



SCOPING MISSION REPORT¹

KEY LAND TENURE ISSUES AND REFORM PROCESSES

FOR SIERRA LEONE

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Executive Summary

This Scoping Mission Report, aimed at identifying the key land policy and land tenure reform issues and processes facing Sierra Leone, is based on extensive consultations with a wide range of stakeholders and review of available literature, undertaken in July 2009. It was commissioned by the Recovery for Development Unit of the UNDP in collaboration with the Ministry of Lands, Country Planning and the Environment. It will serve the purpose of enhancing public dialogue and programme development on land reform, and to also guide the coordination of initiatives and resource mobilization.

The report briefly examines the evolution of land tenure in Sierra Leone and has helped to confirm that the land tenure system consists of a complex *regime which combines a variety of forms of landholding and overlapping land administration systems. The latter involves central and local arms of the state, the hierarchy of chieftainships, differentiated land owning families and other legal personnel, and a variety of landholding and land using agents (individuals, families, corporations, state entities, municipalities). The forms of landholding range from the freehold (fee simple) to ‘customary land ownership’ along with various forms of land leasing and rentals, statutory declarative land ownership, state land ownership and a variety of incidences of ‘informal’ and/or illegal forms of land occupation. Over the last decade, population movements particularly to the Freetown Peninsular and other urban centres, and growing domestic and foreign investments in farming, mining, real estate development and tourism, have expanded the number and forms of land transactions. This has placed increased pressures on the land administration systems and land tenure relationships, including some exclusion from land access.

As a consequence Sierra Leone is facing a range of land questions and challenges in resolving these issues. Numerous types of land disputes are evident and the land dispute management mechanisms, particularly the courts, have been unable to adequately deal with these disputes. The growing initiatives to secure land on a large scale (mainly through a variety of leasing arrangements) are considered by some to be a threat to the land rights of the communities involved and as an opportunity by others. Some stakeholders consider these leasing arrangements to be insecure and unpredictable, to the extent of posing a constraint on future investments and development. Access to secure land for residential and other non-farm uses within urban areas, particularly among the poor is also considered to be limited. This contributes to increased illegal land occupations and conflicts, and constrains poverty reduction and development efforts. Inappropriate land utilization processes and environmental degradation is also growing as a result

of limited capacities and systems of land use planning and regulation. These land issues are a source of simmering social conflicts and political instability, which if unchecked could resuscitate more intensive and violent conflicts in the future.

A central source of these land problems is the systemic and capacity weaknesses of the existing land administration system, particularly the land management information system. This has generated conflicted and degraded land records, corrupt land management and adjudication processes, competing claims of land ownership and boundary disputes. State land ownership is not adequately recorded, nor is the scale and rate of foreign land 'acquisition'. Confidence in the land administration system is limited. The administration of customary land is less affected but faces growing challenges to its authority, and it competes with the mandates of the state in land administration and development. It is widely recognized that the existing national land policy is inadequate, as it is based on conflicting and un-operational objectives. The policy is backed by inconsistent legislative arrangements and inadequate resources to implement the policy, especially to enforce key aspects of the law. The process of reforming the land policy and land administration system has however been stalled and/or hurried due to the lack of adequate resources to provide sound technical analyses, satisfactory consultation processes and public education on the land reform issues and processes.

Various donors have recently commissioned assessments of the land tenure and land administration issues that need support for land reform. Some NGO's have engaged in related and small scale land mediation work. These have been poorly coordinated, narrowly conceived and have not addressed the need for a systematic review of the entire land policy and land administration system, over a sustained period. The RFD/UNDP scoping mission was intended to fill this gap.

This report provides a framework and outlines an agenda for the coordinated and comprehensive review of the land policy and land administration system in Sierra Leone. A phased approach is proposed, and this would be led by intensive public education, consultations and detailed technical assessments of and research and learning on the key issues. The report propose the initiation of 'quick win' activities such as the support to the effective regulation of land leasing, developing land inventories, learning from regional experience, while instituting coordinated pilot activities on key aspects, including on the land information system, land registration and land adjudication. These proposals need to be debated and adequately planned for over a 5 year period.

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Acronyms

AFD	
AU	Africa Union
AfDB	African Development Bank
CAADP	Comprehensive Africa Agricultural Programme
CEPSEL	
ECA	Economic Commission for Africa
EU	European Union
FAO	Food and Agriculture Organization
FIAS	Foreign Investment Advisory Service
GIS	Geographic Information Systems
GoSL	Government of Sierra Leone
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
ICF	Investment Climate Facility for Africa
IFC	International Finance Corporation
LAWCLA	Lawyers Centre for Legal Assistance
LIS	Land Information Systems
LIMS	Land Information Management Systems
MADAM	Mankindu's Activities for Development Accreditation Movement
MLCPE	Ministry of Lands, Country Planning and the Environment
NaFFSL	National Federation of Farmers of SIL
NAFSL	National Association of Farmers of Sierra Leone
NGO	Non Governmental Organization
NMJD	Network Movement for Justice and Development
OARG	The Office of the Administrator and Registrar General
PSDSP	Private Sector Development Strategy Programme
UNDP	United Nations Development Programme
UNIPISIL	United Nations Integrated Peacebuilding Office in Sierra Leone
USAID	United States Agency for International Development
SLANGO	Sierra Leone Association of Non Governmental Organizations
SLIEPA	Sierra Leone Investment and Export Promotion Agency
WP	Western Peninsula

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We write with pleasure to acknowledge and appreciate the invaluable contributions made by various individuals and Institutions while preparing this report. Foremost are the Government of Sierra Leone's Ministry of Lands, Country Planning and Environment (MLCPE) and the Recovery for Development Unit of the United Nations Development Programme (UNDP) in Freetown. In particular, the support of Honorable Dr. Denis M. Sandy, Minister of Lands, Country Planning and Environment; Keith Wright and David Schuster, UNDP, Kevin Gallagher FAO Representative, Sam Owona, African Development Bank Representative, and all donor countries and Institutions is highly commendable.

We also appreciate all those consulted for their spontaneous responses to critical questions on land tenure System and administration in Sierra Leone within a very short notice.

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ii. Foreword

This Scoping Mission Report is a product of an investigation on Land Tenure System and Reform Processes in Sierra Leone conducted by Professor Sam Moyo (the International Consultant) and Mr. K.M. Foray (the National Consultant) with strong financial support from the UNDP Country Office.

The report focuses on key Land Tenure issues and Reform Processes in Sierra Leone, especially those relating to opportunities and threats for the effective management of land in the country. .

Hence, significant efforts have been made by Professor Moyo and Mr. Foray to identify the short, medium and long term interventions including key issues such as opportunities for land use and potential threats to Sierra Leone's political stability and socio-economic development. In view of these, they have been able to advance meaningful recommendations on the sequence of proposed Land Reform Actions and the immediate steps to be taken by the Government and Partners.

At the end, it is hoped that, if the Government of Sierra Leone and its development partners decide to implement the recommendations of this Scoping Mission Report, there is no doubt that it will not all strengthen the Land Administration System but will also lead to an improved Land Adjudication process in Sierra Leone.

Hon.Dr Denis M. Sandy (Ph.D)

Minister of Lands, Country Planning and the Environment

1.0 INTRODUCTION

1.1 Background and Purpose of the Land scoping Mission

The Government of Sierra Leone (GoSL) and the Recovery for Development Unit of the UNDP (RFD/UNDP) have been engaged for some time in discussions on how to address the opportunities and threats to development and peace, which are posed by the emergence of a range of land issues and disputes. The scoping mission comprising an international consultant (Professor Sam Moyo) and a national consultant (Mr. Kamara M. Foray), supported by Mr. David Schuster of the RFD/UNDP was thus commissioned to investigate the scope of issues to be addressed. Extensive consultations were undertaken with several stakeholders in Sierra Leone (see Annex 9.1), and numerous studies and records were reviewed (see references) between the 14th and 28th of July, 2009, in line with the annexed terms of reference (annex 9.2).

This scoping mission report briefly reviews Sierra Leone Land Tenure System, and research on this, and identifies the most common land disputes. It then outlines the key issues to be considered. A brief overview of donor and NGO initiatives in the land sector is also provided. It then proposes a short, a medium to long term agenda for land reform in Sierra Leone.

1.2 The Importance of Land for Peace, Development and Democracy

A secure land tenure system is a critical element of consolidating the peace and recovery process in Sierra Leone, and is fundamental to the country's transition to development. Understanding the dynamic changes in the forms and processes of the land tenure system is of critical importance to the systematic reform of the country's property rights, judicial system and wider 'governance' system, within the broader context of peace building, poverty reduction and development.

