the institutional capacity, as described in Chapter 2. All land-related customary activities are not legal or are informal from the perspective of the Sudanese Government but while only the statutory system is legally recognized, unregulated customary systems are in place to manage the land. Mechanisms need to be found to align customary tenure systems with the statutory system.

**Credibility regarding land-disputes resolution.** This is one of the areas where customary land administration has good capacity compared to other viable options. Historically, the *Judiyya* system has been broadly accepted in Darfur and it is a time- and cost-effective method of resolving minor land disputes such as conflicts over boundaries between farms and houses, and the rights of use for small areas, particularly in small villages. However, its viability is based on the credibility and operation of the Native Administration system and, as written records of previously resolved cases are not kept, the only available record is the memories of the elders. Where the *Judiyya* is a commonly used system for land-related conflict resolution, there is a growing distrust especially . In IDP camps people may have created their own local administration structures (camp *sheikh*). In this situation, choosing which administration system to use for solving land-related conflicts is controversial as the disputing parties are often from different tribes. Where there is an overlap between Native Administration systems, it is less likely that the *Judiyya* will be useful for HLP-related conflict resolution. Customary norms used for dispute resolution might not align with the human rights norms used to address the violations experienced by displaced people. Returnees might not be treated equally or with justice. This could lead to tension and conflict.

**Gender equality.** The customary land administration system has institutional capacity challenges related to adequately protecting women's land rights and delivering land tenure security to women. In the customary land administration system, women's and men's land rights are not treated equally and this was mentioned by the interviewees. This custom will create complications regarding the HLP-related needs of vulnerable female returnees, including widows who lost their husbands in the conflict or women who have lost contact with their families. There is no clarity on how these women would obtain access to land in the return villages. Even the administrations of the camps do not have statistics on the numbers of women-headed households as their statistics are based on the head of the family, and generally households are headed by men.

**Spatial information records.** The Native Administration has little capacity to produce, maintain and use land records, maps or registration and cadastral information. They do not have paper-based records or a database of customary land ownership in the customary land administration system. Local measurement units (*hajar, jadaa, mokhammas*, etc.) are used to demarcate land which causes confusion for land occupants and government departments as the national system measures the land in metres, acres, etc. Also, land boundaries are often incorrectly located in the Native Administration system with an overlap between territories. People use the witness system to prove customary land tenure and use the Native Administration, neighbours and relatives. Land information is in the memories of elders, *sheikhs* and *omdas* and the location of the land and its size are based on a general description with low accuracy.

**Sustaining long-term development, investments and urban growth.** The customary system evolved to respond to the land needs for subsistence farming, rural housing and grazing. It therefore works effectively to supply land for smallholder rain-fed farmers and housing in small villages, including *damra* settlements associated with livestock routes. Where there is no conflict on the ground in relation to return villages, the customary system plays a key role in the recognition of original owners and in finding land for housing and small developments. The customary system is not designed to support cases related to long-term sustainable development and urban settlement, such as land markets and land sales, issues related to long-term subsistence farmers who are not from the tribe, investment by outsiders including foreigners or the development of villages for returns.

When a person leaves the land, he or she must return the land to the Native Administration who re-distributes it to other groups or individuals. This impacts the local land market. Often people with customary land-use rights are not allowed to rent out their land because they only have temporary rights assigned by the Native Administration.

Regarding foreign investment in agriculture, a balance needs to be found between customary occupants, the Native Administration, foreign investors and the government's wish to guarantee land tenure security for investment. Sometimes, the Native Administration is perceived as hindering investment by creating complications about the location of a return village or about original villages, or new village locations for people not returning to their original villages. Sometimes, investors are involved in land grabbing and vulnerable people, particularly women, are more likely to lose their access to land under these conditions.

Where the land allocations for large-scale voluntary returns is managed by the Native Administration without maps reflecting topography, soils or natural resources, this could lead to further degradation of the environment and weaken the livelihood opportunities of returnees.

**Transparency.** The customary land allocation system is not standardized, and its procedures are not transparent. It is highly dependent on the social relationships between local tribal groupings and individuals. The justice and human rights standards expected by Darfur's community, which constantly sees dramatic change as it emerges from decades of conflict, might not be entirely met by the customary land system.

### **Financial capacity**

**Financial sustainability.** Customary land administration systems do not function with a strict financial sustainability model. The customary fee charged when people acquire land differs from case to case and there is no standard across the Darfur region. Generally, customary land fees are not charged to local people but only to families who are not originally from the local area. Also, there is no link between the payment of customary fees to the Native Administration and the services provided to the occupants of the land. This has positive implications for the users but could strain the capacity of the system to undertake all the necessary functions both at the moment and in a possible future context where specific functions would be delegated to it.

### **Human resources capacity**

There is a large capacity gap in the land-related technology skills of the Native Administration, particularly regarding mapping, planning and land information management, skills which would be necessary to facilitate large-scale returns. Land information is stored in the memories of elders and is lost when they die. The rural areas and return villages need high accuracy maps, satellite imagery and spatial information to support returns to find locations and identify areas for settlement.

## **4.3 Challenges, opportunities and preliminary recommendations**

A political and technical vision for land governance and land management, including for facilitating return and land tenure security for IDPs and vulnerable people, is needed before defining a capacity development strategy for the Darfur states and the key interventions to be prioritized. It is key to ensure that statutory and customary land administration systems work together and support each other in the prevailing context of legal pluralism to deliver on common land administration goals, rather than competing.

Capacity development efforts will need to be undertaken in the medium to long term as well as in the short term, for both statutory and customary land administration actors that need to work together in a more harmonized, sustainable and efficient way.

**Institutional capacities.** Institutional capacities are linked to the clarity of mandates and the existence of policy, legal, institutional and administrative frameworks which support both the statutory and customary institutions in delivering. Political and technical processes will be required to iron out the differences of vision and approaches of the many land actors in Darfur and Sudan. Chapter 6 outlines and describes the key recommendations emerging from the report on the necessary reforms to be introduced in the different frameworks. Capacity development interventions to support their adaptation and implementation at the Darfur states level will need to be developed for all key actors.

**Financial capacities.** The magnitude of the land administration issues to be addressed in Darfur calls for a sober and multi-pronged approach to finance the provision of land tenure security and the protection of HLP rights. The overall cost-effectiveness and financial sustainability of the land administration system will have to be assessed; this will be a very crucial aspect of the reform of the processes and approaches in Darfur. Fit-for-purpose land administration approaches will have to be tested, adapted, scaled up and institutionalized, probably in an incremental way. However, in the short term, priority HLP interventions in support of returnees and IDPs will have to be financed separately, either directly by the federal government or from external, project-related resources.

**Human resources capacities.** Developing the necessary human resources capacities is also a long-term goal, but many interventions can already bring value to Darfur land processes in the short term. Both statutory and customary land administrators need to be targeted and value could be created by ensuring that the two communities interact with each other as much as possible in the process. Civil society, academia, different types of land professionals (e.g. planners, lawyers, surveyors, etc.) and community leaders need to be included in the capacity development activities, together with government representatives. Some of the key areas of capacity development interventions are: fit-for-purpose land administration approaches and supporting technologies, dispute resolution, mapping, enumeration, household surveys, recording of individual and group rights, archiving of land records and court rulings, gender and human rights issues, costing and financing of land administration services, land and property valuation and taxation.



## CHAPTER 5

# UN OPERATIONS

In Sudan, land disputes are recognized as being a root cause of conflict. There are various UN entities working on land-related issues and peace building in Darfur and the contributions are in line with the global frameworks described below.

## 5.1 Land-related international frameworks

A full description of all international frameworks relevant to Darfur is beyond the scope of this report. However, there are a few binding and non-binding frameworks worth mentioning where references to land are made in relation to the right to adequate food, housing, equality between women and men, and the protection and assistance of internally displaced persons, as well as the rights of indigenous peoples and their relationship with their ancestral lands or territories: the Universal Declaration of Human Rights (UDHR); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the International Convention on Civil and Political Rights; the International Covenant on Economic Social and Cultural Rights; the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGTs); the Guiding Principles of Business and Human Rights; the UN Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles); the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa also known as the Kampala Convention; the New Urban Agenda; and the United Nations Secretary General Guidance Note “The United Nations and Land and Conflict”. These frameworks define human rights standards and are the foundation when considering some of the key HLP-related issues, like the ones further described below:

- **Forced evictions** - Forced evictions are recognized as a violation of the international criminal law, and of socio-economic and political rights, such as the rights to adequate housing, food, security of person, non-interference and peaceful enjoyment of possessions. Evictions can also cause homelessness and increase vulnerability to sexual and gender-based violence.
- **Displacement** - Land-related human rights are inherent in every displacement situation, including the destruction and illegal occupation and/or sale of forcibly abandoned land and buildings. Remedying and restoring land rights is fundamental to achieve justice, build peace, facilitate self-reliance (including in the place of refuge) and achieve durable solutions. Monitoring, advocacy, preventive and preparatory measures are required to facilitate early successful voluntary returns.
- **Gender equality** - There is often gender inequality in marriage, inheritance, legal status or resource distribution and many women cannot access, use, control or own land. The number of female-headed households increases sharply during and after conflict, and without access to land their livelihoods become insecure. Common challenges are lack of awareness of their rights, lack of necessary land documents and lack of resources to pursue claims. International treaty bodies have emphasized the rights of women on an equal basis with men; the prohibition of unequal treatment in regard to land rights; and the right of women to own land without restrictions on the basis of marital status or any other discriminatory grounds.
- **Natural resources, livelihoods, and human rights** - There is an increasing trend of large-scale, land-based investments by international and national businesses that may sometimes lead to forced evictions and human rights abuses, including the destruction of livelihoods. International standards identify the distinct but complementary roles of government and business, whereby the state

has the duty to protect against human rights abuses by third parties, including businesses. Corporate responsibility includes avoiding infringement on individual rights and addressing the negative impacts, such as remedies for victims.

