



# Report of the Rights and Resources Initiative and the Land Policy Initiative Regional Workshop with African Land Commissions on Securing Community Land Rights

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## **ABBREVIATIONS**

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**AU:** African Union

**CCRO:** Customary Certificates of Right of Occupancy

**CEO:** Chief Executive Officer

**CLS:** Customary Land Secretariat

**CSO:** Civil Society Organization

**ECOWAS:** Economic Community of West African States

**LPI:** Land Policy Initiative

**NLC:** National Land Commission (Kenya)

**OASL:** Office of the Administrator of Stool Lands

**RRI:** Rights and Resources Initiative

**STC:** Specialized Technical Committee

**SDGs:** Sustainable Development Goals

**TMP Systems:** The Munden Project Limited, trading as TMP Systems

**UNECA:** United Nations Economic Commission for Africa

## EXECUTIVE SUMMARY

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RRI and LPI convened representatives of land commissions and similar agencies responsible for leading land reforms across Africa for a workshop to exchange information on securing local communities', Indigenous Peoples', and women's land rights through statutory recognition of customary land tenure and its subsequent operationalization. Gathered in Accra, Ghana from July 17-19, 2017, RRI and LPI brought together land commission and similar agency representatives from 14 African countries including Burkina Faso, Côte d'Ivoire, Ghana, Kenya, Liberia, Madagascar, Malawi, Mali, Niger, Nigeria, Tanzania, Uganda, Zambia and Zimbabwe. Technical experts from Cameroon, Kenya, Senegal, and staff from the RRI Secretariat and from LPI also attended.

RRI shared new research on women's rights to community forests, building a compelling case for inclusive tenure rights as none of the assessed countries in Africa recognize the inheritance rights of women in consensual unions. RRI also presented data identifying the wide gap between indigenous peoples' and local communities' forest ownership compared to the area owned by government, private firms, and individuals. LPI presented its work on implementation of the African Union Declaration on Land Issues and Challenges. Their presentation called for better governance of land resources across the continent, the decentralization of management of land resources and the renewal of land institutions. LPI described how stronger governance could reduce poverty and create opportunity for economic development.

For three days, these experts reflected on the roles and contributions of Land Commissions in Africa and shared their challenges and strategies to record community land rights. Burkina Faso shared their success in establishing more secure and accessible land rights. Since 2009 they have issued over 2000 land authorizations, with over 50% of the authorizations given to women. In terms of challenges, many have found it difficult to translate good policy into effective implementation. This is the case in Zimbabwe where there is a lack of infrastructure at the local level and a proposed dispute resolution mechanism is stalled in the development process. Throughout the workshop, participants were eager to hear what others have learned and many were willing to share their experiences. Liberia was interested in understanding how others have changed land responsibility from one ministry to another and gained valuable insight from both Ghana and Tanzania. Workshop participants were provided the opportunity to visit the Gbawe Kwatei and Kwabenya Family Lands and view the collaboration between the communities and the government on land governance. During the visit, robust discussions were held between the attendees and the communities on land acquisition, the cost of land, and dispute resolution mechanisms.

At the end of the conference, recognizing the diversity of their contexts, policies, legal frameworks and local communities, the participants reaffirmed their commitment to secure community lands by implementing the African Union Declaration on Land Issues and Challenges. To this effect, they agreed on a set of Concluding Recommendations to continue putting efforts to identify, recognize and protect communities' land rights, including those of the most vulnerable people such as youth, women, nomads, the disabled and other groups with particular ties to land; to relocate land management at the level closest to communities by establishing

institutional frameworks giving greater powers to communities and instituting procedures to recognize customary rights; to enhance the capacities of various stakeholders in land management; to institutionalize design workshops and consultative frameworks; and to adopt and enhance Alternative Dispute Resolutions mechanisms.

Each country designed a work plan that they will integrate into their agenda upon their return to ensure the effectiveness of the resolutions. Uganda created a work plan to identify all customary land rights in the community for both individual, family, and communal land holdings to reduce land grabbing and other rights violations of customary landowners. Tanzania's workplan featured a desktop study on the life style of pastoralists. They hope that through increased understanding of the pastoralist way of life and by securing their land through CCROs it will increase harmony between pastoralist groups and other land owners in the area. Zimbabwe's work plan focused on ensuring that women and other diverse groups' land rights are protected under customary law. Zimbabwe's Land Commission has a mandate to ensure that there is no gender discrimination in access to land and there is a constitutional provision for the access and right to land for every Zimbabwean. Their action plan lays out an engagement framework for a national policy that will kick off their gender inclusive initiative.