Land is central to Sierra Leone's development largely because the majority of its people still depend directly on farming for their livelihoods, and because over the years food security and dependence on imported foods (including the staple rice) has grown. The issue of access to secure land is critical for the farming livelihoods of the variety of its communities (including the youth and women), as well as for domestic and foreign commercial investments into agriculture. Besides land tenure, transforming farming practices, particularly moving away from the low levels of agricultural productivity among small producers, is also a critical aspect of the wider land reform process at this stage. Food security and expanded employment opportunities require increased investment in land for agricultural transformation and for the productive growth of other interrelated sectors.

Addressing the land requirements of the unemployed and poor in urban and rural areas, as an instrument of producing their own food, to provide their own shelter and to enhance their sense of belonging, is a fundamental element of any poverty reduction and economic development initiative. Promoting effective systems of accessing and protecting land rights is essential to the building of family assets, upon which most livelihoods rest. Equitable land distribution is critical to productive livelihoods and social inclusiveness, and promotes the political stability required for long term development.

Furthermore, the effective management of land, particularly land use planning and regulation, is central to the development of all other sectors. Sustainable mining, in terms of ecological sustainability and adequate benefits for local populations, is partly determined by land tenure relations and land use planning in Sierra Leone. The rapid urbanization (after the war) requires the effective management of land for sustainable urbanization. The adequate development of infrastructures (transportation, energy, and communications) requires the careful planning of land use and provision of suitable land, and can propel other sectors to develop successfully. The effective management of land is central to protecting the country's natural resources and ecosystems (forests, coastal and marine resources, water and wetlands), as well as for the sustainable development of tourism.

2.0 CONTEXT OF SIERRA LEONE'S LAND QUESTIONS AND POLICIES

The land questions that Sierra Leone faces, like any other country, have their root in its national political, economic, social and demographic history, as well as in the geo-political context, including emerging global strategic imperatives. Specific ecological conditions shape opportunities and threats from land management systems. The particular mode of colonization, the persistence of diverse indigenous cultural systems and the evolving forms of economic and social organization, occasion the diverse legal relations and administrative systems which govern land tenure and land utilization or management, as well as the complex claims and conflicts over land resources (see AU, ECA and AfDB, 2009).

Historically land was acquired either, through the first clearance of the virgin land by a farmer/hunter with his dependents and 'slaves', who claimed custody of this land, or by conquest, whereby powerful groups imposed their hegemony on pre-settled communities and took over their land (Alie, J.A.D, 2004). Thick forest strips demarcated the settlements, wherein the 'ownership' of land was passed on at death through the lineage, while competing claims were resolved through war (ibid). Cases of the incidences of these forms of land acquisition are documented well back into the eighteenth century. Over time land tenure in society was divisible between land owners, who are the autochthones or the founders of the communities, and who are their "landholders", and included later settlers, and/or 'strangers' (Ibid). The former had the right to inherit land and pass it on, while the latter through male household heads, only had prescribed rights to use the land, in a system where lineage elders acted as trustees of and exercised some administrative rights over the land (e.g. land allocations). Land sales were prohibited while land transfers occurred through the transfer of the primary right, from original settlement or conquest, inheritance and gifts to relatives, to other persons, through the passing on of a usufructory right (a tenancy) on agreed terms (e.g. to stranger-farmers).

The colonial period transformed the land tenure system by imposing the British notion of land title or ownership (as a form of individual property, is freely disposable without reference to third parties) as is the case with the customary tenure system (Ibid). When the colony of Sierra Leone was founded in 1787, land was purportedly "bought" through a treaty on the 11th June, and provided to freed slaves, while subsequently; lands were acquired by the colonial administrators and the British Crown, to expand the Peninsula (Western Area) through negotiation or conquest (Ibid). These arrangements introduced land markets, the right of the state to impose land taxes and to appropriate land for development (ibid).

In 1896 the rest of Sierra Leone was declared a protectorate (under Indirect Rule) by the British Government, leading to a further assimilation of Western notions of landownership, and the vesting by the British of ownership of all lands in the protectorate to the chiefs and ‘tribal authorities’, although these in practice only controlled their family lands (Ibid). The Protectorate Ordinances also allowed the governor to appropriate ‘wasteland’ or unoccupied land (‘vacant and without a master’), for public purposes, although this was widely resisted by chiefs, who considered that they had (were) offering enough land for such developments (Ibid). This tenure history was further transformed during the ‘post-colonial’ era.

3.0 THE EMERGING LAND TENURE SYSTEM IN SIERRA LEONE

3.1 Sketching the Land Research situation

A long tradition of anthropological (Richards, et al. 2004) and wider historical research relevant to the land tenure issue is evident (see Alie, PhD Thesis).

In general the literature on land tenure in Sierra Leone, particularly since 1990's is very limited and currently few senior scholars (such as Alie, 2005; Bomah, 2005; Turray, 1980; Turray and Unruh, 2006) can be said to be focused on tenure issues (see references). Academics note that the key tenure debates raged during the 1970's (e.g. Little, 1972) when the issue of the investments constraints of tenure were high on the agenda. From the 1980's saw new studies (Alie, 1993; Turray, 1980; Unruh and Turray, 2006) broadened the debate from the tenure-investment relationship.

Some critical research gaps on Sierra Leone's land questions, particularly the absence of data on issues such as public land and new investments, are notable. For instance, whereas the Western Area is considered to comprise freehold tenures, declaratory tenures and state land, little concrete data or databases on the hectarage, numbers of land parcels, numbers of owners and numbers of occupiers is available. The numbers of informal land occupiers are poorly estimated and are unreliable. Very few national surveys of the land tenure or landholding situation are available, although there are a number of small sample surveys. Much of the debate on the land tenure insecurities of investors is apparently based on small informal interviews, limited to those promoting land investments rather than those of the land owning families (Butler, 2009). Anecdotal evidence is harnessed by writers and administrators, who sought to have basic data. The perspectives of the landless, land short and poor tend to be lacking in the available studies, although a few interviews have been conducted recently with the youth and women (see Richards and 2005; Turay and Unruh, 2006, Williams 2008). Land use studies are also in short supply, while food production and yields data is solely missing.

A number of the recent writings on land tend to be short term studies (e.g. Williams, 2008; Butler, 2009) commissioned by the donors. Research on the effects of the war on land issues is minimal. The universities lack the research funds, let alone the sustainable salaries and teaching materials, required to sustain the protracted research effort, that is necessary to inform policy making. Some PhD dissertations done abroad contribute to the land debates, but few of these have been done from the mid-1990's. The promising historical PhD work on land and the chieftaincies up to the 1980's has stalled. These research gaps need to be addresses if the land policy reforms under debate are to be tackled effectively.

The conceptual framework of the land issue needs to be carefully examined. For example, the concept of traditional or communal tenure in particular has received much attention (Alie, Ibid), but apparently it tends to be used in a static way, with some referring to the notion of ‘customary’ tenures instead (see Butler, 2009). A range of commonly used concepts of land tenure (such as” agreements”, of “the sale of land”, ‘freehold’ tenures, family lands and “ownership” or “holding” of the land are used unclearly or synonymously. The concept and practice of the custodial role of (paramount) chiefs over land, or trusteeship is unclearly referred to. Even the idea of land leases, is used with differing meanings by various key actors in different contexts. The concept of security of tenure is also commonly used but with different connotations.

The experience elsewhere in Africa (e.g. Ghana, Kenya, Malawi, Zimbabwe and South Africa) is that expanded research on land can be critical to informed policy debates and policy making, and that public education on land is critical to consensus building.

Chart 3.1 Forms of Land Tenure by Source and Incidence: Research Questions

Forms of Tenure	Key Tenure Features			Regions of Incidences			Scale	Legal Provision
	Source of land holding	Form of Ownership or rights	Form of Registration	Western Area	Provinces	Urban Areas		
Freehold (Fee Simple)	- Colonial acquisition - Sale/purchase - State granted	- Absolute ownership by citizens	- Convergence - Survey	✓	X	?	Most Western Area	Statutory
Leasehold	- State land - Customary lands - Private transfer	- conditional period - prescribed utilization - fees/periodic review	- Convergence - Sitemap - PC Approval	✓	✓	✓	?	Statutory
State Land	- Colony - Customary - Grant - Customary lease	- Statutory public right	- alienated? - un-alienated (mapped)	✓ (mostly)	Some public Lands	Reserved Areas	Western Area and scattered	Statutory
Declaratory holdings	- Possession title ('adverse possession') - From freeholds (state lands)	- Deemed right (Illegality in question)	- Registered state plan	X	✓	✓	Documents in western Area	Statutory
Customary Family Lands and P.C.'s	- Conquest - Family lineage succession - Family allocation	- Perpetual use rights on clearance - latent right	- Unregistered - site plan	X (contested Land)	✓	✓	Majority	Customary
Customary Conditional land Sales 'Agreement'	- 'Sale' from Family lands - Family succession - Approved sale by 3 rd party	- Perpetual ownership right - Prescribed land use (conditional land use conversion) - Reversion rights	- Registered sales agreement - Site map	X	✓	✓	Increasing	Customary & Statutory
Illegal Squatters or informal settlers	- Self allocation	- Unsecured	n/a	✓	?	✓	Increasing	n/a

3.2 Historical evolution of the Land Tenure System

Much of the literature on the history of Sierra Leone land tenure begins with the period when freed slaves were brought to the Freetown peninsular and the subsequent effects of colonization. The literature suggests the evolution of a unique land tenure system and social relationships that emerge from the combined effects of the resettlement of freed slaves, and the creation of a colony alongside the protectorate, and proposes that the land tenure system is ‘dualistic’. However, our consultations show that a number of the chiefs and stakeholders insist on a wider history of the evolution of the tenure system. Some paramount chiefs and landowning families emphasize the narratives of their own conquest, rights to rule chiefdom areas and, their trusteeship and control over land. Since these narratives continue to influence the competing discourses and authority systems which govern land policy and land administration reforms, it is critical that further research initiatives on the land tenure history are promoted.