The UN Committee on Economic, Social and Cultural Rights, while considering Sudan's second periodic report in 2015, noted its concern on the negative impact on the rights of land users, particularly small-scale farmers and agro-pastoralists, of development projects such as the construction of dams and large-scale leasing of farmland in the country to local or foreign investors, facilitated by the Land Confiscation Law (1930), the Unregistered Land Act (1970), the Land Allocation Act (1990) and the National Investment Encouragement Act (2013). The Committee recommended Sudan to ensure that legislative provisions protecting security of tenure recognize customary forms of tenure and take account of the VGGTs. The Committee on Economic, Social and Cultural Rights also recommends that Sudan should intensify efforts to create conditions for the voluntary return or local integration of internally displaced persons, addressing obstacles to the return such as lack of safety and restitution of land and property, and access to basic services in the areas of return. It also recommends that Sudan needs to respect the Covenant rights of internally displaced persons wherever they are settled and avoid forced evictions from informal settlements and camps.

## **5.2 UN Resident Coordinator's Office**

The United Nations Country Team (UNCT) in Sudan is comprised of 18 resident and two non-resident representatives of agencies, funds and programmes involved in development cooperation, humanitarian assistance and peacekeeping operations. There are currently two peacekeeping operations in the country, namely the African Union-United Nations Hybrid Operation in Darfur (UNAMID) and the United Nations Interim Security Force for Abyei (UNISFA). In addition, a new UN mission - the United Nations Integrated Transition Assistance Mission in Sudan (UNITAMS) - was established in June 2020 for an initial period of 12 months.

The operations of the UNCT Sudan are led by the Resident Coordinator/ Humanitarian Coordinator (RC/HC) who oversees development and humanitarian interventions and facilitates the cooperation with the three UN missions in Sudan.

In Sudan, the UN recognise that good land governance and land reform are critical for promoting social stability, peace building, human security and sustainable development. Remarkably, land disputes are recognized as a key root cause of conflict in Sudan and resolving land issues is broadly acknowledged as a crucial objective necessary to strengthen the country's social fabric and economic stability.

The RC/HC in Sudan is bringing UNDP, UN-Habitat and FAO together as the Key UN agencies working on land issues to improve land governance, land rights and land-based resources management through land reform and within multidisciplinary long-term engagement. The land reform includes land legislations, land dispute resolution mechanism, land rights, urban and regional planning, land-based resources management and protection. Given that, UNDP, UN-Habitat and FAO complement each other to improve land governance and lead the land sector reform in Sudan.

## **5.3 UN-Habitat**

UN-Habitat is mandated to promote socially and environmentally sustainable urbanisation and human settlements. It addresses urban challenges, capitalizes on opportunities and strengthens the capacities of national and local governments and partners to develop and implement urban policies and interventions. UN-Habitats' focus

areas include land legislation and governance; urban and regional profiling and planning; provision of urban basic services; housing and slum upgrading; disaster risk reduction and rehabilitation; research and capacity development. With regard to land and HLP-related interventions, UN-Habitat supports land sector reforms aiming at securing housing, land and property rights, urban and regional planning, spatial profiling for durable solutions for IDPs; and implements the United Nations Secretary General Guidance Note “The United Nations and Land and Conflict”. In Sudan, UN-Habitat:

- Protects and secures land rights of IDPs, returnees and host communities through sensitization, public consultations, and the registration of land rights, in collaboration with the Global Land Tool Network (GLTN);
- Assists the return, resettlement and reintegration of IDPs and returnees within host communities, through urban and village spatial profiling; and contributes to durable solutions and sustainable urban settlements;
- Supports the development of urban and regional plans, land use legislation and the prevention and elimination of unplanned and un-serviced informal settlements and IDP camps; and
- Facilitates inter-agency collaboration and partnership, and provides technical advice on land rights for the implementation of the UN Secretary General Guidance Note on Land and Conflict.

UN-Habitat works closely with key land stakeholders in conflict-affected states. In Darfur, UN-Habitat supported communities in IDP return villages on land administration. It applied a fit-for-purpose land administration tool - the Social Tenure Domain Model (STDM) - in fifty return villages, facilitating the process of identification and allocation of land rights to IDPs and returnees in collaboration with key government stakeholders including MoPI, DLC, VRRRC and other partners.

Return villages were supported in the preparation process for the voluntary return of displaced people. In agreement with the government counterparts, IDP return village profiling and participatory planning were conducted with villagers in order to develop a basic plan for existing villages, including a possible future expansion, to receive returnees and to protect the buffer areas surrounding the villages for crop, livestock and water management. With the engagement of key stakeholders, decisions were made on the resolution of land related disputes, and on the location of roads, basic services and facilities. In parallel, the institutional capacity development of MoPI, DLC, VRRRC, rural court judges and native administrations was undertaken. In partnership with UNDP, FAO, GLTN, MoTPD and DLC, UN-Habitat co-hosted two key land conferences in Sudan in 2018. The conferences successfully brought together over 120 representatives of institutions and organisations engaged in different aspects of the land sector. Participants included representatives of line federal ministries, state ministries, localities, major tribes, Native Administration, nomads and farmers’ association, UN agencies, donors, and international and national NGOs. Challenges and opportunities were identified, and recommendations were provided for the development of a road map for the support of land tenure security, land administration, and peace and stability in Sudan.

Based on the recommendations, UN-Habitat and UNAMID convened two land consultation workshops in North and South Darfur in collaboration with DLC, bringing together all the stakeholders involved in securing land tenure as an essential element for consolidating peace. The workshop also allowed to share information on land issues effectively. The workshops were attended by more than 100 participants including UNCT, NGOs, the MoPI in North and South Darfur, Ministry of Agriculture, the State Water Corporation, VRRRC, civil society organizations, the Sudan Judiciary Authority, IDPs key representatives, and Native Administration representatives.

In Blue Nile State, UN-Habitat enhanced the institutional capacity of the government to better manage land rights and secure land ownership for IDPs and vulnerable people in Ad Damazine town. As a result of the project, the government strengthened critical methodologies on land survey, land demarcation and land subdivision, thanks also to the provision of surveying equipment and on the job technical training to key officers. Public consultations were conducted and attended by the stakeholders involved in the process of land allocation and planning. The government was able to adopt the resettlement plan, including necessary basic services and public facilities, and allocate land accordingly. Remarkably, around 18,000 IDPs and vulnerable households - such as female headed households - were awarded land ownership free of charge.

## **5.4 UNAMID**

The African Union-United Nations Hybrid Operation in Darfur (UNAMID) was established in 2007 by the UN Security Council Resolution 1769 of 2007 and the Letter of the Secretary-General to the President of the Security Council of 5 June 2007. Its mandate is renewed each year. UNAMID's focus is on the implementation of three strategic priorities: (1) support the mediation between the government of Sudan and non-signatory armed movements on the basis of the Doha Document for Peace in Darfur; (2) protect civilians; and (3) support the prevention and mitigation of intercommunal conflicts, including through measures addressing their root causes, in conjunction with the government of Sudan, UNCT, civil society and community based organizations.

UNAMID and the UNCT work together on the stabilisation of Darfur and promote a shift from peacekeeping to peacebuilding through the establishment of a long-term protective environment, in line with international humanitarian laws and human rights standards.

Once the Government of Sudan declared the end of conflict in Darfur, and the security and safety situation significantly improved, UNAMID started preparing for its exit and for the handover of its activities to the Government with the support of UNCT. In 2020, UNAMID's mandate was extended through the Resolution 2525 (2020) with the goal of the drawdown of the mission. At the time of writing, UNAMID is transitioning to the UNCT the Joint State Liaison Functions (SLFs) in Darfur. SLFs is an integrated mechanism that provides a bridge from peacekeeping activities to peacebuilding activities in Darfur within the context of UNAMID's drawdown. SLFs started in January 2019 under the joint leadership of UNAMID and UNCT, and in close cooperation with national actors; its four priorities are rule of law, human rights, livelihood and durable solutions/service delivery. The SLFs is designed to ensure a strategic response to drivers of conflict through joint analysis, planning and delivery.

Regarding land reform and protection of land rights-related activities, UNAMID and the UNCT have been supporting the sustainable return of IDPs to their original villages in partnership with the government. UNAMID continues having land-related roles in preventing and mitigating intercommunal conflicts where different groups, such as farmers and pastoralists, are competing over land and natural resources. UNAMID helps communities in conflict to reach agreements on the use of land and natural resources, such as sharing land, pasture and water. Land-use zoning agreements are also negotiated around the village. UNAMID also supports peace by developing conflict resolution capacity in local communities, including the Native Administration.

## **5.5 UNDP**

UNDP aims at eradicating poverty and reducing inequalities and exclusion by developing policies, leadership skills, partnering abilities, institutional capacities and by building resilience. UNDP engages in a broad range of land-related interventions contributing to

the achievement of different Sustainable Development Goals: improving land governance, land tenure security and land rights, supporting sustainable land and land use management, and combating land degradation. In Sudan, UNDP:

- Supports equal, undisputed and legal access to land for livelihoods, investment, sustainable land use management and communal interest of all community segments, including women;
- Supports land governance, development of land dispute resolution mechanisms and encourages peaceful resolution of land related conflicts in harmony with local norms and customs to ensure peaceful co-existence among farmer and pastoralists, especially along migratory routs;
- Supports the allocation of conflict-free land for the return of IDPs and refugees; and
- Combats land degradation through environmentally sustainable land use management and livelihoods opportunities.