## CONTEXT

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Rural communities claim customary ownership of up to 80 percent of all lands in sub-Saharan Africa, yet most national governments do not formally recognize communities' rights to much of this land; a recent study by Rights and Resources Initiative showed that in 19 countries studied in Sub-Saharan Africa, local communities and Indigenous Peoples formally owned only 3 percent and controlled an additional 12 percent of land area. African states have been working for more than a decade in land policy reforms to close this gap between the “legality” of formal State-based laws and the “legitimacy” of customary laws at the local-level.

In this process of advancing reforms for better and more inclusive land governance, local communities, women, Indigenous Peoples, civil society organizations, government institutions, and economic actors all play important roles. This includes the Land Policy Initiative (LPI) of the African Union at the Continental level, and land commissions and similar government bodies created by legislation at the national level. For more than a decade such land commissions have operated to achieve policy and law reform, engaged in fact finding, resolved land claims, managed State lands, or assumed a combination of these functions. They have adopted a diversity of forms to exercise their functions, centralized and decentralized, temporary and permanent. In the African Union Declaration on Land Issues and Challenges issued in 2009, Heads of States and governments committed to support the emergence of institutional frameworks required for the effective development and implementation of land policies. To meet this, they urged member states to build adequate human, financial, and technical capacities to support land policy development and implementation.

# COMMITMENTS AND FRAMEWORKS ON CUSTOMARY AND COMMUNITY LAND RIGHTS IN AFRICA

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## Opening remarks

Participants were welcomed to the Workshop by **Alhaji Sulemana Mahama**, *Technical Director of the Ministry of Lands and Natural Resources of Ghana*, who noted that Ghana was proud to host such a significant event. **Dr. Solange Bandiaky-Badji**, *RRI's Director of the Africa and Gender Justice Programs*, described how RRI has worked with partners and collaborators to secure community land rights in sub-Saharan, Central, and West Africa since 2008. She affirmed that in-country work has been an essential precursor to the critical collective work at the regional level, and that community land rights are integral to land reform processes at both the regional and country level. Specifically, Dr. Bandiaky-Badji recognized that a large share of the national land area in sub-Saharan Africa is held under either customary or traditional forms of land ownership. This fact highlights the significant role government institutions such as National Land Commissions play in ensuring equitable access to land, land reform processes, maintaining transparent land administration, and providing inclusive implementation of land policy and laws.

In her remarks, **Dr. Janet Edeme**, *Head of the Rural Division Department of Rural Economy and Agriculture, of the African Union Commission*, underscored the fact that land management is central to the development of Africa. For this reason, regional assessments have been carried out across Africa by the LPI since 2006, and they concentrate on land challenges, with the intent of developing “the capacity of member states in land policy formulation, implementation, monitoring and evaluation”. The assessments focused on accessibility to land, pastoral issues, gender and environmental sustainability. In 2009, the AU’s efforts culminated in the adoption of the Framework and Guidelines on Land Policy for Africa, and the endorsement of the Declaration on Land Issues and Challenges in Sirte, Libya by African Heads of State.

Dr. Edeme observed that “customary land tenure systems are still characterized by their unwritten nature and are based on local practices and norms, and are flexible, negotiable, and location-specific”. These characteristics make customary land vulnerable to such influences as urban development and demographic change, political processes, and cultural change. To further compound issues, the uniformity of customary land regimes is not guaranteed, and are often vulnerable as customary land regimes are integrated into formal land governance systems. Dr. Edeme attributed this to the fact that while some jurisdictions recognize community land tenure systems, others oppose their operations, and still others prohibit their existence. She raised the following issues for reflection by participants during the workshop:

- What is the impact of statutory interventions on land matters in Africa?
- How do we secure the rights of local communities?
- How do political decisions taken by African countries affect the access and use of land, how do we implement this policy and resolve ensuing conflicts?
- How do we ensure women’s access to, and the security of, their tenure rights?
- How do land markets operate in customary land regimes?
- How have land tenure rights, and control and access to land resources been prior sources of conflict in Africa?



To close, Dr. Edeme spoke to the important role of land commissions in bringing about land reforms and improving land administration, and expressed her hope that “the workshop establishes a platform for African land commissions to provide for continuous learning, experience sharing, and documentation of best practices”.