3.3 Evolving forms of Land holding: Dualism or Pluralism?

It is commonly held that the land tenure system of Sierra Leone is constituted by a dualistic tenure regime. This debate which focuses largely on the forms of tenure identifies the freehold tenure system, which is considered to be predominant in the Western Area and the ‘Family Land Owning’ system of land holding which is mainly found in the provinces (namely the North, East and South provinces).

Sierra Leonean scholars (e.g. J. A. D. Alie 2009; Bomah 2009 interview) however, argue that the land tenure system has evolved into a more complex heterogeneous system, although a precise characterization of such a system is lacking, and opinions differ on its nature. Some would argue that the land tenure systems within and among the provinces also varies substantively, as does the evolving tenure system within the western area.

Alie (J.A.D 2009) suggests that essentially Sierra Leone has three system or regimes of tenure: freehold tenure, ‘communal’ tenure and state tenure. A closer examination of the evolving forms of land holdings today suggest an even more complex range of holdings (chart 3.1). Some of these are clearly based in statutory law (freeholds, leaseholds), while others are provided for under customary laws (family lands, etc). State lands are based in statutory laws, although these are in some cases contested (e.g. urban reservations). In between these forms are the now expanding and increasing controversial forms of tenure; the declaratory holdings. Their validity is questioned by perception that they represent the grabbing of state land.

3.4 Land Tenure Administration: Multiple and Overlapping Authorities

Of notable interest in the land tenure debates is the difference of opinion over the nature of the land administration system, in particular with regard to the relative powers and authority of the Sierra Leonean government (referring mostly to the relevant ministries) *vis-à-vis* those of the chiefs in land management. A related debating point is the divergent meanings ascribed to the legally specified as custodianship (or trusteeship) role of chiefs over land in the provinces, *vis-à-vis* the control and/or 'ownership' of land by the so-called land owning families, in terms of various land rights entailed in 'leasing' out land and so forth.

Then there are differing opinions on the nature of authority over land allocations and leasing out of customary lands within the land owning or holding families, particular the relative powers of family heads *vis-à-vis* the family members and the place of women and the young within this structure. Related to this is the degree to which all family members and/or a specified majority (e.g. over 50%) is entailed to make decisions to lease or allocate land out to non-natives or investors.

Furthermore, there is the question of whether National Parks are controlled or administered by the chieftainships as community lands, even though these have been mapped as national and thus state controlled lands. Unclear authority over these lands is considered to be a problem in the promotion of investments in tourism.

4.0 THE KEY LAND ISSUES

Given the wider context and conceptual fluidity regarding aspects of the land tenure regime, as well as recent demands for land, a range of land issues beg to be addressed. The following key Issues are identified as priority problem areas which need considered attention.

4.1 Emerging Typology of Common Land Disputes and Adjudication Practices

4.1.1 The Nature of Land Disputes

It is widely recognized by various stakeholders that disputes and/or conflicts over land have been on the rise over the past decade. The nature and ‘causes’ or sources of such land disputes are however not adequately documented, and opinions vary on this matter. Specific details of some of these land disputes are recorded by Shauwn Williams and Patricia Oredola-Davis (2008) and by Steve Butler, (2009).

Some dimensions of the dispute over access to land, related to grievances over agrarian inequities, such as inadequate access to land and the repressive mobilization of the labour of youths in the provinces, are recognized as critical to the land problem, and have even been cited (Richards et al. 2004) as one of the central factors which fuelled the war.

A variety of land disputes have emerged within the regions. These have heightened the need to improve the governance of land matters. Common land conflicts and disputes involve problems of effective land acquisition, contested land boundaries (involving family lands, chiefdoms districts and provinces); the incidence of multiple land sales, conflicting authorities over land administration (involving land owning families, traditional authorities and various arms of the state), growing land use conversion and the weakness of the land adjudication system. There is need to systematically address these land management issues before they escalate into an endemic source of more violent conflicts, between the state, traditional authorities, the landowning communities and the poor who increasing lack basic access to land for residence and ‘subsistence’ activities.

Chart 4.1

No	Types of Disputes	Incidences of Land Disputes per Region			
		Western Area	Northern Region	Southern Region	Eastern Region
1	Inter-Family Disputes	✓	✓	✓	✓
2	Intra-Family Disputes	✓	✓	✓	✓
3	Chief/Landowner Disputes		✓	✓	✓
4	Landowners/State Dispute (urban-lands)	✓	✓	✓	✓
5	Individuals/Institutions Disputes	✓	✓	✓	✓
6	Inter-State Border Dispute		✓	✓	✓
7	Mining Area Land Disputes (Large Mines/ Small Mines)		✓ (Small Mines)	✓ (Large Mines)	✓ (Large Mines)
8	Deceased Estate Disputes	✓	✓	✓	✓
9	‘Illegal’ Occupation	✓			
10	Land Use Conflicts (Tourism; Real estate; Agriculture)	✓	✓	✓	✓
11	Landowner/Investor Disputes		✓	✓	
12	‘Sacred Sites’				

4.1.2 The Land Adjudication System: Justice Delivery Failures

A process to improve the current land adjudication system, including the customary law framework and in the entire judicial system, is critical to the enforcement of land policy and land laws. At the moment close to 50% of the adjudication cases facing the lower courts in the provinces and chiefs entail land disputes. Many of these cases last over five years, leading frequently to litigants taking the law into their own hands (e.g. evictions and prohibitions on land use). Corruption and fraud related to the land adjudication process is on the increase. Access to justice over land issues is limited for many, particularly the poor. Those with more resources frequently influence the land adjudication system.

4.2 Emerging land Investment: Is Land Tenure a Constraint to Investment?

4.2.1 The Tenure–Investment Debate

One of the long standing debates on land tenure in Sierra Leone since the 1970s, which apparently was led by Kenneth Little (1972) is over whether or not the extant tenure system has been a constraint to agricultural investments, commercialization and development. This debate is familiar in various African countries (Mightot-Adholla, 1994). It is being widely and ‘commonly’ argued that the land tenure system in the provinces limits the security of investors; tenure, especially with regard to long term investments (such as the cropping of trees, such as palm oil) and large scale agricultural estates (e.g. of sugar). Some of those interviewed argue that the land rights, in the land leases or agreements, conferred to domestic and foreign investors tend to be too short term in nature, and can easily be revoked or contested by other family owners; and are adverse to permanent land improvements (see Butler, 2009). International Financial Institutions, such as the World Bank (2004) have for long considered this tenure system posing restrictions on agricultural investment and development.

International perspectives (e.g. von Braun and Meinzen, 2008; Cotula et al. 2009), regard the large scale leasing of land as providing both a threat and an opportunity to development, while many international civil society (e.g. ActionAid International, 2009; Grain, 2009) see this process as speeding up land alienation and the marginalization of the African poor.

The commonly posited policy anti-dote to this purported tenure insecurity has been proposals for a ‘unitary’ land tenure system referring to the conversion of provincial land holding system into freehold tenure holdings. This, however, faces widespread resistance with some arguing that since the Western Area constitutes a smaller part of the country (in area and population), any move to institute a unitary land tenure system, should rather entail the conversion to the freehold/state land tenure system prevalent there towards the dominant tenure system in the provinces.

Existing research evidence on the Sierra Leone experience with this relationship is rather scanty, while research elsewhere in Africa has for long suggested that the tenure-investment relationship is shaky. Other scholars (e.g. J. A. D. Alie 2004 and Jap Undwin and Harry Turray, 2006) have suggested that it is not the form of tenure that is the problem but that, other constraints (such as the technological and wider market constraints to improved productivity may be the critical constraint.