## **5.6 FAO**

FAO contributes to food security and nutrition by increasing the productivity of the agricultural sector; improving livelihoods opportunities for people depending on agriculture, fishery and forestry; and strengthening land-related national capacities through technical and policy support, and capacity development. FAO mainstreams the implementation of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forestry and Fishery in the Context of Food Security (VGGTs), by prioritizing vulnerable rural people including herding, farming and fishing communities. In Sudan, FAO:

- Supports the implementation of the VGGTs;
- Enhances the productivity of agricultural land, protects land tenure in the context of agricultural investments, and supports adequate land use;
- Supports the improvement of land governance for farmers and nomads on agriculture, fisheries and forests with gender sensitive approaches; and
- Develops the capacity of farmers and herders in agriculture, fisheries and forestry.

In particular, the VGGTs have been implemented through two long-term programmes: one on drought resilience and recovery of livelihoods, food security and nutrition of vulnerable pastoralists and agro-pastoralist; and one on the recovery of livelihoods, food security and nutrition of vulnerable farming and agro-pastoralist communities in the Darfur region through an increased productivity, and improved post-harvest management, of crops, livestock, fish farming and forestry products for smallholders in targeted *wadi* catchment areas.

## **5.7 UNEP**

UNEP sets the global environmental agenda and promotes the environmental dimension of sustainable development. UNEP provides leadership in caring for the environment by enabling nations and peoples to improve their quality of life without compromising that of future generations. In order to curb land degradation due to climate change, biodiversity loss and unsustainable human activity, UNEP seeks nature-based solutions. In Sudan, UNEP:

- Supports Sudan to prepare for the fulfilment of its international climate change commitments, while introducing ecosystem-based adaptation measures to increase the resilience of communities to climate variability;
- Develops innovative approaches of co-management of natural resources, based on environmental priorities identified by communities;
- Contributes to the resolution of conflicts over access to natural resources and women's empowerment based on sustainable natural resource use.

## **5.8 UNHCR**

UNHCR supports refugees, returnees and IDPs in Sudan through the provision of protection in camps managed by the Commissioner for Refugees. UNHCR works closely with the Ministries of Interior, Foreign Affairs, and Justice, and with the Commissioner for Refugees, the Humanitarian Aid Commission (HAC), and with several other implementing partners across the country. The agency leads the Protection Sector of Humanitarian Country Team and fosters the provision of durable solutions for IDPs living in camps and hosting communities in coordination with UN agencies and partners.

## **5.9 IFAD**

IFAD's strategy aims at increasing the agricultural production through environmentally sustainable practices and the distribution of improved seeds. Activities target the needs of rural people in the rain-fed farming sector. In line with the government decentralization policies, IFAD helps to empower local communities and promotes good local governance. Key activities include fostering community dialogue on sensitive topics, including natural resources management; promoting land reform; harmonizing resources for nomads and farmers; and promoting equitable distribution of resources through participation of local communities in decision-making.



## CHAPTER 6

# **RECOMMENDATIONS FOR IMPROVED LAND ADMINISTRATION IN DARFUR**

This chapter outlines some early recommendations on options to improve land administration in Darfur, with a specific focus on the provision of land tenure security and protection of HLP rights of returnees, IDPs, women and vulnerable people. The audience of these recommendations includes Darfur land sector stakeholders, particularly government representatives, DLC, UN and other humanitarian and development actors.

Many variables need to be considered when embarking in land interventions. The development of appropriate solutions often starts with an assessment of the existing initiatives towards policy goals, and the identification of the gap in delivering those goals. In the report, the policy goal identified is addressing the land tenure security and HLP needs of millions of returnees, IDPs and vulnerable people living in Darfur and doing so rapidly enough to stabilize the region and prevent a possible new wave of conflict.

This land assessment and analysis proposes actions in the short-to-medium term. It is also to give stakeholders better knowledge of the Darfur land sector to enable them to discuss practical steps going forward. It is important because land issues are often political and need necessary compromises. Developing practical and scalable land administration solutions needs time and the input of numerous stakeholders.

Previous chapters of this report provide information on the Darfur land tenure systems, legal and institutional frameworks and processes and a snapshot of the capacities in the statutory and customary land sector. This last chapter provides a set of recommendations with both strategic options and practical steps for action and further solution-finding. It is hoped that it can stimulate the debate and the participatory development of viable options to address the land tenure security needs of people in Darfur.

## **6.1 Recommendations for discussing land-related high-level strategies and principles**

Addressing land tenure security is both politically sensitive and technically complex. Therefore, to ensure a better management of land and land-based resources and peace, stability and social-economic development in Darfur, it is crucial to discuss the political implications of land-related technical decisions. The strategies and policies to facilitate voluntary returns should be discussed among all major stakeholders. The security of tenure should be improved, especially for the most vulnerable people and women. To reach the goal, it is important to reflect the land issues in the policies at different levels and institutions. The following sections provide key entry points and substantial thematic areas, which provide a basis of discussion and consultation. This first set of recommendations aims to inform policy-formulation and decision-making at the national and state levels to improve and adapt land governance. These recommendations address the land and conflict nexus, land tenure options, recognition of customary tenure institutions, land-dispute resolution mechanisms, women's land rights, responsibilities at state and federal levels as well as entry points for partnerships.

### **Identifying key land-related root causes of conflict**

An analysis of the land-related root causes of violent conflict could be a relevant entry point for the discussion around the land and conflict nexus in Darfur. Such analysis could be jointly undertaken by UN organizations or commissioned by non-UN actors with the objective of putting the key root causes of conflict on the table for discussion. UN-Habitat developed an analytical tool that could be used to frame such analysis: *How to Do a Root Cause Analysis of Land and Conflict for Peace Building*.<sup>4</sup> It is used in other contexts to assess the main land-related drivers of conflict and propose recommendations. Some of

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<sup>4</sup> The tool is available for download through the GLTN website at the following link: <https://gltn.net/download/how-to-do-a-root-cause-analysis-of-land-and-conflict-for-peace-building/>

the issues that might emerge from such an analysis are the correlations between large-scale environment-related challenges in the form of desertification, and land degradation and conflict; the correlation between human rights and women's land rights violations and conflict or the impact of large-scale land investments in customarily managed land on the creation of conflict. The latter has many dimensions: the federal government is interested in making land in Darfur available for investors, yet investors are often not willing or able to rely on the customary system to protect existing land rights. Furthermore, returnees can find their land occupied by other people, etc. Through such conflict analysis it is possible to map, analyse and anticipate land-related root causes, proximate factors and triggers of violent conflict in Darfur and offers a substantial entry point for discussion, prioritization and decision-making.

### **Broadening the range of land tenure options**

Currently, the range of land tenure options available in Darfur is vague, either because of the lack of recognition of the *de facto*/customary/informal land tenure options or because of the shortcomings in land administration processes and the inadequate institutional capacity to reach a sufficient number of people with adequate solutions.

Chapter 3 describes that there are very few registered rights in Darfur, covering less than one per cent of Darfur's land, leaving people with weak tenure security. The registration system is expensive, slow and not easy to access and it takes years to register customary land as a leasehold right. Disputes must be taken to court and there is a large national backlog. Registered leaseholds and rental payments to the government are not viable for most IDPs and it is therefore problematic to scale the statutory system in the short term. The current tenures held by IDPs are linked to temporary rights awarded by the government. The plot size and building standards do not match Sudan's planning and building laws, but these areas are serviced and often well located, and IDPs do not always want to move out. It is not clear if it is possible to adjust the planning and building standards for some of the IDP camps in urban areas so that they can be regularized.

The introduction/recognition of a broader range of tenure options, besides registered leases, is required. This will address community and political expectations that their land tenure security concerns are being addressed and will cater for the needs of returnees and other vulnerable groups.

Returnees and Darfur's overall population could benefit from a broader range of tenure options and tenure arrangements. Some of the recommendations to achieve this could include:

- regularizing and re-planning IDP camps in the centre of towns;
- regularizing and re-planning IDP camps as urban extensions in customary areas;
- upgrading and regularizing informal settlements, this will have to be accompanied with change of planning standards;
- demarcating areas for settlements in IDP camps, villages and return villages;
- demarcating areas for settlement in areas of origin, where the land is vacant or occupied by others. Small subsistence farms for livelihood, buffer zones and cattle corridors will have to be defined too;
- temporarily allocating areas for settlement and subsistence farming areas or *takol goom*;
- considering restitution of land to former owners / occupants, although the feasibility of choosing this option for scaling land tenure security interventions is to be carefully assessed.

Particular attention will have to be given to land rights' allocation in conflict "hot spots" (e.g. fertile areas, areas for mechanized agriculture) and areas of territorial conflict. Allocating land rights in customary or rural areas is also problematic, because of the weak capacity of the Native Administration to deal with the growing pressure of investors on customary land and handle the growing complexity of the conflicts between farmers and pastoralists. Mechanisms to support for women's access to land and tenure security need to be developed and applied across all the different land tenure types.

A crucial step to create and recognize a broader range of tenure options is to consider and discuss the recognition of the roles and functions of the Native Administration and of customary tenure rights.

### **Exploring options for legalizing Native Administration and customary land tenure**

There is scope for discussing the relationship between the statutory authorities and the Native Administration systems with regard to their role in land management and delivery of land rights to the people of Darfur, putting forward options on how to better align this relationship according to the constitution and to the Darfur and Doha Peace Agreements. Policy decisions are needed around several issues, such as the integration of the customary system into the statutory system (e.g. as hybrid system), how to handle returnees' rights versus the rights of new occupants, etc. Such decisions could be taken through participatory land conferences inclusive of all the relevant stakeholders, series of technical and political discussions or other participatory forums, depending on what is feasible and agreeable by the various stakeholders.

Based on the Darfur Peace Agreement, there are expectations that customary land will be registered and that returnees will receive registered land rights. To achieve this, improvements and adjustments need to be undertaken in the land administration system currently in place to address a series of technical challenges. For example, the types of land tenure options available for Darfur people should be discussed. The Doha Agreement states that "individuals in local communities may register their customarily owned land as their own lands", and it does not make a difference whether the registered rights are leases (as understood by government) or freehold (as understood by Darfurians) as both registration processes take similar time and cost. However, the latter needs legislation reform to accommodate this option as since April 1970 freehold registration is not legally applicable.