The **keynote address** was delivered by **Hon. Benito Owusu Bio**, the *Deputy Minister of the Ministry of Lands and Natural Resources* in Ghana. Hon. Benito Owusu Bio first recognized the role the workshop organizers and participants were playing in their various institutions and countries “to ensure the efficient, equitable, and transparent management of land and its resources within the African continent”. Land, he asserted, plays a vital role in the developing economies of Africa, because many depend on it for their social and economic wellbeing. While international institutions like the World Bank recognize the availability of vast land resources for agriculture in Africa, the paradox lies in its poor productivity levels. He attributed this phenomenon to four main factors: landlessness; inequality in land ownership and customary laws that don’t give women – who are primary producers – access and ownership of land; agricultural lands, forests and wetlands that are being degraded; and the springing up of booming slums that are detrimental to efforts aimed at urban development and poverty reduction.

The Deputy Minister supported the declaration of the African Union calling on all African countries to “recognize the centrality of land to the sustainable socio-economic and cultural livelihoods of their people”. He called for “comprehensive policies to guide the access, utilization, and management of land resources” at the country level due to Africa’s diversity. He encouraged countries to work in tandem, “to foster close collaboration and constant contact with one another”. This, according to the Deputy Minister, will “facilitate mutual understanding and learning from each other.” He asserted that any reform measure that fails to recognize the fact that 80% of land ownership in Africa is held in customary tenure, is “doomed to failure”. The Deputy Minister concluded his speech by urging participants to carry out their discussions with level-headedness so that their contribution could push forward efforts aimed at “achieving a fair, equitable, and sustainable land governance system that will be of benefit to the people of Africa in particular and the world at large”. (cf. the Deputy Minister’s speech in Annex 2).

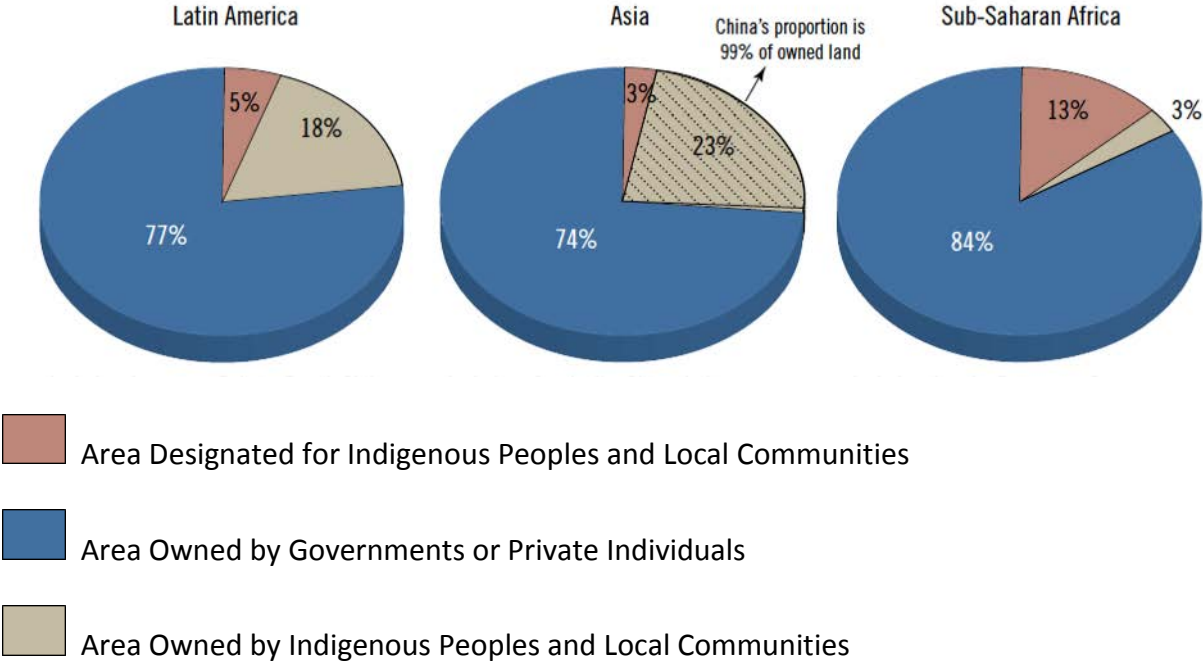
### **Recognition of customary land rights in Africa: Commitments, implementation, and current issues**