To the extent that land tenure insecurities are a problem for investors, some scholars and some stakeholders (especially the chiefs) would argue that the source of the land tenure problem, lies less with the form of customary tenure and its land administration, than with practices of some delinquent investors and land owning family members, who may not be following the stipulated legal procedures of acquiring and sale of land in the provinces. In this regard, the commonly expressed concerns are that many ‘investors’ attempt to acquire land at extremely low prices; in terms of the transfer ‘fees’ (since ‘sales’ are not legal) and/or by securing low land lease or rental fees, whose upward review is considered infrequent and/or inadequate. On the other hand, some land owning families alleged to frequently engage in the multiple selling of the same pieces of land, not to involve all family members and/or to engage inordinately in the review of land leases or sales fees.

The main complaints advanced about the effects of the customary tenure system on land investments include: that involving third parties (the chiefs) and finding family member agreements to the transactions is onerous and costly, and that the lease duration is uncertain as they can be revoked, for ‘nebulous’ reasons (e.g. not conforming to some unknown but expected local customary practices), and that the adjudication of disputes is unreliable. Yet landowners also feel that the rights of family members e.g. hire of rentals tend to be trodden upon by some lease agreements, which at times can take away land in current use by poorer family members and/or by strangers.

These perceptions and counter-allegations are reflected to some degree by the facts found on the ground, but the scale of the incidence of the land transactions and patterns of behavior of investors and family land ‘owners’ has not been quantified. Nor are the records amenable to easy assessment of the real extent of the transactions and the evolving disputes.

4.2.2 Trends in land leasing and ‘sale’

In Sierra Leone there is growing interest in promoting investments into land by domestic and foreign ‘investors’. However little research and policy analysis has been done on this issue so far. It should be noted that such land investments range from the very large (e.g. above 1,000 acres) to the medium scale (around 100 acres) and to smaller investments on land below 20 acres). Hardly any systematic inventories of such investment can be found in most of the provincial or Western Area land management offices.

There has, nonetheless, been a rapidly palpable growth in the scope and rate of land leasing transactions among various stakeholders involving public or state controlled land and lands owned under customary tenure by land owning families, within the western area and the provinces, respectively. Information on these trends, as well as emerging land utilization pattern is scanty.

4.2.3 Perceived Impacts of Large Scale Land Investment Processes

The issue of domestic and foreign investment in land for commercial purpose, including in growth of real estate markets, larger scale farming, intensive tourism and widespread mining has become a source of anxiety throughout Africa. Land transfers especially by ‘foreigners’ and ‘strangers’ tend to be regarded as both a threat and an opportunity. Stakeholders complain that fixed lease rentals of below US\$5.00 per year are common, and that the transactions tend to be opaque to the families concerned and the state.

The current and future impacts of these land transfers are unknown while regulations to guide such investments, particularly to ensure transparency and fair benefit sharing, do not widely exist. Meanwhile the government is actively promoting this foreign land grabbing “phenomenon while domestic land speculators are also increasingly capturing lands within their family land areas. Without adequate data on the available quality land *vis-à-vis* the deeds of families, particularly the poor, our knowledge on the impacts of this process is hollow.

4.3 Urban Land: Land Grabbing; Informal Settlement and Land Use Malaise

The capacity of the land management system to deliver secure land rights in general, particularly for urban residential purposes and small entrepreneurs (involved in petty trade, small manufacturers, and services) especially in Freetown and Bo, has been stretched tremendously. Most of the land disputes relate to the failure of the urban and wider state land administration system to cope with the rising demand for land, following the upsurge of new settlement related to expansive migration during and after the war. The incidence of confrontations over land in Freetown, and illegal settlement has indeed become alarming, since violent land conflicts are not uncommon.

Underlying this malaise is that land rights, especially in the Western Area have become unclear (Butler, 2005) owing to the legacy of civil unrest, increased informal land occupations, encroachment on public lands, increasing land grabs, suspect land transactions, and the deterioration of paper records and the land registration process.

In the provinces, the state and local councils on the one side and, landowning families and chiefs on the other side are engaged in low intensity battles over the control, access to and use of family owned lands, lands reserved for the state and leased customary lands. Some land owning families threaten to “re-enter” or repossess lands which had been reserved for public purposes, because they are not being paid adequate land rentals, especially when, it is now evident that the use and exchange value of such land has been rising astronomically. It has been argued that land owning families are mostly concerned with ensuring that there is ‘continuity’ in their benefits from leased out lands, not only in urban areas, but also in the rural areas (Unruh and Turay, 2006).

4.4 The Status of Land Policy Development

To address some of the above key issues, various governments initiated a process of formulating a national land policy. A notable attempt was begun in 2002, which was abandoned and then picked up in 2005, to produce the existing National Land Policy document. This document has been criticized for having been formulated in a narrow and non-participatory manner, for lacking a vision statement on land, for being too general as to avoid stipulating some principles which exist in laws (e.g. on urban land ceilings; etc), and for lacking an implementation plan, as well as failure to define the roles of key institutions. For further details on the critique of this policy document and its subsequent land law proposals, see Williams (2008) and Butler (2009). Moreover, the increasing land disputes, demands for urban land and for investments in various sectors, over the last four years, means that the policy is outdated, and not comprehensive, including lack of justiceability.

4.5 Land Administration Challenges

The recent impetus of growth in urban development and agricultural investment, means that the land administration systems particularly of demarcation, surveys and registration of land transfers is unable to cope and is visibly weak. These systems are in various conditions of ‘disuse’ and mismanagement. They are still based on hard paper copy and manually operated, while being inaccessible and expensive to the ordinary people who require public land services.

Few of the stakeholders interviewed have faith in the legitimacy, let alone effectiveness of the land administration processes, especially decisions through which access to and use of land are made. Land allocation decisions are considered by many stakeholders to be ridden with conflicting interests in the land by policy makers, chiefs and other functionaries.

In particular, land held by the state is considered by many stakeholders not to be managed in a transparent, accountable, and efficient manner. The land administration system in the Western Area has been characterized as being fragmentation of authority, experiencing a bureaucratic impasse, practicing inadequate planning and oversight and strewn with uncoordinated activities, and facing the potential of inefficient use of assets and donor aid (Butler, 2009).

Numerous stakeholders, particularly among potential foreign investors, banks, and aspiring domestic investors, some donors and experts argue that the land tenure administration processes within the provinces are cumbersome, uncertain, not uniform and not transparent, such that transaction costs are high. Yet the chiefs argue that the problems lie less with their administration than with some of the abusive investors. As a result some actors call for the codification of the customary tenure system to enhance uniformity and transparency of the rules (see Butler, 2009).

Whereas land administration is a “techno-legal procedural and political process”, the process of allocation and enjoyment of land rights cannot be separated from the civil, political and human rights of the citizenry. The realization of these rights is dependent on the political, administrative and professional will to ensure fair treatment and equal opportunities for all. Many stakeholders believe that such a will is lacking, and that the control over land rights is, primarily being used as a means of accumulating and dispensing political and economic power and privilege through patronage, nepotism and corruption (see AU/ECA/AfDB, 2009).

Numerous *ad hoc* and short term measures are being undertaken by the government to improve the effectiveness of the existing land administration system, particularly at central government level in the Ministry of Lands, Country Planning and the Environment. In the Western Area and the Provinces various pilot efforts are being discussed in order to improve the management of land and resolve the diverse demands for land, including the emerging land disputes. Land used and urban planning systems are also being interrogated.

A number of new laws and land management institutions have been discussed and/or proposed since 2005, by various donors (see section 5.0). However, these are not adequately rationalized or harmonized with existing institutional structures governing the wider land administration system. As a result there are growing conflicts over land and competition over land management authority; between line ministries (such as of MLCPE, Mines and Political Affairs and the Registrars) and, between these and local authorities, including the chieftaincy institution. There seems to be little political will and commitment from policy-makers and practitioners to decentralize various administrative functions, including some aspects of land administration. Yet, experience suggests that decentralised land management institutions facilitate the decision-making power and authority of local communities and other stakeholders, such that land resources can be more productively used and preserved.

4.6 Land Information Bottlenecks and Land Registration Challenges

A critical input to the entire land management reform process is the establishment of an effective and publicly accessible land information management system, within the entire land administration and land adjudication system. Currently a few piece-meal initiatives are being tested in the MLCPE and by some local authorities. These include land registration system pilots in the Western Area (ICF project); property and street numbering and evaluation exercises in Bo and Makeni, and a few land administration studies (e.g. by the UK Registry, through DFID).

Existing land records throughout the country are not well kept and are either degraded or not available. Few people have access to those records that exist. Local authorities and officials are alleged to be corrupt and fraudulent. Many land transaction records are manipulated. There is need for an entire revamp of the land management information system.