Currently, registered rights are leases not based on customary rights and if the surveying, planning, and registration techniques in use now are not changed, basing the registered land documents on customary rights will not make any difference in terms of delivery time. As explained in this report, the registration system cannot be scaled up to meet demand and this is critical to the political process. This has implications in terms of the management of political will of the leaders and if the situation is not handled carefully, this could lead to an increase of conflict and potentially new waves of unrest and war.

The land administration processes managed by the Native Administration also have shortcomings including decay of traditional management system. Capacities need to be increased and made consistent across the Darfur territory to ensure the ability to handle large-scale voluntary returns and to enhance land tenure security. In many areas targeted by a large returnee population, such as urban and peri-urban areas and IDP camps, land administration processes should be improved. The land governance system should be more inclusive, as not everyone may be treated equally, and discrimination based on ethnic affiliation, sex and age are likely to happen.

Further, for customary land administration to be able to play its role effectively, it needs to be supported by new policy and legal frameworks. Assuming that the necessary laws were developed and passed quickly - and often the timeframe needed for adopting such laws in African countries can go beyond 10 years - it could take decades to scale up the customary land administration system to give registered rights to all returnees and other priority groups.

In some countries such as Angola or Mozambique, the customary system absorbed millions of returnees after conflict without any government assistance. Darfur might follow the same path. However, this kind of absorption is not optimal in terms of peace building, state building, limiting conflict triggered by returns, responding to the HLP needs of women-headed households, creating sustainable livelihoods, managing investments and preventing land degradation. Therefore, the customary land administration system can also be only one of the options supporting voluntary returns.

The Darfur land stakeholders could reflect on this option to see what advantages and disadvantages it could offer to secure the land rights of returnees and other vulnerable communities. It is also necessary to reflect on what measures would be needed to enable the customary land system to play its role better and have a constructive, complementary role with the statutory system.

### **Strengthening the land-related dispute-resolution and conflict management mechanisms**

Conflict management and dispute resolution - using a range of different forums both statutory and customary including Native Administrations' courts and *Judiyya* - needs to be integrated into all aspects of the land management system for voluntary returns to ensure durable solutions.

Voluntary returns are likely to create disputes between returnees and hosting communities and secondary occupants "newcomers" in several situations. The Native Administrations and *Judiyya* Council will need to scale up their role in dispute resolution and the identification of returnees in rural areas, in situations where both parties will accept their judgments. There is a range of capacity gaps to be filled for strengthening the customary dispute-resolution system:

- The *Judiyya* system must be linked to the formal legal system and be recognized in formal courts as an alternative approach for dispute resolution, particularly in the small human settlements such as the villages and return communities.
- The system needs to be more sensitive to gender and international human rights issues.
- The different norms and customs used in dispute resolution need to be aligned with the national legal system and international standards and principles to support justice and equality. This will require extensive studies and a deep analysis of the overall Native Administration system and its relation to conflict resolution.
- NGOs, community-based organizations and civil society organizations should work together to rehabilitate the role of the Native Administration and other community organizations to become more effective and efficient at dispute resolution that is aligned with national and international justice principles.
- The government and the NGOs should support the Native Administration to develop an archive of the judgment records of the *Judiyya* system.

- The government should develop a strong coordination framework between the statutory and the customary systems to process land allocations for investment, provide incentives for investors so that they can create jobs for returnees, and secure the rights of the local community, while ensuring the sustainability of resources.
- DLC, NGOs and the local government should work together to make use of the Darfur natural resources mapping project.

Further, conflict can emerge in the urban peripheries where the no-conflict certificate is being used, as it could undermine the authority of the Native Administration role in dispute resolution without providing any alternative dispute-resolution mechanism. The statutory system is not an option because of the length of time needed to resolve disputes through the government courts. Vulnerable people need a quick resolution to their disputes as they rely on being able to access the land as part of their seasonal livelihoods.

### **Fit-for-purpose land administration approaches**

Given the scale of the HLP-related issues, the vastness of Darfur, the pace of the people's movement and returns, and the institutional weakness, complete land administration coverage of the five Darfur states can only take place incrementally and over time. With only about 1 per cent of registered land rights, approximately 8 million people to cater for in an area of over 500,000 kms<sup>2</sup> and at least 1.64 million displaced people (OCHA, 2019). It could take a quite long period to give registered leasehold rights to all people in Darfur. For voluntary returns, it could have a huge financial implication.

The currently used conventional land administration approaches are a significant obstacle in the delivery of land tenure security in Darfur for returnees and other categories of people. Building on the analysis presented in this report, national and state-level land administration stakeholders could review strengths, weaknesses and gaps of the current system and provide guidance on how to move ahead with the reform, particularly taking into account the fit-for-purpose land administration approaches already being piloted in Darfur and, in comparable contexts, elsewhere.

Given the magnitude of the challenges, it is necessary to define the land administration's role in facilitating large-scale voluntary returns and settlement of displaced populations. It is also important to focus on returns villages, "hot spots", areas of interest to investors, and areas rich with natural resources such as minerals, to start with.

Also, a range of policy decisions should be discussed, such as:

- **Adopting fit-for-purpose approaches.** Use of fit-for-purpose approaches and low-cost technology to support the development and implementation of any strategic action plan for voluntary returns and security of tenure for vulnerable people. Use intermediate approaches to improve land tenure security and planning, linked to incremental upgrades.
- **Priorities for registered leases.** Prioritize the use of registered leases for return villages, that could be registered as group rights, and subsistence farms in "hot spot" conflict areas only.
- **Upgrading in urban areas.** Upgrade existing IDP camps and informal settlements hosting IDPs, using some form of entry-level or starter land title.
- **Village house and permanent subsistence farm.** For durable solutions, HLP rights for returnees in rural areas need to include both housing and access to a subsistence farmland, to provide sustainable livelihood opportunities.
- **Pastoralists settlements.** Desertification in north Darfur is likely to continue leading to some demographic changes. The viability of the use the current

pastoralists' trend to develop *damra* (temporary settlements) along the stock routes in the land belonging to other tribes could be further assessed and promoted. Over time, this could contribute to the integration of the different tribal groups, to the mitigation of environmental challenges and to the reduction of conflicts.

- **Investors and occupants.** Keeping in mind the desire of the government to make land available for investors in Darfur to boost economic growth in Sudan, develop approaches that facilitate investors while protecting occupants. State governments should prevent land grabbing by national and international elites.
- **Ensuring that fit-for-purpose land administration approaches link up and feed into other land management systems.** Fit-for-purpose approaches should be introduced, adapted and scaled up in Darfur. These approaches can be used as part of the overall Darfur's surveying and planning systems in the medium to long term.
- **New tenures and planning standards.** Together with rapid planning and surveying, consider replacing registered rights by using incremental tenures such as Grade IV tenure, or Plot 1 for collective rights for return villages and *housh*, and as a form of customary tenure in towns.
- **Basic procedures.** Build on the lesson-learned from pilot interventions at the village level, use simpler basic procedures to plan, map, manage land information and records. Allocate and register community land rights (Plot 1), starting with model villages, IDP camps and subsistence farms in conflict "hot spots" areas.
- **Review regulatory frameworks.** Review and adjust legal, institutional and planning frameworks to allow and support fit-for-purpose low-cost land administration approaches; this would remove the legal and administrative blockages to fit-for-purpose land administration and facilitate the scaling up of successful land administration interventions.

There are already several land administration pilot projects that have proven successful in improving land management and dispute resolution. Current interventions that could potentially be scaled up include:

- the state MoPI, through the Housing Fund, has started designing layout plans for target areas for local integration and resettlement. However, issues around adequate access to infrastructure and services is key to recovery and still needs to be addressed, as well as access to livelihoods;
- participatory village planning for village extensions and buffer zones regarding migratory routes;
- participatory land use mapping and planning and establishment of a land information management system in selected return villages to facilitate a conflict-free and sustainable settlement and integration of returnees. The Social Tenure Domain Model (STDM) tool has been used to support this process;
- use of arbitration approach to settle land disputes.

Where pilot projects show the possibility for replication in other settings, they should be mainstreamed into the overall legal and regulatory framework and into the work of the state governments, and then scaled up. This will require the development of agreed-upon step by step processes, workflow manuals, and the development of capacities of government personnel and other key partners.

## **Engaging through the Durable Solutions Framework**

The Inter-Agency Standing Committee's Framework on Durable Solutions for IDPs and its application to Darfur should be a key entry point. The framework states that a durable

solution is achieved when IDPs no longer have protection needs and their human rights are protected. Such framework includes:

- **Return.** Sustainable reintegration at the place of origin (return). This involves the construction of model villages or basic service centres for stimulating IDPs to return voluntarily to their areas of origin, preferably in settlements that are already “functioning” (access to land, resources and services) to sustain livelihoods and where stable security conditions can be maintained (support to rural urbanization). The model complexes and villages are part of the Voluntary Return Programme.
- **Resettlement.** Sustainable integration in other parts of the country (resettlement). This is where the government provides planned and demarcated land free of charge to the IDPs who voluntarily resettle in other parts of the region/country, on the condition that they lose their IDP status and erect a permanent dwelling within two years.
- **Local integration.** Sustainable local integration in areas where IDPs take refuge by urbanizing “consolidated” IDP camps. To be feasible, local integration needs to meet the consensus of both the authorities and the families living there. For example, the South Darfur Government has started planning the transformation of El Sareif camp into a residential area for displaced people who do not wish to return to their original villages. Displaced people will be granted residential plots inside the new town and will have the right to stay permanently in the town.

## **Women’s land rights**

The status of women’s land rights in Darfur requires additional attention, dedicated assessments and strategies, and this report does not develop exhaustively the challenges and recommendations in this field. Primary gender disaggregated data was not collected, and the context did not allow enough time for interviews and focus group discussions that could unpack the gender dimension of access to, use of and control over land for returnees and other categories of women in Darfur.