Dr. Solange Bandiaky-Badji presented strategic analysis done by RRI’s Tenure Tracking Program on the status of Indigenous Peoples’ and local communities’ forest and land rights. Since 2005, RRI has tracked the forest and land area where Indigenous Peoples and local communities have formally recognized rights, as well as data assessing the strength of communities’ forest rights. The statutory typology RRI uses provides a legal basis for measuring land and forest ownership according to 4 categories: government administered, designated for Indigenous People and local communities, owned by Indigenous People and local communities, and privately owned by firms and individuals. This typology allows RRI to make comparisons regarding the strength and content of communities’ land and forest rights, the extent of national recognition of those rights, and women’s specific rights within community-based tenure regimes. These methodologies also enable comparison across regions. Figure 1 below, from *Who Owns the World’s Land?* (RRI 2015),



illustrates the **proportion of land area** that is designated for Indigenous Peoples and local communities, owned by Indigenous Peoples and local communities, and owned by governments or private firms and individuals in 19 countries in Sub-Saharan Africa, as compared with 13 countries in Latin America and 15 countries in Asia.

**Breakdown by Region**



The data shows that only 3% of land in the 19 Sub-Saharan African countries assessed is legally owned by Indigenous Peoples and local communities, and only 7 of those 19 countries have established legal frameworks recognizing Indigenous Peoples’ and local communities’ rights to own land. Furthermore, in 8 of those 19 countries, Indigenous Peoples and local communities have legally recognized rights to own or control less than 1% of the country’s land area, including both agricultural and forest lands. However, the report found that 4 countries (Tanzania, Uganda, Zambia, and Botswana) recognize community rights to more than 50% of their country’s land area due to provisions recognizing customary rights without requiring formal registration.

The findings also reveal that the African customary domain is 1.4 billion hectares with at least 428 million customary land owners across the entire continent, and is an attractive target for global land investment and acquisition. Community tenure rights are increasingly under threat as African governments have remained committed to pursuing economic development through land-intensive investments. These investments often lead to conflict between the private sector and communities who are being pushed off their land.

RRI’s research states that a major challenge to land reforms is implementation. Often the obstacles for various reforms in countries (from different sectors such as mining and forestry) stem from isolated reform processes that are not synchronized across sectors. In addition, individual titling, and poor preparation for decentralization processes, and ignoring women’s

tenure rights (which have been historically left out of customary laws) also present challenges to implementation.

A major obstacle to women's tenure security stems from the lack of recognition of women's inheritance rights in consensual unions in most African countries. However, Kenya's Land Act of 2012 has set an important precedent for recognizing women's tenure rights and strives for the, "elimination of gender discrimination in laws, customs, and practices related to land and property in land." Although there are many obstacles, there is hope. Many new vehicles and systems are being created to secure and formalize community rights including land charters and local certificates. It is in governments' best interest to continue to innovate in this space as insecure forest and land rights trigger widespread poverty, gender disparity, a lack of economic growth, social unrest, conflict, and investment risk.

After the presentation, the audience raised questions about the scope of the countries included in the analysis, and requested further clarification around RRI's definitions of "communities" and "community lands". Dr. Bandiaky-Badji responded that several African countries with progressive laws regarding recognition and registration of community tenure rights were not included in the analysis (for example Ghana and Uganda). With respect to the definitions, RRI focuses on Indigenous and rural women living in community-based tenure regimes, and Indigenous women include pastoralists, Baka/Bagyeli and others in rural areas. Finally, RRI defines community-based tenure regimes as including any system where formal rights to own or manage land or terrestrial resources are held at the community level, including lands held under customary regimes. This means that access rights such as those of pastoralists in Niger are not included in the RRI analysis.

### Community land rights in African Union regional frameworks and policies

**Dr. Joan Kagwanja**, *Chief of the Land Policy Initiative*, focused on what is being done at the regional level to support land reform processes and what the participants could learn from previous reform processes. To achieve the targets laid out in the SDGs, the Africa Agenda 2063, and National Development Plans, Dr. Kagwanja stated that land in Africa must be managed through effective governance systems that are underpinned by policies, governance, and strong partnerships. "How land is managed and administered in Africa," she said, "determines if, how, and when Africa develops."