4.7 Land Use Planning Systems

Ad hoc decision making and inadequate land use planning systems are evidenced by the proliferation of competing land uses, increasing unofficial settlements and buildings, and the inadequate provision for streets, thoroughfares, and other amenities.

Public space and activities are not adequately catered for in urban areas, as the state has limited and /or ineffective control of land for public purposes in most cities in the provinces. The state has little control of urban land uses in Freetown; in spite of the frequent clean ups it undertakes. Tourism resources are being undermined by the unplanned land use system while the mining sector is so weakly regulated that its footprint of degraded lands is on the rise. The precise environmental impacts of the increased utilization of Bolilands for large scale farming is not well known, while the coastal mangroves are shrinking, all as a result of a weak land use planning and regulation system.

5.0 DONOR SUPPORT TO LAND INTERVENTIONS: SCOPE OF ACTIVITIES AND COORDINATION

5.1 Donor Initiatives on Land Issues

Donor interest in Sierra Leone's land tenure issues seem to have grown over the last four years, although their main activity has been focused on studies of short term needs assessments of land tenure issues. About seven Donors have recently been working directly or indirectly on land tenure issues (see Annex 9.4). The broad thrust of the donors' concerns about land relate to investment and private sector activities in agriculture, mining, tourism and urban development, peace building and pro-poor issues.

The specific land issues which have been examined include:

- Identification of early warning signs of potential conflicts related to land (e.g. UNIPSIL)
- Scoping the overall land tenure issue for peace building and development (RFD/UNDP).
- The constraints posed by the land tenure resume on agricultural investment (e.g. FAO, AfDB)
- Pro-poor land (access) issues (e.g. DFID)
- The status of Land registration and pilot registration work (ICF)
- Land Titling and Investment Law (World Bank)
- Land Administration in the Western Area (e.g. Land Registry Unit of UK, IFC/World Bank)
- Urban property street identification (World Bank)
- Urban Land valuation and planning (urban revenue and land use planning)

Interestingly the emerging problems of urban informal settlements, land grabbing and selected violence has not been adequately attended to. Some of the donor promoted assessments of the justice sectors needs touch on the land rights and land adjudication issues, but lack the depth that could be useful for resolving the land disputes problem identified earlier. Nonetheless, there has been a demonstrated interest and capacities mobilized by donors which can be tapped for future work.

The DFID study (Williams Shawn and 2006) points out as this mission also found, that there has been little if any coordination among the donors of their work on the land reform sub-sector. Nor are the donor support interventions well coordinated within the GoSL. Some (e.g. FAO) work primarily with the Ministry of Agriculture, others primarily with the Ministry of Mining, the Tourism and Investment Authorities and Urban Authorities. Even within the MLCPE a variety of donor supported initiatives seem not to be adequately coordinated.

Indeed one of the purposes of this RFD/UNDP Scoping Mission on Land Tenure Reform is to explicitly collate donor support on land tenure in order to facilitate their coordinated work with the GoSL. One of the issues raised by stakeholders regarding the coordination of land activities is who among the apparently most interest donors is best placed to coordinate donor land interventions (UNDP, DFID, World Bank or FAO?). The DFID study (Williams, 2000) argues that DFID has a comparative advantage to lead this sub-sector largely because of its work on decentralization and various pro-poor projects. Others note that FAO may have an edge on agricultural aspects of land tenure and that the World Bank has an advantage of convening power, which involved all the donors and has built cross-sect oral networks on peace building and development, which could be useful in coordinating the complex land issue in relation to conflicts management in this transition.

5.2 NGO Initiatives on Land Issues

Civil Society organizations are also increasingly engaging in various land policy projects (chart 5.1). They are particularly focused on developing alternative approaches to resolving Sierra Leone land conflicts, building and advocacy initiatives to prevent the loss of land among the poor (e.g. MADAM) and the wider protection of land rights (e.g. Justice in Land). In addition, numerous NGO's are involved in rural development projects which to an extent entail monitoring the trajectory of land transfers and the evolution of land rights in relation to rural poverty alleviation. Those NGO's concerned with improved environmental management and the promotion of small farmers associations (see chart 5.1) are also indirectly concerned with land matters.

Chart 5.1: Non Governmental Organizations engaged with Land Issues

Name of Organization	Acronym	Covered Area
Mankindu's Activities for Development Accreditation Movement	MADAM	Makeni
Sierra Leone Association Of Non Governmental Organizations	SLANGO	National
Lawyers Centre for Legal Assistance	LAWCLA	National
Network Movement for Justice and Development	NMJD	3 provinces
National Association of Farmers of Sierra Leone	NAFSL	National
National Federation of Farmers of S.L.	NaFFSL	National
Peacebuilding and Reconciliation in S.L.		Bo, Makeni
Others		

Given the depth of the consultative process required to promote land reform over at least 5 years, it would appear the UNDP is best placed to facilitate donor support to land reforms in this sub-sector. This mission suggests that RFD/UNDP initiates consultations among GoSL actors and donors involved or interested in land to establish a process of defining collaboration and the most suitable mechanisms.

Most of these NGOs are dependant financially on the key donors identified earlier, while some received funds from large international NGOs such as Action Aid, Oxfam etc. some of the NGOs (e.g. MADAM) are building national networks with international networking links (e.g. MADAM's links to Food Sovereignty networks), suggesting that the process of coordinating land reform issues has begun tentatively. Further research is required to assess relevant NGO activities which could be useful and essential component of the proposed agenda for land reform.

6.0 AN AGENDA FOR LAND POLICY DEVELOPMENT AND LAND TENURE REFORM

6.1 Framing the Land Policy Development and Implementation Agenda

If land is to play its primary role in the national development of Sierra Leone, there is urgent need to initiate a consultative process to review and formulate a comprehensive land policy and a strategy for its implementation. Such a process would include assessments of the reform of the country's land administration systems and the review of land laws, in order to improve the delivery of land rights, and to enhance the efficiency and efficacy of the land laws, land management structures and the wider institutions for land governance. Specific short term interventions to resolve land conflicts and specific disputes, as well as to prevent future social shocks from the demand for land for investment in agriculture, mining, tourism and real estate are critical.

The key land rights delivery systems which need reform include those processes that are concerned with ascertainment, demarcation, survey, registration, and documentation of land rights and systematic tracking of land rights transactions. The adjudication of land rights in the Western Area (see Butler, 2009) is an urgent case in point. These national land administration systems will need not only to be redesigned deliberately on a national scale over some years, but will also need to be technologically modernized, through the establishment of a computerized Land Management Information Systems (LMIS), for the speedier and more effective delivery of land in urban and rural areas. Some of this work (e.g. by ICF; Ministry of Mines/UNDP Mining Cadastre) has begun and can be built upon. In addition private sector land delivery processes (e.g. surveys, etc) also need to be developed further in order to remove pressures on the provision of land delivery services from the over-stretched government land administration offices.

The proposed land reform strategy is one which builds upon and strengthens the existing land administration systems and land laws, particularly by recognizing and working through the two broadly differentiated land tenure categories: the Western Area, where freehold and common law property rules are operative; and the provinces, where the customary land rights and related land administration system (which also varies among key regions or sub-regions depending on history and the resource endowments) is predominant. Caution is advised against instituting radical reforms of land policy and laws on a national basis, through for instance calls for a unitary land tenure system, in which the customary tenures system in the provinces is replaced by a freehold or related statutory tenure system. Such an approach would only fuel renewed civil conflicts and unrest, enhance inequities and sharpen existing conflicts over unclear land rights in some areas. Instead a menu of distinctive but interrelated interventions is proposed .