Many community members obtain land through customary land allocation, and the land is commonly granted to male family members. Women’s rights to land derive not from their status as members of the community, but from the relationship with their husband, father, brother or other male relative. Women rarely have direct rights to land, and when a household is disrupted by a divorce and the woman’s relationship with the male landholder terminates, she may be unable to retain her access to land. Although the Shari’a law recognizes women’s rights to hold property, due to local custom land rights, land tends to be retained by male family members. Daughters are entitled to inherit a share of land from their fathers, but the share is usually half that received by sons, and daughters customarily relinquish their shares to their brothers in order to keep family land intact and in exchange for support by the brothers, if necessary.

Tabling the topic, however, would be extremely important as the advancement of women’s land rights, which is necessary for the realization and enjoyment of human rights. Women’s access to and control over land not only contributes to women’s empowerment and protection from gender-based violence and health hazards, but it also ensures the social and economic development of societies by strengthening family and community food security. Women’s access to land also increases the resilience of societies in crisis or conflict as it enables women to mitigate the resulting negative economic and social impact by becoming breadwinners, heads of households and caregivers to those in need.

Evidence proves that enhancing women's land rights and participation in land and resources management bodies, peace negotiations and land conflicts resolution mechanisms is crucial to stabilize societies in crisis and conflict. Women play a critical role in preventing and resolving conflicts, in peace negotiations, peacebuilding, peacekeeping, humanitarian response and post-conflict reconstruction. In addition, access to land and housing provides significant support to displaced women as it guarantees the economic independence that is needed in conflict-affected contexts where the safety net of family support is missing.

In order to secure women's land rights in Darfur, it is necessary to identify the viable tenure options to reach the greatest number of women in the shortest time. To do so, rules and procedures should be simplified, and the cost limited. Policies should strengthen both collective and individual rights of use and should also protect displaced women's HLP rights by removing any legal or administrative blockages that prevent them from accessing land or housing. The retrieval of HLP documents and the reconstruction of women's HLP rights in the areas of origin should be also supported without any sort of gender-based discrimination.

Furthermore, information support centres should be created to assist women to understand the available options, such as obtaining civil documentation, including identity cards and marriage certificates, and accessing financing and justice systems. It is therefore necessary to work on the existing legal framework and to develop local capacity, especially of the people in decision-making roles, to implement administrative reforms and to deal with legal pluralism. Particular attention should be given to inheritance rights and joint marital property rights as they are two key entry points that define how women access housing, land and property.

### **Responsibilities of state and federal governments**

Strategies and policies regarding land management and administration in Darfur need to be developed in collaboration with the federal government and other stakeholders. However, it is at the state level that land and HLP interventions should be undertaken and operationalized.

Activities related to HLP-related voluntary returns and the enhancement of tenure security for vulnerable people, particularly women, should be led by the state level government, particularly the ministries of planning, together with DLC. As each one of the five Darfur states has its own specificities, land-related HLP needs can vary among the states and therefore measures should be adapted accordingly. HLP-related Strategic Action Plans for voluntary returns should be developed for each state, as well as one for the whole Darfur region for the overall management of conflict.

To do this, state governments, with the support of DLC and collaborating with the international community, should assess, plan and build capacity and implement an overall Strategic Action Plan for HLP-related voluntary returns and vulnerable people. This could include developing capacities to oversee, develop and manage the regional-level plans, maps and land information needed for the sustainable reintegration of returnees and the prevention of further or secondary displacement. Assessments to identify and map the voluntary returns trends at scale using large-scale spatial and digital fit-for-purpose technology could be realized.

The registration of land rights is a national function. This means that the Darfur states cannot make changes to the land registration procedures to suit the needs of voluntary returns for Darfur. The change of the procedures would require a large-scale national negotiation with the registration authorities, which has been proven to be a lengthy procedure with limited success in other countries in Africa. State-level land procedures

should be considered for streamlining and decentralizing the processes using a range of appropriate tenures that do not need to be registered, and which will be simpler, affordable and take less time to process.

### **Partnerships to better address tenure security voluntary returnees**

Partnerships are key to build capacity and to raise awareness about the management of large-scale voluntary returns. Multi-stakeholder partnerships have proven to be key when it comes to address the complexity of voluntary returns and tenure security in conflict contexts. The state governments and DLC should lead on developing a process involving all stakeholders such as the UN, civil society, community-based organizations, academia and the private sector, to support HLP-related aspects of voluntary returns. The National Human Rights Institution can also play an important role in monitoring and protecting human rights, including economic and social rights and related issues, such as land rights. This should strengthen the discussions emerging from the two multi-stakeholder Darfur land conferences held in 2018 and the many pilot projects in place. In parallel, it is necessary to conduct a needs assessment; develop a funding plan; develop the capacity of the different actors; and develop a joint programme. The Durable Solutions Working Group led by the UNCT should be used as a base, and civil societies and communities should also be considered as key partners in the process. In general, action related to the management of voluntary returns should be planned and started as soon as possible as it can take years to restructure and set up a new system able to facilitate large-scale voluntary returns.

This set of principles and entry points for an improved and adapted land governance system in Darfur could feed into concrete, land-related legal and institutional reforms as a medium-term goal. Embarking on such processes would require clarity and strategic guidance provided by key policy discussions and decisions. Different procedures and amendments to legal, regulatory and institutional aspects are needed depending on the areas where returnees are expected.

## **6.2 Technical recommendations for an improved land governance system**

Enhanced HLP rights are essential features of peace-building work. The recommendations of the previous section should feed into relevant policies and provide a general framework and, building on this broad guidance, more technical and concrete action should then be planned and carried out to deploy these frameworks on the ground. The selection of activities will depend on the priorities, and strategies will be formulated and adopted by government and other stakeholders. This section will provide a technical description of the capacity challenges in Darfur states for the voluntary return of millions of people and addressing the security of tenure of vulnerable people; the section will also address the potential entry points for concrete action towards the creation of a fertile environment for enhanced land governance, starting with the capacity challenges for returns.

### **Clarify and improve functions of state governments**

The review and provision of further clarity about land administration functions at state level should be considered, including carefully assessing and determining at which level land administration functions should be performed. Stronger coordination within and among the ministries and with the Native Administration and other stakeholders can be achieved. Further, in Sudan's dual legal system - statutory and customary - the customary

land system is insufficiently linked to and coordinated with federal and state government processes and land records; such challenge needs to be discussed and addressed.

### **Statutory and customary land administration**

The next set of recommendations addresses the challenge of including the customary land administration within the statutory system. With little land registration and planning coverage, recommendations for land administration need to be very realistic and basic, with a focus on supporting voluntary returns (and land tenure security for priority vulnerable groups). As only the statutory system is legal and issues legal land documents, returnees have a limited ability to acquire legal land documents when returning to customary areas where they do not have the access to the statutory system. The two separate land allocation systems and their random overlaps make it difficult to plan and manage the efficient land delivery for returns in Darfur. To facilitate voluntary returns, a new mechanism is needed to align and redefine customary land management as part of the statutory system. This approach should be based on the constitution and the peace agreements, stressing the need to consider people's perceptions of customary land.

### **Statutory land administration system**

Given the statutory land administration system's range, it is necessary to conduct a review of existing land laws, which have an impact on voluntary returns and improve the land tenure security of vulnerable people.

The current process of legalizing a small farm includes all the three systems: the customary, the local land administration at local level and the statutory system at state level. Individuals in local communities need a robust land administration mechanism at Native Administration and local levels to be able to register their customarily owned land. The new mechanism should meet the demand for rapid voluntary returns and security of tenure for vulnerable people.

The statutory system has a form of tenure, Grade IV, which does not require the complexities of registered rights. This could be used as an entry level or starter title for some of the voluntary returns, particularly in urban areas and where there is planned service delivery. HLP-related voluntary returns to rural customary areas happen when the returnees expect that they can find both a house and a small subsistence farm in a village for sustainable livelihoods. A community-based approach based on the Plot 1 for the village could be used.

### **Native Administrations' land functions and customary land tenure**

Both the statutory and customary land management systems give more options for returnees. The Native Administrations already plays important roles in HLP-related, large-scale voluntary returns, particularly for people returning to their area of origin, in small-scale dispute resolution, in supporting returnees to identify their land, and in their personal identification. However, some capacity development is required. Also, to be able to provide security of tenure to vulnerable people rapidly and at the scale necessary, the role of the Native Administrations over land and rural land administration needs to be clarified and regularized regarding land allocation, land use and management, dispute resolution, approval of planning, and approval of allocations to investors.

The Native Administrations and the customary system of tenure are not based on a legal land management framework, but they are credible and legitimate in the eyes of the people in Darfur. Under certain conditions, it could be used to receive voluntary returns for rural and village areas. These conditions include: approval of the land management

role of the Native Administrations by the statutory authorities; strengthening of the Native Administration's capacity to undertake the resettlement of returns in a way that avoids conflict and strengthens their dispute-resolution capacity alongside the *Judiyya*; strengthening the record-keeping ability.

The capacity of the Native Administrations in urban areas such as cities, city extensions and villages, is inadequate regarding urban land management issues such as planning, regularization, land management and the provision of services under the migrant crisis. In parts of towns where customary traditions are in place, a form of tenure called *housh* could be used for rapid planning and surveying.

Special provisions need to be formulated for women, particularly widows and women headed-families of returnees, who experience difficulties in the customary land tenure system. This is particularly important if the customary system becomes the key supplier of land for voluntary returns.

Registered leases which are linked to national planning standards and plot sizes can only be one of many options for voluntary returns, and probably best applied only in return villages using group approaches (Plot 1) and potentially for small subsistence farms in major "hot spot" conflict areas. Other incremental land tenure options must be explored.