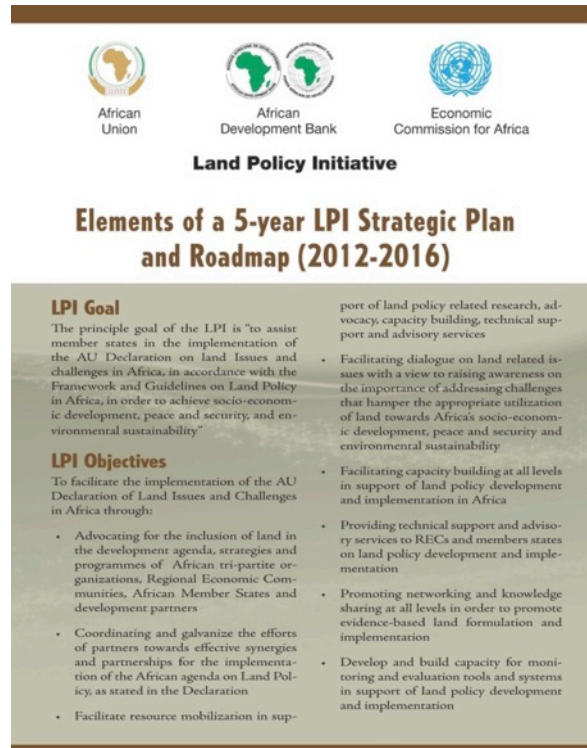
The AU has 55-member states with different strategies and will achieve even more if additional people are brought on board to contribute their knowledge and experience. According to Dr. Kagwanja, there are three major issues that Africa can address and respond to: the colonial legacy, cultural practices, and influencing the governance structure rather than changing it outright. The implications of these three domains are that governance processes will change, reversing inadequacies and making them profitable through improving land policies, legislations, and land administration. LPI was created in 2006 by the AU as a response to the many challenges of land issues at the continental level, and the major goal of the AU is to build political commitment to define an agenda on land, examine the issues related to coordination, provide a platform for learning, and to monitor and continually inform the processes.

## LPI Strategy

Phase I: A Road Map to Develop the Framework and Guidelines (2006 to 2009)

Transition Period: 2010 to 2011

Phase II: 5-Year Strategic Plan (2012-2016)



1. Enhance LPI Capacity to implement declaration
2. Mainstream land in the African developmental agenda
3. Build synergies, coordination, partnerships & resources
4. Promote communication and advocacy
5. Conduct research to generate evidence and knowledge
6. Develop/promote tools for knowledge dissemination
7. Develop Capacity
8. Develop/promote framework for tracking progress

Moving ahead with discussions, she added that it is important to empower countries to have conversations on tenure regimes and rights, to be

better placed to classify the heterogeneity of women, and determine when the youth who do not have access to land can start using the land with some security and some level of productivity. She reiterated that it is not possible to have a common tool for land administration, as each context must be treated separately. However, there are some programs that can help. For example, Uganda's Land Information System is benchmarked by many other countries including Ghana. They supported the fact that there is no one land management system but it is helpful for management structures to be in place, to enable laws to empower the institutions, and to use techniques and tools.

During discussions Uganda shared their experience starting with proprietary software, and then switching to open-source software because it is cheaper and simpler to manage. This change has enabled them to register 30% of the land area and set a goal of 1 million certificates of title by 2020. Burkina Faso agreed with the difficulties raised on the implementation of policies (both material and financial), but hoped that the conference would come up with strategies for solving the challenges of poor policy implementation. Their delegation observed that once donors realize that land security is a serious issue, investments falter, leading to a major blow to the economic and agricultural development in the country. Burkina Faso is conscious of the advantages of land security and the disadvantages of land insecurity, and expressed a need for continental institutions to help countries not only develop but also implement these policies.

# EXPERIENCES OF LAND COMMISSIONS IN SECURING COMMUNITY LAND RIGHTS

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The workshop's discussions on the experiences of Land Commissions in securing community land rights in Africa centered around three main themes: (1) their roles, mandates and contributions, (2) their challenges, and (3) their experiences with legal and other strategies to record community land rights.