Chart 6.1: Framework Agenda for Land Policy Development and Land Tenure Reforms

Priority Area	Key Tasks	2	2	2	2	2	2	2
		0	0	0	0	0	0	0
		0	1	1	1	1	1	1
		9	0	1	2	3	4	5
Comprehensive National Land Policy	Public Education							
	Consultative Process							
	Technical Assessments							
	Drafting of policy							
	Implement plan design							
Land Administration System strengthened	Institutional assessment							
	Traditional structured review							
	Organizational capacity building							
	Training initiatives							
Land Adjudication Systems improved	Land laws Review							
	Reform Judiciary							
	Alternative mediation process							
Land Information Systems (LIS) established	LIS assessment/ design							
	Central state LIS system built							
	Procurement of technologies (GIS/SLIS)							
Public Inventories & Land Banks								
Land Registration initiatives	Evaluation of national registration systems							
	Review of international experience							
	Proposals on Improved Land Registrations							
	Debate on Land titling							

Priority Area	Key Tasks	2	2	2	2	2	2	2
		0	0	0	0	0	0	0
		0	1	1	1	1	1	1
		9	0	1	2	3	4	5
Land Use planning and regulation capacities	Assess Land use planning systems							
	Land use mapping and Zoning Projects							
	Review Land investment impacts (env/social)							
Land Investment Guidelines and Markets Regulation	Inventories of large land investments							
	Investment Roles/Rules							
	Civil Society Advocacy							
Learning, Research and Databases	Research process initiated							
	Study Tours							
	State lease land Inventories							
Stakeholder Coordination/ Networking	National coordination Fora							
	Regional networking							
	Civil Society capacity built							

6.2 The Proposed Land Reform Actions

6.2.1 Comprehensive National Land Policy Process

Initiating and promoting a systematic process of formulating a national land policy, including an adequately resourced land reform implementation plan, is central to addressing the various existing land disputes, to creating a framework for investment on land, to improving access to secure land and to defining the respective roles of various stakeholders. An inclusive and consultative land policy formulation process, which builds upon more thoroughly procured evidence on the ground, and which recognizes the diverse experiences and requirements of the various communities in the regions is essential. To avoid unnecessary misunderstandings of the purposes of the reforms and to ensure a consensual process, adequate public information and education on land issues, concepts and laws, is crucial from the beginning. Experts are required to more thoroughly review the existing policy and issues, to assess the sources of land disputes and examine the root sources the ineffectiveness of land governance institutions.

Key stakeholders need to learn from best practices in Africa and elsewhere, so as to avoid the common pitfalls of land policy reforms (see ha). Some of the key lessons of policy development include ensuring that relatively low levels of stakeholder and civil society involvement are guaranteed, and that community participation is not underplayed by the state, which is the dominant driver of land policy formulation. Inputs from stakeholders and civil society should not be ignored or not taken fully into consideration.

A number of considerations should inform comprehensive land policy development (AU/ECA/AfDB, 2009). These are (i) that land policy development should be seen as a prerequisite for economic growth and sustainable human development; (ii) land is a highly sensitive political issue and as such the process of land policy development, implementation and evaluation, needs to be as inclusive and participatory as possible; (iii) national ownership in the development of land policy is critical for engendering broad grass roots endorsement, which is more likely to lead to successful implementation; (iv) there are a range of indigenous principles and emerging innovative local practices that can inform sound national land policy development and implementation (v) deliberate steps must be taken to ensure the full and informed participation of women - Africa's primary land users – in policy development and implementation; and (vi) successful implementation of land policies will contribute to improved governance, environmental management and the consolidation of peace. Moreover, land policy development needs to avoid following sectoral paths to be sector-driven

with little or no co-ordination or harmonization with policies regarding other sectors. A comprehensive land policy also needs to provide broader ranging prescriptions for the management of cross-cutting issues such as those impinging on the environment and poverty reduction (Ibid).

A key tendency in many African countries has been to make inadequate budgetary allocations to pay for the cost of land policy development and implementation, given that capacity gap assessments are not undertaken and, monitoring and evaluation aspects of the process are not included, let alone providing for the medium to long term strategies and programmes required to deal with capacity constraints). Relatedly, many African countries sometimes have no capacity to design and undertake comprehensive policy development. This often means that what counts as national policy is little more than the desk-top product of bureaucrats or consultants assigned to produce position papers for land ministries or government departments. Such exercises frequently produce documents which do not identify fully the fundamental land questions which policy development should address or make prescriptions which are unacceptable to the broad land using public. Reliance on donor support for policy development can also jeopardize the ownership and sustainability of the land reform process, although this can be mitigated by substantive inputs in kind from governments.

The national land policy formulation process, which is deliberately designed around specified consultation processes within each of the regions and at the national level, will take an average of 18 months based on experience elsewhere. According to recent best practice consensus, the sequencing of the land policy development process can be critical (see box 6.1)

Box 6.1: Sequencing of Land Policy Development

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

6.2.2 Strengthening the Land Administration System

In order to effectively strengthen the national institutional framework for effective land administration in Sierra Leone, there is need to systematically assess the nature of the existing operative system, its historical and political basis, and its social legitimacy in order to define the weaknesses to be addressed and to identify the capacity requirements of the land administration system. This should entail examining the land administrative system at the central and local government levels, within the context of the wider ongoing decentralization process. In particular this should entail an examination of the evolving political and governance relationship between the state and traditional authorities, including with regard to land management and lands governance systems, as well as in relation to the functioning of the lower tiers of the judiciary. The latter will have to be placed within the context of wider national judiciary reforms.

The extent to which both the Western Area's and provinces' institutional frameworks for land administration need to be reformed will have to be further investigated (building on a number of the studies cited here). Greater analysis is needed to determine whether there is merit in attempting to codify customary law and adopt a new land administration system as a whole in the country.

A range of land administrative skills will need to be built. These include the training of a diverse range of land experts within government, among relevant civil society actors, within higher education institutions and in the private sector (estate agencies, planners etc). The capacities of civil society to undertake meaningful work in the land sector will need to be strengthened.

A well planned kick-start programme to improve the land administration systems can take between three to five years to begin with, and be designed to continue thereafter at a 'normal' capacity building pace. The implementation of pilot capacity building activities, some of which have started (e.g. ICF) can be initiated immediately, and these could learn from capacity regional capacity building experiences and capacities.

6.2.3 Improving the Land Adjudication System: Land Laws and the Courts

A variety of the proposed land law reforms which are already on the table, with some having been rejected or postponed. These include: the 2008 Report of Land Law Committee regarding the Provinces Land Ordinance; the Land (Acquisition and Commercial Use) Act of 2005; the idea of revising the laws on state land acquisition and disposal, Investment Guidelines; the Land Title Act (as proposed by the World Bank); the Land Commission idea; the need for new policies and laws on informal settlements and so forth. These need to be systematically and comprehensively reviewed, in relation to the land policy formulation process and land administration review proposed above. Policy, legal and administrative reforms should be addressed in tandem even if at differentiated paces, in order to avoid piecemeal and the uncoordinated pressures for reform from the agricultural, mining, tourism and urban development sectors. Legal experts will be required to review the existing land laws and the land adjudication system, and to propose a coherent process of reforming the land laws and land adjudication system.

Alternative approaches to the mediation of and negotiations over land disputes will have to be more thoroughly studied from international and local experience, and promoted. This includes strengthening existing civil society initiatives in the resolution of land related conflicts. This activity could build also upon and mobilize the conflict monitoring and early warning systems being developed and implemented by the civil division of the United Nations' peace building initiatives in the 4 regions, and other initiatives of key peace mediation NGOs. This initiative will have to be linked to the wider justice sector reforms underway.

These reforms can take up to 5 years to implement, although the detailed assessments of the needs and some of the law reforms (e.g. drafting) can be completed within two years.

6.2.4 Restructuring and Computerizing the Land Management Information System

A systematic assessment of the existing land information system and identification of the required land management information reforms is urgently needed, to complement some of the rapid and narrowly focused assessments already being done. Such assessment includes the identification of suitable technologies for the LMIS, their procurement and training. Lessons could be learnt from Africa (e.g. Madagascar) on how to recover deteriorated records and how to institute a LMIS (e.g. Mozambique)

A well structured long term programme (10 years) to initiate an integrated land information system for Sierra Leone can then be proposed so as to streamline new interventions. However, more pilot work could be initiated in the provinces immediately.

6.2.5 Public and Lease Land Inventories and Land Banks

An audit of Sierra Leone's public land resources is critical to improved land management in general and to the setting up of the LIMS, since the state plays a key role in the delivery of land in urban and other areas. Also required alongside this audit, are inventories of the proliferation of medium to large scale lands leased from customary areas, and of lands with the potential to be leased out, on a province by province basis. These information would be processed into data banks to manage future demands for land and to support negotiations with investors. This activity will feed into the various activities proposed and can be done immediately on a low cost basis.

6.2.6 Careful Planning of the Land Registration Process

Specialized but critical studies on the nature of reforms required of the national land registration and land records keeping systems that are suitable to the country are required, in order to guide on-going pilot and other proposed activities around land registration. The recent proposal by the World Bank to institute a land tilting law needs to be carefully studied, and the options reviewed. Experiences in land registration reform in Africa and elsewhere need to be tapped, including through study tours and other forms of the exchange of expertise and experiences. Land registration projects, if and when found necessary can take up to 10 years, after the first two years of evaluative and pilot work.

However, there is urgent need to undertake a land adjudication exercise in the Western Africa, given the growth of competing and overlapping claims there, in which common law rules and public land allocation procedures are being subverted.

6.2.7 Re-organizing and rebuilding the Land Use Planning System

The land use planning and regulation system, will need to be thoroughly assessed by experts to address the urban land use malaise and to prevent future social and environmental losses from unplanned land allocations and uses. This should lead to proposals for a long term (5 to 10 years) programme to revise and consolidate the land use planning and regulation system. This activity could be linked into the various on-going national planning agendas (e.g. CAADP on Agriculture; urban planning etc). new maps and specific land use studies could be immediately initiated to inform the broader assessments.