This is not an unusual situation in developing countries and it is a viable option. Many countries have found themselves unable to roll out registered rights to the majority and, overall, in developing countries, only 30 per cent of people have registered rights. Many countries, such as Namibia, Ethiopia, Tanzania, Uganda, Burkina Faso and Zambia have introduced some form of entry level or starter titles that makes it possible to incrementally upgrade land rights over time. The Darfur land stakeholders could reflect on this option to see how relevant it could be to secure land rights of returnees and other prioritized vulnerable communities in the short to medium term and how it could be incrementally upgraded in the medium to long term.

A land administration programme linked to voluntary returns is not about fixing the land administration system or making it more effective and efficient. Rather it is about adapting the system and building capacity in the land systems for peace building. This involves developing approaches for the incremental upgrading of tenure security in a way that builds peace, prevents conflict, resolves conflict and supports land management in the post conflict phase. This should include community empowerment, which is key to land-related durable solutions. Entry level or starter titles using low-cost technology can be used for this peacebuilding and then upgraded once the land administration system has strengthened capacity. This approach could facilitate voluntary returns and the security of tenure of vulnerable people in Darfur.

### **Planning, surveying, land regularization and expropriation**

The government's capacity to undertake planning and supply services for voluntary IDP returns are very limited.

The spatial planning functions and building standards are fully devolved to the five Darfur states. This means state *wali* (governors) and the state MoPI have the capacity to change the planning and building standards with the support of the State Legislative Council. This could be extremely important when it comes to voluntary returns and particularly when camps are to be upgraded. However, any adaptation of planning and building standards needs to be linked to appropriate forms of tenure, and to registered rights alone, as this is a national-level function that could take years to negotiate.

The State Planning Committee has the mandate to alter planning standards and set the grades of tenure on ungraded land. This could be used to make exceptions for IDPs when

undertaking upgrading of IDP camps in urban areas and the use of a tenure type called Grade IV.

Many urban areas do not have current master plans. State governments already have procedures in place to allow piecemeal planning which could be used for voluntary returns and then linked to an overall master plan at a later stage.

The action plans in the five Darfur states and the RSPSD need to be developed and implemented as a framework to facilitate the smooth and sustainable re-integration of IDPs in urban areas and villages in order to promote early recovery, peace building and stabilization.

According to the 1984 Act, land must be expropriated prior to planning. The act also gives the government the right to re-plan camp land, even if it is privately owned, which gives options for upgrading IDP camps on private land. Procedures need to be developed for the regularization of IDP camps, including expropriation and planning and the (re)definition of planning standards to be applied.

The state has no systematic planning and surveying approaches for urban extensions into customary areas, where many IDP camps are located, and the capacity of the Native Administration regarding land management is undermined. Special focus is needed to sort out the land management and administration procedures for urban extensions in customary areas, including for upgrading informal settlements and IDP camps.

The status of the unused planned and surveyed land that has already been created is unclear regarding voluntary returns. Firstly, some of the plots, especially in Nyala and El Geneina, are occupied by IDPs and the owners keep petitioning government to move them. It is unclear whether government will compensate the owners prior to making them formally available to the occupants, or resettle the IDPs in occupation, and whether the IDPs will be willing to move. Secondly, there are also many planned plots that are vacant. As they are not receiving public services, they are not attractive to IDPs who have services in the IDP camps. They are often poorly located and far from the urban centres and therefore not attractive to IDPs whose livelihoods are linked to the urban centre.

The approaches for profiling and planning villages using both integrated and territorial planning of buffer zones need to be strengthened and scaled up, including with better linkages to government procedures.

Even though land use and ownership in Darfur is based on customary tenure, investors have interest in the land, especially rain-fed land, which is used by occupiers. Investment is promoted by the government, especially by big national firms, to improve the overall economy of the country. However, no overall development plan for the area or any implementation measures are in place. Any implementation procedures would need to consider existing customary land rights of occupiers and returnees to avoid land grabbing and conflict.

To avoid conflict, the procedures for the expropriation of land for public interest, including options for improving the compensation package for customary land, need to be further reviewed by balancing the interests of the government, investors and customary occupants of the land.

## **Regularising IDP settlements**

Urban extensions and informal settlement upgrades of existing IDP camps would be one of the most rapid and affordable methods to provide land documents to many IDPs, returnees and other priority target groups.

This would, however, require some reforms to the present legal and regulatory framework. In general, the IDP camps use an emergency approach based on site planning to temporarily accommodate the displaced population. Some camps are planned to use very small plots per family and the size of the plot is sometimes three times smaller than the national standard third (lowest) class of residential plots. Sustainable local integration and urbanization of the camps will only be achieved by the physical transformation and regularization of the sites to allow permanent housing standards and enough living space, which will automatically reduce the camps capacity to accommodate all the IDPs. A revision of the national planning standards should be considered to find an acceptable middle ground for the regularization of existing settlements and the planning of new high-density areas.

Further, the state has no systematic planning and surveying approaches for urban extensions into customary areas, although many IDP camps are situated there. Mechanisms need to be found to use the vacant planned and surveyed plots that are owned but unused in the urban areas and ensure that they do not block the management of voluntary returns, including resettlement.

### **Land information management**

There is very little digital land information available in Darfur, yet this is an essential element for decision-making related to returns and land management more broadly. It is needed for overall regional planning, urban planning, developing a regional investment strategy, conflict management, identification of cattle corridors, rain-fed areas and areas of high agricultural potential, etc. This is a gap for both statutory and customary authorities.

Efficient data and information management is critical for any large-scale and rapid response to land management for voluntary returns. Except in El Fashir and Nyala, all the maps in the five Darfur states are mainly paper based and there are few digitally stored and processed map. The few available digital maps are either outdated, as they were produced some decades ago. There are topographic maps of the region at a scale of 1:100,000 and 1:250,000 covering the period between 1976-1983. These maps cannot be used for current town and village planning purposes and IDP camps replanning and they are not useful to plan and manage the voluntary returns at scale. More effort to produce land information and data should be made.

The Native Administrations do not have access to the maps and land information which is needed to manage large-scale voluntary returns, reintegration, village resettlement and dispute resolution from family to clan levels, also for farmers and pastoralists. Maps will be needed to support *Judiyya* Council decisions on *clinkab* boundary disputes between returnee small holder farmers and their neighbours who have remained.

### **Land records**

Efforts should be undertaken to produce and consolidate land records database(s). To support peace-building alternatives, incremental methods for supplying land documents need to be developed which are affordable and scalable. These must be able to reach the right scale and support a pathway to registered rights with time. The registration of rights should focus on community-based approaches for returns villages, and potentially for small subsistence farms only in major “hot spot” conflict areas.

New approaches to land administration for improved land records should be tested through pilot projects. The pilot projects should be assessed and documented as to their contribution to local communities’ empowerment, durable solutions, scalable land solutions, and the possibility of replication. Most importantly, the assessment should see

to what extent, and how, the pilot projects fit the existing legal, regulatory and institutional framework and respond to the gaps in the land administration system with regard to voluntary returns and the security of tenure of vulnerable people.

## **Financing**

Financing the HLP dimension of IDP voluntary returns and, more broadly, land tenure security efforts for the people of Darfur, will require a careful analysis and debate around possible options and solutions. In the short term, the cost of land administration should be covered by the government with the support of bilateral donors and with technical assistance from the international community.

Government funding for land registration procedures is limited for a range of reasons. Since all land-related revenue is used for personnel and running costs for current government services, there is little focus and capacity on planning and land management functions or the issue of HLP-related IDP voluntary returns. However, it should consider sponsoring the registration fees for at least the people registering their properties in priority areas. The registration should be free of charge or at a nominal fee for IDP returnees. There is a need to introduce a fast-track registration process for the five Darfur states for farms in conflict areas. An awareness campaign regarding the benefits of registration should start immediately, targeting returnees and farms in conflict areas.

## **Capacity development**

Targeted, simultaneous and incremental capacity development activities related to land administration and HLP rights will be needed for several key stakeholders including state-level governments, Native Administration, community-based organizations, civil society, academia and land professionals as discussed below.

## **6.3 Recommendations for concrete actions**

To address the challenges outlined above, a set of concrete recommendations for discussions are identified below. Specific recommendations include: clearer and strengthened functions of state governments regarding land to be structured into land governance, land-use planning, land and land information management, dispute-resolution mechanisms, customary land system, capacity development approaches for government, Native Administration, NGOs, academia, land professionals and financing options.

### **Land governance**

- **Clarifying and coordinating functions** across state governments for the purpose of HLP-related procedures in voluntary returns.
- **Amend state-level laws.** Identify legislation blocking voluntary returns and HLP issues including contradictory legislation. The Darfur states have the legal capacity to amend planning and building laws only regarding non-leasehold tenures as they do not have the legal rights for registered leases which are under national legal function
- **Amend regulations.** As developing new laws is a lengthy process, there should be a focus on adjusting regulations as much as possible to accommodate innovative options for voluntary returns and security of tenure for vulnerable people, particularly women. The HLP trend analysis should identify the locations favoured by returnees and the needed land management approach to strengthen

planning and tenure security. Note that each state in Darfur has its own specifications and any land administration mechanism needs to be adapted for each state.