## Roles and contributions of land commissions on community land rights

To begin the experience-sharing on the roles and contributions of land commissions on community land rights, *RRI Fellow Alain Diouf* of Senegal presented an overview, starting with a review of the colonial period. For example, Germans recognized community land rights, urging owners to register such land ownership in the land register, in contrast, the British encouraged individual appropriation and registration of land, which was generally crown land. Diouf indicated that in the 1990's, three major reforms were introduced. These reforms were influenced by the United Nations Conference in Rio de Janeiro (1992) and included land registration, women's land rights, and the protection of vulnerable locations. Diouf identified two trends emerging from land reform commissions in many countries: land registration systems, such as those in Togo and Cameroon, and the recognition of community rights in Madagascar, Burkina Faso, Tanzania, and Côte d'Ivoire. Zimbabwe illustrates a unique case in which the land commission has no mandate over community land tenure.

### *Burkina Faso – National Council for Land Security contributes to securing rural land*

In Burkina Faso, the national and local land commissions contribute to securing rural land. The National Council for Land Security (*Conseil National pour la Sécurité Foncière*) brings together all actors intervening in land issues. It has helped in the creation of various texts taking customary rights into consideration at the local level. This national council is represented in all 13 regions of Burkina Faso in order to capture regional specificities. They are presided over by regional governors. At the local level, 351 councils are made up of ad hoc committees, and land commissions are found mostly in villages and presided over by traditional authorities. They are charged with land conservation but are very operational as they deliver all customary land recognition documents.

The elaboration of the law in Burkina Faso has seven innovations but most important at this level are the following three: (1) the end of the state monopoly that brought about the designation of state land, councils and private domains; (2) the recognition of customary rights; (3) gender-specific guidelines, which enable the provision of tenure rights to women and youth. Since 2009, major achievements include the issuance of more than 2000 land authorizations, of which over 50% went to women. In summary, customary and women's tenure rights are highly emphasized in Burkina Faso.

### *Ghana – Establishment of Customary Land Secretariats across the country*

The Executive Secretary of the National Lands Commission presented the structure of the National Lands Commission which is comprised of the National body, with a board of 17 members, is presided over by a Chairman, constituted by representatives of every region, and

includes all professional organizations (i.e. Farmers and Fishermen Association, National House of Chiefs, Ghana Bar Association, Ghana Institution of Surveyors, etc). In the regions, there are regional land commissions, with the same structure. The current land commission has four divisions. One of their achievements has been the implementation of the 1999 land policy document with guiding principles including: (1) preventing landlessness; (2) community participation (which is mandatory) and recording; (3) value-for-money; (4) thresholds for due diligence; (5) various land uses; and (6) land speculation.

The Administrator of Stool Lands reminded the assembly about the dual ownership system of lands in Ghana: the customary lands and the public lands. Customary lands comprise 80% of the land holdings in Ghana, the remaining 20% belongs to the state and is managed by the Lands Commission. The 1992 Constitution has vested customary lands rights in customary landowners except in the domain of planning. Local governments are responsible for issuing permits for land development but due to at times weak capacities, there are many unauthorized developments.

Due to the problems caused by the landowners who granted land without regard to planning, poor record-keeping, and other land management issues, the Ministry of Lands and Natural Resources under the Land Administration Project I and II designed various interventions to address the problems. One of the key interventions is the establishment of the Customary Land Secretariats (CLS), supported by the State and development partners. These CLS are unique to customary areas (stool, clan or family land).

The landowners are entirely responsible for the administration and management of the CLS. CLS has the following structure: a land management board made up of all stakeholders within a land area and advisers who form the land management committee. The day-to-day administrators work with the land management committees and are charged with the recording of land transactions and assisting in revenue collection from stool lands (which is then returned to landowners). To date, there are 87 such structures nationwide. Their initial challenges were covering administrative costs. The scope of CLS has evolved to managing land, collecting fees, and solving challenges as they appear, all at the same time. Some progress has been made on these fronts. The endowment of CLS depends on the location, and type (stool or non-stool land). CLS in urban areas where land has higher values have more financial resources.

During the discussion, representatives from Uganda asked if there was any regulation indicating the value of land when assessing it for use by investors. They also wanted to know the value associated with securing community land. Ghana responded, saying that land values determination is market driven. The valuation professionals determine market value basis for all valuations. The market comparative valuation method is usually employed in land value determination, but in built up urban situations, the residual valuation method may be used. Community lands are valued via a market comparative method.