6.2.8 Regulating Large Scale Land Transfers and Investments

An assessment of land investment and existing regulations will be undertaken and consultations undertaken to inform the formulation of new policy guidelines for investment into land to support various government and civil society actors in their advocacy work on this matter. A list of the key issues that need to be addressed is annexed in annex 9.6. The compilation of data on such new investments (the amount and quality of land and related resources such as water, the conditions; nature of agreements; etc) is essential to enhance this proposed policy activity; and is to be seen as an element of proposal 6.2.5 above. This activity can be completed within a year.

6.2.9 Land Research and Learning Programme

A programme to build research capacities on various land issues is also critical to the generation of relevant land policy information, so as to encourage informed debates and evidence based policy making. This could begin with mini-research grants on priority issues identified above. Key research themes to begin with could include: the nature and patterns of family land ownership; urban land settlements and use studies; investments in agricultural land; chiefdom land use plans; middle scale farming trends; coastal mangrove degradation; mining land issues; access to land by the youth, women, strangers and other vulnerable groups. It will be necessary for such research to define the meanings of pro-poor development and pro-poor land policy making, *vis-à-vis* the current investment drive and its demand for land. Issues regarding citizenship and land rights, and their application on to all citizens, also need to be researched, especially regarding issues such as non-natives, strangers and foreigners.

6.3 Sequencing of the Proposed Land Reform Actions

The following chart 6.1 provides a tentative sequencing plan for implementing the proposed interventions. The purpose is to identify the scope of short, medium, and longer term interventions, beginning first with the next 5 years.

7.0 THE NEXT STEPS

The following next steps are proposed:

- Review of the scoping report by the government of Sierra Leone, the UNDP core group and selected experts.
- Discussion among key donors to define their interest and role in the land reform, and setting up a forum to coordinate support for land use to the GoSL
- Establishing a reference group among key stakeholders to advise on the Land reform programme development
- Definition of Terms of Reference for consultants to follow up the planning of the proposed activities, beginning with tasks which need to be completed during the remainder of 2009. This should include elaboration of the selected activities outlined above, and formulation of a programme/projects document(s)
- Initiating the basic public education and land information process
- Setting up a rudimentary land support networking office within the RDF/UNDP and the Resident Representative's Office.
- Completion of key data collection activities (e.g. on donor and NGO land activities; relevant research review; etc)
- Identification of Regional (Africa and abroad) resources and tools, and experts that could be used to support the Sierra Leone reform process.

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9.0 ANNEXES

Annex 9.1 List of Stakeholders Consulted (15-24 July 2009)

Date	Time	Activity/Field Trip Interview	Organization/Business Ministry/ Individual	Present
15 th July	10.30am	Recovery for Development Unit (RfD)	UNDP, Murray Town	Mojo, Schuster, Foray
	11.30am	Head of Unite, RfD	UNDP, Murray Town	Wright, MM
	4.30pm	Head of Organization, Program Manager	FAO	Gallagher, Kamara, MM
	5.45pm	Director of Operation, Country Director, Head of Unit	UNDP, Wilkinson Rd.	Mokam, Harbour, Wright, MM
16 th July '09	10.30am	Agenda planning	UNDP, Murray Town	MM
	3.00pm	Minister of Land	Ministry of Land, Yuyi Building	MM, Wright, Dr. Sandy
	3.30pm	Deputy Director of Survey and Land Division	Ministry of Land, Yuyi Building	Dr. F. Alpha, MM
	4.00pm	Land Registry Office	Ministry of Land, Yuyi Building	Dr. Warnest, MM
	5.30pm	University Board Director, lecturer	Njala University, Freetown	Dr. Boomah, MM
	7.00pm	Consultant, Policy Expert, Lecturer	Pademba road Junction	Dr. Turay, MM
17 th July '09	10.30am	Agenda revision	UNDP, Murray Town	MM
	2.00pm	Resident Representative	ADB	Dr. Onwona, Moyo, Foray
	3.30pm	Director of Investment	SLIPA	Mr. Gbokie, Moyo, Foray

	4.30pm	Director	Land and Water Resources Development, Tower Hill	Mr. M. Kondeh, Moyo, Foray
18th July '09	5.30pm	Lecturer	Njala University	Mr. Koroma, Mojo, Foray
	6:30 pm	Barrister & Solicitor	Tuboku Chambers, Garrison Street, F/town	Mr.I.F.Mansaray Foray, Moyo
19th July '09	3.00pm	Departure Freetown to Makeni		MM
	6.30pm	Paramount Chief (PC)	Northern Province, Makeni	P.C. Massa Y. Tham III, MM
20th July '09	9.30am	Resident Minister	Gov SIL, Makeni	Hnrbl A. Kamara, P.C. Massa Y. Tham III, MM
	10.15am	Provincial Secretary, Northern Province,	Gov, SIL, Makeni	Mr. A. Dumbuya, P.C. Massa Y. Tham III, Mr Mansarray, MM
	11.30am	Resident PC Hnrbl Member Bombali, Ministry of Finance, Gov SIL	PC House, Makeni	PC , Mr. A. Fona, Mr. Mansarray, MM
	12.45pm	Director of NGO	MADAM, Makeni	Mr. M. Konteh, Mr. Mansarray, MM
	2.00pm	Departure to Bo		MM
	4.45pm	Regent Paramount Chief Speaker, Director of NGO	Paramount Speaker, Office, Bo	Hnrbl. F. Foray, Mr. A. Karim, Mr. A. Bah, MM
21st July '09	9.30am	Deputy Major, Chief Administrator, Gov SIL.	City Council, Bo	Mr. J. Pyne, Mr. W. Alpha, Mr. A. Bah, MM
	10.20am	Decentralization	City Council, Bo	Mr. A. Bah, MM
	10.40am	Departure to Kenema		MM
	12.15pm	Resident Ministers, Provincial Secretary, Deputy provincial Secretary	Resident Ministers Office, Kenema	Hon. W. Juana Smith, Mr. S. Brima, Mr. J. Samura, Mojo, Foray

	1.20pm	PC, Nongura Chiefdom	PC Residency, Kenema Eastern District	PC Alhaji Bonah, Mojo, Foray
	2.45pm	Deputy Major, Councillor, Kenema Town	Major Office, Kenema	Md. A. Kaisamba, Mmr. Ro. Barnet, Mojo, Foray
22nd July '09	10.00am	Lecturer	Fourah Bay College, Freetown, SIL	Prof. Dr. Joe Alie, Foray
	11.00am	Administrator General	Administrator General Office, Freetown	Admin Generl, Foray
	12.00pm	Major of Freetown	Freetown City Council, Western Area	Mr. H. Williams, Foray
	4.00pm	Minister of Land	Ministry of Land, Yuyi Bldg, Freetown	Dr. D.M. Sandy, Wright, Moyo, Foray
23rd July '09	12.00pm	Estate Officer	Administrative and Register General Office, Freetown	Mr. S. Thomas, Moyo, Foray
	2.00pm	Records Officer	Administrator and register General Office, Freetown	Mr. E. Pratt, Moyo, Foray
24th July '09	2.00pm	UNDP head of Unite, FAO Country Director	UNDP, Murray Town, Freetown	Wright, Gallagher, MM

Annex 9.2 Terms of Reference

The terms of reference entailed:

- Review the current land tenure system
- Review the government's plans and expectations with regard to land tenure and land tenure reform
- Review the plans of other UN agencies, especially FAO, and in-country donors such as The World Bank, AfDB, DFID and EC with regard to land tenure reform
- Review the research on land tenure in Sierra Leone and interview the researchers who reside in-country
- Review the common disputes over land
- Review the current practices to resolve disputes over land
- Prepare A brief on each of the issues that need to be addressed in the reform process
- Make recommendations on the best practices on how to address the issues
- Develop a road map to achieve the desired results using the best practices
- Make recommendations to UNDP on how best UNDP can support the government to reform the land tenure system