- **Build incrementally on existing capacity and legal frameworks.** Identify options that build on the existing capacity and legal frameworks of the state-level institutions, Native Administration, the UN, civil society and local communities, that are integrated, decentralized, accessible and affordable.
- **Embed customary land management in legal system.** Legislation is needed to link customary and statutory land management roles. It is not easy to standardize customary land management roles as there are many different Native Administrations and land is managed differently in the five Darfur states. It is vital to clarify the institutions' roles and responsibilities regarding voluntary returns and land management, to legalize customary occupation of land, and to consider legalizing urban occupancy tenures. The customary system should be restructured in order to promote greater accountability, eliminate corruption and protect the legal status of women and other vulnerable groups and communities
- **Use government land ownership for rapid delivery.** The government has legal ownership of the land in both rural and urban areas in Darfur, even though rural areas are under the customary system. By working with the customary occupiers, this real government ownership could be used to facilitate voluntary returns through making large tracts available for settlement and resettlement, legalizing tenure, rapid planning and land delivery, and the delivery of infrastructure such as roads and electricity.
- **Allocate unplanned non-surveyed land using Grade IV.** De-link land tenure, planning and surveying from regional and local planning for voluntary returns and vulnerable people, allowing the allocation of unplanned, non-surveyed land with Grade IV status to voluntary returnees and vulnerable beneficiaries. However, the compensation rights of people who are going to be moved to make way for this needs to remain in place. This needs to be done through regulation and not by law.
- **Temporary subsistence farms.** Usually farms linked to return villages are only allocated to people who are not from the local community under a temporary *takol goom* tenure, where the location of the right changes over time. Another mechanism would need to be found to make these rights more permanent to give tenure security for returnees regarding their livelihoods and to create durable solutions. The issue could also be addressed as part of the reform and restructuring of the traditional land administration system.
- **Due diligence.** Develop appropriate due diligence, legal aid and notice periods to provide the needed information to those affected on time to protect their interests. Check for outstanding claims, use complaints/help desk approaches that can meet the scale of voluntary returns using community-based organizations, civil society, the Native Administration, social media, radio etc. Use participatory approaches to ensure that host communities' rights are protected using rapid approaches. Build on the existing approaches being used by *sheikhs* and *omdas* to make land available for humanitarian purposes. Develop a policy that considers local planning for the displaced people who have not yet returned.
- **Policies.** Some Native Administrations' policies might need to be adapted to facilitate voluntary returns such as assigning land rights for the long term rather than just seasonal use; standardized nominal fees for land allocation regulated by government; equal treatment for women-headed households and widows in regard to access to land; and aligning land dispute resolution with human rights norms.

- **Hakora.** A policy decision is needed for implementing the Doha Peace Agreement regarding addressing the ambiguity around *hakora* rights. It is not clear whether *hakora* is a form of ownership or the land still belongs to the tribe awarding the rights. The decision needs to be agreed by all parties, otherwise it could lead to conflict between groups when land is allocated to returnees. Returnees need to know the person who has the right to allocate land in *hakora* areas so that they can assess their own security of tenure issues.

## Land-use planning

- **Update Master plans** solely to manage the needs of vulnerable people and returnees. There are no master/structure plans, aside from Nyala city's master plan in South Darfur. Instead, there has been *ad hoc* planning for other cities. Master plans should be updated in order to manage voluntary returns and manage conflict. However, *ad hoc* plans should be continuously used during the period of development of a comprehensive master plans.
- **Finalize the RSPSD planning.** Finalize the five Darfur states RSPSD planning to identify areas suitable for returns, investment areas, areas for upgrades, areas for mitigating the impact of environment-related challenges in triggering conflict between different land uses and stock routes. Use participatory planning approaches.
- **Change planning standards.** The State Planning Committees have the mandate to alter planning standards and set the grades of tenure on ungraded land with exceptions for IDPs.
- **One stop for rapid planning approvals.** Adapt planning and building standards and create a one-stop shop for rapid approvals.
- **Participatory village planning.** Undertake participatory village planning, including where buffer zones are needed. This has been done for 50 villages but needs to be completed for other villages after evaluation of the project.
- **Map and plan.** Map and plan for voluntary returns and the security of tenure of vulnerable people, including the type of settlement that fits national plans, creates durable solutions for voluntary returns, takes into account plans for the location of investors, mitigates the effect of environment-related challenges as a trigger for conflict and creates a balanced territorial development in the region as much as possible.

**Vacant urban plots.** For rapid resettlement, consider utilizing existing large scale vacant urban planned surveyed extensions in the peri-urban areas that are not serviced. This would involve compensation to owners and funding for infrastructure and services.

## Land management and land information management

- **Deliver serviced land rapidly.** Increase the amount of serviced land and minimize the time of delivering the service while ensuring minimum standards.
- **Fit-for-purpose land administration approaches.** A fit-for-purpose approach must be applicable to humanitarian settings and focus on a particular purpose (e.g. records for returnees, regional planning for returns), be flexible and capable of incremental improvement.
- **Pilot lands.** Use and develop pilot lands to learn what strategies will work and can be scaled, and to inform state-level policy and regulatory amendments.
- **Develop land management options.** Develop basic land management options for voluntary returns to include tenure types such as Grade IV, fit-for-purpose

mapping and land information management, using new low-cost technology (e.g. STDm), open source software, group areas (Plot 1), satellite imagery, UAV drones etc.

- **Collective registration and security of tenure.** When Native Administrations allocate large pieces of land for housing in return villages, the land can be registered as a community-based right (Plot 1), where only the outside boundary is registered for the whole piece of land. Options for returnees in rural areas should also include both a house and a subsistence farm. The statutory system does not have the capacity to register the subsistence farms; the customary system should be adjusted and strengthened to give permanent access to subsistence farms to returning people, including non-locals. A fit-for-purpose land administration approach, piloted by UN-Habitat in Darfur using the Social Tenure Domain Model tool, could be considered as a technical solution to support participatory community-based land use planning.
- **Regularizing urban extensions.** IDPs living within or adjacent to urban areas might opt for local integration rather than resettling in locations identified by the government because of the access to water, sanitation, livelihoods and land for subsistence agriculture. Special focus is needed to sort out the land management and administration procedures for urban extensions in customary areas, including upgrading informal settlements and IDP camps. Regularization of standards is critical.
- **Balancing community rights and investors.** Start developing a land management system that will allow community rights and investors to be managed in a balanced way, including through regional planning, territorial land-use agreements, dispute-resolution mechanisms, valuation of unregistered land and compensation mechanisms.
- **Adapt existing tools.** Identify and adapt tools from other stable countries and land tools that have been developed for other conflict settings where appropriate.
- **Use spatial data to manage large-scale returns.** Improve data management to manage large-scale returns. Use spatial information to track returns and develop strategic plans for the overall management of returns, including through regional planning and land management. Use spatial information for conflict analysis and ongoing assessments.
- **Make equipment, satellite imagery and maps** available at state and locality government levels, to facilitate the decision-making processes that require spatial land-related understanding (e.g. to guide and manage returns, handle pastoral-farmers disputes, consider large-scale land-based investments and their impact, etc.). The Darfur states should use low-cost mapping and planning alternatives that are suitable for the situation of the country and Darfur in particular. DLC, United Nations and international community should provide new fit-for-purpose low-cost surveying and mapping technologies to the five Darfur states. The UN could provide updated maps and high-resolution satellite imagery, open source GIS and drawing applications and train local people to use them. A training needs assessment should be conducted to identify the specific need of the current staff in mapping, planning and land management. The training should include local training and training outside the country, as well as special training in geo-information science and technology. The updated maps and high-resolution satellite images should be available for localities (*mahalya*) and administrative unit levels (*wihda idaryya*). This would help people to identify their location and find opportunities for resettlement.

## Dispute resolution

- **Identify “hot spots”.** Assess, map and target “hot spots” for conflict management and dispute resolution, such as existing conflict contexts associated with IDP camps, villages near stock corridors and fertile areas. Use the information to develop a broad strategy for dispute resolution and for territorial planning, such as channelling investors only into targeted areas.
- **Track trends and build peace.** Track returns and monitor land-related dispute-resolution patterns and trends to identify potential areas for additional peace-building interventions.
- **Menu of dispute-resolution mechanisms for conflict management.** Identify a range of dispute-resolution mechanisms based on the assessment of possible return areas and “hot spots”, the type of tenures found in these locations and the type of land documents that may be made available to returnees and other vulnerable people. These could include the activities and approaches of courts, state government, the Native Administration hierarchy, the *Judiyya*, civil society and community level leaders and the UN. Use and adapt land-dispute resolution tools such as mediation, territory-wide land-use agreements, and dispute resolution at the plot and territory levels.
- **Early warning systems also at community level and along migratory routes.** To facilitate conflict management and dispute resolution, an HLP-related early warning system should be set up to prevent evictions and human rights violations, and to protect the land rights of civilians. This should include the community level. In addition to establishing early warning and monitoring system along nomadic corridors.
- **Territorial land-use planning.** Undertake territorial land-use planning and conflict management particularly for cattle corridors.
- **Civil society role.** Use community organizations and civil society that has been capacitated for land and multi-stakeholder forums to prevent conflict.
- **Women’s role.** Facilitate the involvement of leaders or representatives of women, and other vulnerable group to manage disputes.

## Customary land system

Opportunities related to the role of Native Administrations and of the customary system are:

- **Using “no conflict” certificate to protect rights.** Some Native Administrations are already protecting the land rights of voluntary returns by not signing the paperwork needed to move the land out of the customary system. This could be used to protect larger areas planned for voluntary returns.
- **Using no-conflict certificates to facilitate land-use change in peri-urban areas.** These certificates are already being used to move land from customary land to registered leasehold in peri-urban areas. When used with due diligence to protect the rights of returnees, the procedure could be used for voluntary returns. However, it needs strengthening to ensure governance and better settlement patterns, also considering the role of planning, and whether it includes an existing IDP camp or not. In “hot spots” where the Native Administration and customary tenure cannot supply enough security of tenure, the no-conflict certificate could be used to move the land into the registered leasehold system as one possible tenure option for voluntary returns, providing funding is available.