#### *Liberia – Liberian Land Authority leads key policy and legislative reforms*

The Liberian Land Commission was established in 2009 as a transitional institution with no adjudicatory power and no implementation power. It was established by the government to make reforms or policy proposals on the land sector in Liberia from three perspectives: Reforming existing Land Law, making proposals, and looking at institutional arrangements on

land in Liberia. A key achievement in securing land rights has been the Land Right Policy developed against the background of Liberians not having access and security on land. For now, four categories of land ownership exist in Liberia with customary lands placed under public land. The policy has been validated and the country is presently developing a legal framework for its enforcement. The new body is called the Liberia Land Authority and has been in place for just two months. It is charged with consolidating and implementing all land-related functions in the country.

Liberia was keen on understanding the strategies others have used when changing land responsibility from one ministry to another. In response, Ghana shared their experience – prior to December 2008, they had weak land administration and fragmented structures. There were overlaps and duplications of functions. There were also 4 land sector agencies involved in various aspects of land administration. These were the Land Valuation Board, the Survey Department, the Lands Commission, and the Land Title Registry. These land sector challenges were captured in the Ghana’s first land policy which was launched in June of 1999. The government sought funding from development partners to implement the land administration project. The project was used as a vehicle to deliver on the guiding principles of the land policy. One of the outcomes was the creation of a “new” Lands Commission which was a merger of the four previously mentioned agencies. They are now divisions of the Commission. Each division was headed by a director who reported to an Executive Secretary or a CEO. Due to this change, Ghana had a unified Lands Commission with a single workflow of land administration in Ghana.

Tanzania also shared their experience with Liberia, in response to their question. A land policy was passed in 2010 recognizing three land systems: private, community, and public. The creation of the Land Commission in 2010 put an end to any other structure charged with public land management. The survey and registration of land are now in the hands of the Ministry of Lands, while management and administration are in the hands of the land commissions. The Community Land Act was passed in September 2016 but the structures are not yet in place. In short, outside of what the Ministry of Lands manages, every other land issue is handled by the Land Commission.

Ghana asked Liberia how they created new land categories. They wanted to know if they were transferred from the state to the community. Liberia responded that upon passage of the new law, communities would be given authority over the management of the lands over which they will exercise influence, concessions, and responsibilities. This means that the responsibilities over the land would move from the state to the community.

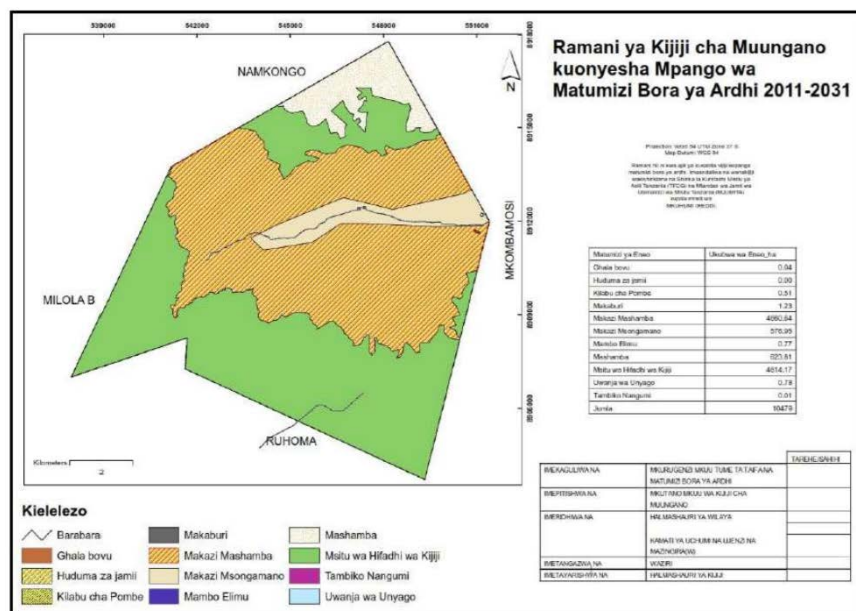
#### *Tanzania – Securing tenure through the Village Land Act*

The passing of the Village Land Act in 1999 divided land into three categories: reserved land (national parks), village land, and general land. The village land is distributed to 12,000 villages and managed by elected or appointed village leaders for a five-year mandate, renewable once.