Annex 9.4: Donors Policy Administration Inventory List

Agency Organization	Project	Contact Person	Area of Focus	Comments
UNDP	Land Scoping Development Mission	Keith Wright	National	
	City Council Financial System and property valuation		Makeni, BO, Freetown	
UNIPSIL	Peacebuilding for Development Project	Mr. Massarai	Northern Region, and more	Indirectly related
FAO	Land Tenure Studies	Dr. Gallagher	National	
CADEP/FAO	Coordination of Land and Agriculture Project (inter-sectoral planning)		National	
World Bank/IFC	Land Title Bill		National	
	Overall Land Management Strategy		National	
	Urban Property Street Numbering Project		Bo	
	Tourism study:		Western	National
	Land Data Management Project		Bo And more	
ICF (Info Terra)	Land Registration and Capacity Building Project	Dr. Warnest	Western Area (Pilot Locations)	
	Land Administration Capacity Building Project		National (HQ and Ministry Centered)	
AfDB	Agricultural Support Project, Dr. Onwona (indirectly related)		Selected Provinces	Indirectly related
EU	Agricultural Export Projects	?	?	?
USAID	Property Rights and Diamonds Development, PRADD	ARD Washington Inc.	No reports are out yet	
	policy environment for natural resource management, CEPSEL	Abdulai Jalloh		

DFID/ British Registry, UK	Land and Pro-poor change	Shawn Williams Jon Llewellyn and Andrew Smith	National	Direct
	Land Administration		Western area	Direct

Annex 9.5: Large Land Investment: Best Practice Guidelines

Investors: maximize security for investment and sustainable development

- Investors should realistically assess their capacity to manage large-scale farming projects.
- Image and reputational risk should not be underestimated.
- Long-term land leases (50 or even 99 years) are unsustainable unless there is local satisfaction.
- At the local level, land rights may be hotly disputed.
- Carefully assess local contexts; engage in long-term local interests (not just elites).
- Clarify the costs and benefits of the business transactions from the start.
- Clear principles for local engagement are necessary: *free, prior and informed consent*

Recipient governments: put sustainable development at centre of investment decisions

- Governments need to clarify what kinds of investment they want to attract.
- Attention to increased agricultural productivity needs to be balanced with assessment of how gains are achieved – and how benefits are shared.
- State-of-the-art assessments of the social and environmental impacts of proposed investments are needed.
- Governments should ask hard questions about the capacity of investors to manage large-scale agricultural investments effectively.
- Land contracts must be structured so as to maximise the investment's contribution to sustainable development.
- Skilful negotiation is key. Governments need to invest in their own capacity to negotiate.
- Mechanisms should be developed to discourage purely speculative land acquisitions.
- Investment decision-making must be transparent.
- Secure local land rights. The principle of free, prior and informed consent and robust compensation regimes should provide a cornerstone of government policy, and must be integrated in national legislation.

Organisations of the rural poor and their support groups: maximise net benefits and limit exclusionary impacts

- Advocacy to promote transparency in land deals is needed.
- Advocacy and awareness-raising are also needed at each stage of the land investment process: from project design and structuring of contracts to implementation.
- Legal support to people affected by investment projects can help them get a better deal from incoming investment (e.g. better compensation regimes and investor-community partnerships).
- Collective registration of community lands can be a powerful tool for protecting local land rights vis-à-vis incoming investors.

International development agencies: catalyse positive change

- Engage with investor and recipient governments, private sector and civil society to ensure that land deals maximise the investment's contribution to sustainable development.
- Help address the lack of clear and easily accessible information on land acquisitions and agricultural investments.
- Provide expert advice, capacity building and other support for governments, private sector and civil society

Source: IIED (2009)

Annex 9.6: Land Policy development: ‘Best Practice’ Checklist

Key Aspects	
VISION	
	Land policy is inclusive and responsive to the needs of all land users; it contributes to political stability, promotes gender equity, fosters the reduction of conflict, enhances the sustainable management of natural resources, ensures orderly urban development. It places all stakeholders on the path to higher economic growth and a better quality of life.
LAND POLICY DEVELOPMENT	
	<ul style="list-style-type: none"> • Clarify roles of actors in land policy development • Recognize the role of indigenous institutions (judiciary) • Consult with the land using public • Engage with civil society organizations • Launch the land policy development process • Build capacity for land policy development • Ensure availability of financial and human resources for the process • Communicate the land policy development process <p>Provide for further policy development in land-related sectors and sub-sectors</p>
LAND POLICY IMPLEMENTATION	
	<ul style="list-style-type: none"> • Avoid Common Impediments to Land Policy Implementation <ul style="list-style-type: none"> -Failure to agree on implementation strategies -Lack of capacity to manage change -Defects in policy development -Lack of baseline data -Inadequacy of implementation infrastructure • Necessary Steps for Effective Land Policy Implementation <ul style="list-style-type: none"> -Define scope of a land policy implementation framework -Design land policy implementation strategies -Prepare an action plan -Mobilization of political commitment -Continuous public engagement through de-centralized structures -Legislating land policy components -Domesticate relevant regional and international commitments <p>Respond to new policy challenges</p>

TRACKING	
	<ul style="list-style-type: none">• Define the scope and value of tracking (principles)• Designing systems/mechanisms for tracking• Strategies for building adequate data• Building partnership for tracking-Stakeholder agreement on what should be tracked-Defining the parameters that should be tracked-Defining participatory and measurable indicators-The need for external backstopping-Effective capacity building programmes• Ensure Feedback System

Source: AU/ECA/AfDB Land Policy Guidelines and Framework, 2009

Annex 9.7: Statutory Instruments**Acts**

Sierra Leone Company Transfer Act	1807
Statutory Declaration Act	1835
Protectorate Native Law Ordinance	1905
Protectorate (Amendment) Ordinance	1926
Native Courts Act	1960 Cap 8
Imperial Statutes (Law of Property) Act	1960 Cap 18
State Lands Act	1960 No. 14
Crown Lands Ordinance (State Lands) Act	1960 No. 19
Administration of Estates Act	1960 Cap 45
Summary Ejectment Ordinance	1960 Cap 49
Chieftancy Council (Tribal Authorities) Act	1960 Cap 61
Chiefdom Treasury Act	1960 Cap 62
Freetown Improvement Act	1960 Cap 66
Town and Country Planning Act	1960 Cap 81
Christian Marriage Act	1960 Cap 95
Public Lands Ordinance	1960 Cap 116
Unoccupied Lands Act	1960 Cap. 117
Crown Lands Conservatory Act	1960 Cap 118
Compulsory Acquisition of Property Act	1960 Cap.119
Defence Land Acquisition Act	1960 Cap. 121
Concessions Act	1960Cap. 121
Provinces Land Act	1960 Cap 122
Protectorate Lands Acts	1960 Cap 122
Registration of Instruments	1960 Cap 256
Provinces Lands Amendment Act	1961 No. 15
Survey Ordinance	1961 No. 42
Limitations Act	1961No. 51
Land Development (Protection) Act	1962 No. 61
Land Development (Protection) Amendment Act	1963 No. 28
Crown Lands (Amendment) Act	1964 No. 6
Chieftaincy Council (Tribal Authorities) Amendment Act	1964 No. 13
Provinces Lands Amendment Act	1965 No. 11
Courts Act	1965 No. 31
Non-Citizens (Interest-in-Land) Act	1966 No. 30

Crown Lands (Amendment) Act	1972 No. 29
Provinces Lands Amendment Act	1972 No. 29
Building Fees Act	1973
Sierra Leone Citizenship Act	1973 No. 4
Chieftaincy Council (Tribal Authorities) Amendment Act	1975 No. 18
Chieftaincy Council (Tribal Authorities) Amendment Act	1983 No. 7
Constitution of the Republic of Sierra Leone	1991 No 2
The Mines and Minerals Decree	1994
Environment Protection Act	2000 No. 2
Town and Country Planning Amendment Act	2001 No. 3
Petroleum Exploration and Protection Act	2001
Local Government Act	2004 No. 1
Local Government (Assumption of Functions) Reg'tions	2004 No. 13

Bills

<i>Commercial Use of Land Act</i>	Law Reform Commission
<i>Lands Commission Act</i>	Supplement to the SL Gazette, Vol. CXXXVII, No 5
Customary Law Courts Act	Law Reform Commission

Cases

Kamanda Bongay, Paramount Chief of Big Bo Chiefdom, for and on behalf of the Tribal Authority of Big Bo Chiefdom v. F.S.Macauley (1932) 1 W.A.C.A. 225

Sitia Tribal Authority v. Official Administrator of Intestate Estates (1937) A.L.R.S.L 411

Jah v. Deen and Bayoh, A.L.R S.L 1970-71, Civil Case no.156/69

Fulla v. Kondowa (1970-71) A.L.R. 300

Agip (SL) Ltd. V. Edmask and Paramount Chief of Kakua Chiefdom and Chiefdom Council 1972-73 A.L.R.S.L. 218

Tongi v. Khalil, decided by the West African Court of Appeal

Sawaneh v. Bayoh, unreported

Kebbie v. Bernard Kamara, unreported

Seymour Wilson v. Musa Abess, Supreme Court, Civ. App. 5/79, delivered on 17/06/81, unreported

Hawaii Housing Authority v. Midkiff, 467 U.S. 229 (1984) Appeal from the United States Court of Appeals for the Ninth Circuit