- **Village planning.** Villagers are used to changing the land use in and around the village by agreement to facilitate residential extensions and boost the water supply. Village planning for voluntary returns can be based on this, including a buffer around the village.
- **Temporary use rights.** For voluntary returns which are not coming back to the area of origin, customary tenure already exists which allows the *sheikh* to issue land to an outsider or immigrant in the form of a residential plot in the village and an agricultural plot in an adjacent rain-fed area. Returnees in groups and as individuals who are not from that *dar* will be able to **obtain use rights in the dar** for farms, on payment of rent or crops for a specific time period. However, these rights to a specific piece of land are temporary and do not allow for sustainable subsistence livelihoods.
- **Adapt customary system for permanent rights.** The customary system needs to be adapted to be able to assign returnees long-term land-use rights for sustainable livelihoods. More studies are needed to understand the customary land system to improve the land-use rights and documentation, including the temporary allocation of land called *takol goom*, to serve vulnerable groups such as IDPs and women.
- **Role of religious leaders raising awareness on women's land rights.** There is a gap in the Native Administration's awareness of the right of women to access land. Women should be treated equally in the land system and the religious leaders should make the Native Administrations aware of the rights of women to land under Islamic law, such as regarding dower and inheritance, and encourage them to apply them. Women-headed households and widows should be considered as heads of household in the customary system with a right to access land. The same applies for human rights norms and standards, and Islamic law.
- **The government and the Native Administration should work together** to develop land administration systems that support the community.
- **Standardize payment of fees to the Native Administration** for the allocation of land should be fixed by government and publicly announced. The government should regulate these funds and see that they are linked to service provision to subsistence farmers and villages.
- **Role of courts.** Land allocated by the Native Administration to a returnee, or any citizen, should be recognized by the courts as a long contract.
- **Generation of young people.** The government should train technicians and labourers to support the Native Administrations' land administration processes. They should be from the same community. Their first project should be to support voluntary returns and then go on to overall land administration.
- **Develop capacity of Native Administration.** The UN and civil society should develop capacity in the Native Administrations to collect data when they allocate land and make it available as simple maps and easy to use land records. The government and the UN should provide fit-for purpose technologies for mapping and land records to the Native Administration, starting at the community level managed by the *sheikh*.

## Government capacity development

The analysis of the Darfur states' institutions shows low institutional capacity and human resources, little equipment and few financial resources. Significant investment will be needed in capacity development, particularly in terms of personnel as well as low-cost equipment and methods. An incremental approach is suggested starting with some priority actions:

- **Revitalize and strengthen the National Land Commission (NLC)** to enable it to perform its function and mandate with respect to: arbitrate between willing contending parties on land claims, enforce the application of law, assess appropriate land compensation and advise relevant levels of government regarding land reform policies and recognition of customary land rights or law.
- **Strengthen DLC** in its political, convening and research roles; this includes confirming or redefining its mandate, investing in its leadership, developing the technical and strategic capacities of its members, financing its operations and ensuring that it plays the required convening and facilitating role for addressing land tenure security and HLP issues in the short and medium term, in coordination with other commissions and institutions.
- **Advocacy and awareness raising** of state and local government officials regarding HLP issues related to voluntary returns and tenure security for all, with the emphasis on vulnerable and displaced people, women and youth. Advocacy and awareness raising for current and – as things evolve – revised legal, regulatory and institutional arrangements is required for government and all stakeholders, including the UN.
- **Training on human rights and relevant land-related international frameworks** will be required to support national authorities in leading the thinking and actions in the land and HLP sector.
- **High-level land management capacity**, including HLP issues, needs to be made available to Darfur’s institutions and processes. This will allow adequate support to the five states to develop the technical solutions for the reform of the policies, laws and regulations, including developing new procedures, and to capacitate government officials to carry them out, where appropriate, working with other stakeholders such the communities or the private sector. Such expertise can be developed by investing in Sudan’s existing land professionals through advanced university learning, field work and collaboration with ongoing land governance initiative in the region and in the continent, including the NELGA, the Arab Land Initiative, etc.

### **Native Administration capacity development**

- **Wide-ranging capacity building** enabling the Native Administration to better perform land management functions on a wide territory and at multiple scales, including identifying the land for allocation and use, dispute resolution, territorial land-use agreements, etc.
- **Creation of land records on customary rights allocation.** Native Administrations’ capacity needs to be developed, particularly with respect to creating land records of customary rights allocation, *Judiyya* and personal identity documents. The Native Administration hierarchy needs to be capacitated, particularly at *sheikh* level, to undertake dispute resolution. Special attention will be needed for areas such as urban extensions, conflict “hot spots” and IDP camps in conflict areas.
- **Women’s’ land rights.** Awareness raising regarding women-headed household land rights under statutory law, Islamic law (e.g. dower or *mahar*, inheritance or *mirath*) and strengthening of local norms will also be needed.
- **Courts and *Judiyya*.** The Native Administration courts and *Judiyya* will need additional capacity building to scale up their arbitration role in managing land dispute resolution in “hot spots” and to prevent territorial conflicts.

## Community-based organizations and civil society capacity development

Civil society, including community-based organizations, often working with academia, are critical in building durable solutions through building trust between the communities and the state during reconstruction, and to support innovative approaches. There are insufficient civil society organizations with land experience to support durable voluntary returns, even for urban areas. Some of the priority capacity development opportunities are described below.

- **Developing land-related capacity.** There are many community-based organizations, such as the *Judiyya*, clan organizations, women's organizations etc, however, they would need specific awareness raising and capacity development on land issues.
- **Women's land rights.** Knowledge and understanding of women's land rights, their importance and how to promote them in practical and culture/context specific manner should be prioritized. A range of solutions have been tested and put in place in other contexts, such as legal aid support, etc. that could be proposed for discussion in Darfur.
- **The development of a network of civil society organizations** should be considered that can support voluntary returns and security of tenure for vulnerable people, particularly women. They could play important roles such as building trust between the communities and the state, articulating the needs of the communities, and monitoring human rights violations.
- **Empowering women.** Special attention should be given to empowering women leaders in playing a bigger role in land-related discussions.
- **Awareness raising in communities.** Undertake awareness raising and build land-related capacity as part of community level engagement that can be tested in priority targeted communities.
- **Campaigns.** Once there is a general agreement on how states and other key actors are going to lead land tenure security and HLP interventions on the ground, communication campaigns for communities can be put in place to explain key concepts and processes related to land rights and remedies and procedures related to resolving HLP disputes. Efforts need to be made to reach out to all segments of the society, including women and girls.

## Role of Academia and land professionals'

Although there are some high-quality universities with very skilled professors and professionals, the overall number of academics with land skills such as surveying, and land information management is insufficient to support the land sector overall and meaningfully engage in shaping durable voluntary returns processes and interventions. Academia has an important role to play in terms of research and analysis, but also in creating a neutral space for dialogue around the complexities of the land sector in Darfur. Such roles need to be recognized, encouraged and supported. Further, Sudan's academia needs to be supported to engage global and regional land governance initiatives - such as NELGA, the Arab Land Initiative, the Africa Land Policy Centre, etc. - that can provide opportunities for discussing innovative and effective approaches that are tested and implemented in comparable contexts. New and old generation academics must engage in such processes together. In terms of content, academia could engage further and develop their own capacities in human rights-based approaches relevant to land governance and HLP rights, monitoring of land tenure security, and fit-for-purpose land administration approaches, by either revising and expanding the curricula used or engaging in short-term courses for students, professors and other land practitioners.

The expertise of land professionals is critical for overall land management and to manage IDP voluntary returns and land tenure security interventions for the people of Darfur. The capacities of land professionals and practitioners will be at the heart of developing and enacting the land-related intervention. This section draws attention to a few interventions that can be put in place to develop land professionals and land practitioners' skills, including:

- Establishing and strengthening land professionals and land practitioners' associations;
- Providing opportunities for continuous professional learning, in form of short courses, on the job training, learning exchanges, participating in regional activities existing in Africa and Arab states, etc.
- Ensuring better coordination and alignment of the different land professionals and practitioners, including surveyors, lawyers, planners, etc.

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# APPENDIX 1: STAKEHOLDERS INTERVIEWED

## **Khartoum**

1. Member of the National Assembly for North Darfur
2. Commissioner of Darfur Land Commission
3. Secretary-General of National Council for Urban Development
4. Secretariat of National Urban Observatory
5. Director General of General Directorate of the National Lands
6. Secretary-General of National Boundaries Commission
7. Secretary of the Sultan of Four Council

## **North Darfur**

1. Minister of Planning and Infrastructure
2. Director General of the Ministry of Planning and Infrastructure
3. Director General of the Ministry of Agriculture
4. General Directorate of Surveying
5. General Directorate of Urban Planning
6. Land Authority
7. Department of Investment
8. Land Registrar Office
9. State Secretary of the Planning Committee
10. Legislative Council (*Majlis Tashriei*) members
11. Urban Observatory Team
12. Almasar (livestock corridors) civil society
13. Livestock corridor activists
14. Lawyers
15. Tribal (native) representatives
16. Youth group
17. Academia (University of El Fashir)
18. Women's group

## **South Darfur**

1. Minister of Planning and Infrastructure
2. Governor of South Darfur
3. General Directorate of Pastoralist Development and Livestock Affairs
4. General Directorate of Surveying
5. Director of the Voluntary Return Commission
6. Associate Professor, Nyala University
7. National NGO manager
8. Land expert
9. General Directorate of Planning and Infrastructure
10. Local representatives (teachers and farmers)
11. Director of Field and projects, Ministry of Agriculture
12. Urban Observatory Team

## **West Darfur**

1. Darfur Land Commission representative
2. Director of Planning (MoPI)
3. Director of Policies and Strategies (MoPI)
4. Director of Administrative Affairs (MoPI)
5. Director General of Land (MoPI)
6. Director General of the Ministry of Planning and Infrastructure (MoPI)
7. Amer of Sultanate of Dar Masalit
8. Commissioner of the Voluntary Returns
9. Director of the Center for Peace and Development Studies, University of Elgenina
10. Director General of the Ministry of Production and Economic Development (Agriculture)
11. Director of Planning of the Ministry of Production (Agriculture)
12. Under Secretary of Darfur Land Commission

- 13. Livestock and Pastoralist Commission Coordinator
- 13. Urban Observatory preparation team