At the national level, the office of the National Commissioner for Lands is charged with land management. Since the 1999 Act, for a village to administer or manage its land, the district Land Office must demarcate its boundaries and issue a Certificate of Rights of Occupancy. To date, the village boundary surveys and Village Land Certification (key steps in the process to administer



land) have been completed. However, the final two steps of Village Land Use Planning and the awarding of CCRO have been completed at very low rates, 10% and 4%, respectively. Only 400,000 customary titles (out of an estimated 10 million) have been issued. These initiatives are challenged by lack of resources and a small number of successfully completed pilot projects. The image below shows a land use program for a village between 2011-2031, a process that will be completed for all villages seeking a CCRO.



## Reflecting on challenges

In his opening remarks, Alain Diouf summarized some of the key challenges concerning effective recognition of community land rights on the continent. He found that the lack of government enforcement of laws is the primary obstacle to recognition. There are several other key issues including that agriculturalists find it challenging to rapidly access land documents at a low cost, and it is not clear how to ensure formal and effective recognition and protection of community land rights, nor how different land regimes could be balanced. Lastly, he highlighted the need to find an institutional framework that could improve land management by the state and the communities to avoid speculation and selling of community land.

### *Kenya – National Land Commission mandate challenged by the Ministry*

The National Land Commission was formed in February 2013. Since the inception of the NLC, their work has been stalled by the Kenyan Ministry of Lands. The differences in their two distinct mandates have been clarified by a Supreme Court decision, however, the NLC is blocked from fully realizing their activities. Furthermore, the NLC's activities have been limited by lack of resources, as the Ministry of Land, who is responsible for the NLC's budget, has been slow to dispense crucial funds. Unfortunately, facing resistance from the Ministry of Land, the NLC does not have the capacity to undertake projects. The delegation from Kenya anticipates that this will most likely cause conflict in the near future, adding to Kenya's number of high profile court cases deliberating over historical land injustices.



### *Malawi – New law recognizing customary land not yet in force*

Starting in 1996 in Malawi, efforts were underway to create and implement new laws around community land. In 2016, ten related laws were passed and approved by the president, one of which was the Customary Land Law. This law addresses land ownership and land rights for women and vulnerable groups in addition to implementing mechanisms for land registration. The law is contentious and has yet to be implemented for several reasons. There is lack of necessary infrastructure on the ground, and decentralization also poses a challenge. An implementation plan for piloting some of the laws has been prepared and is going through validation.

### *Uganda – Delays to issue certificates of customary land ownership*

The 1998 Land Act established a process for providing certificates of customary ownership, however no further actions have been taken in order to implement this policy. Land registration in the country is voluntary, so people are not motivated to register their land. The lack of sensitization of the people towards new laws, the varied awareness campaigns led by CSOs, the non-uniformity of customs and traditions, the entrenched mindsets on women's rights, political issues, and the low capacity building on customary land issues all present hurdles to affecting land ownership in Uganda.

### *Zimbabwe – Significant gap between policy and legislation*

There are five tenure systems in Zimbabwe. The first tenure system governs land in rural areas, specifically communal land, where power is vested in the President who delegates to the Chiefs. In this system, land is allocated in perpetuity. The second system governs lands resettled after independence. Permits for this type of land are also issued in perpetuity, and 20% of this land is attributed to women, war veterans, and youth. The third system governs small commercial farms, which include lands that have been occupied from 2000 to date. Their leasehold is for 99 years and 25 years for agriculture by investors and government. The fourth system governs land licensed to people, forestry, and safaris and the fifth system governs special grants to institutions such as churches or the police, and the permits are granted for 99 years in both systems.

Zimbabwe's main challenges include the inconsistency between drafting good policy and poor legislation, staff capacity, conflicts in resolving boundary disputes, withdrawal of offer letters, and shared infrastructure (farm houses, irrigation). Furthermore, the country lacks a dispute resolution mechanism.

### *Nigeria – State governors slow progress on developing a national land policy*

The 1978 Land Law allocated decision-making power to the federated states; to obtain land under this system, an individual or community must register with the state Governor or the Local Government Chairman. At present, the land policy is still being formulated. A committee has been set up to ensure that every land claim in Nigeria is registered. Unfortunately, progress has been slow as the committee requires policy approval from the State Land Commission in order to move forward. As the land policy is stalled, the committee is planning to carry out a pilot study on the application of Land Policies. Under this system, plots of land granted by chiefs in local communities are not seen as valid land transfers by the state, and there is significant work to be accomplished in order that land ownership is properly recorded and catalogued.

## Legal and other strategies for recording community land rights

In discussing strategies to record community land rights throughout the workshop, participants found that participatory mapping was one of the best ways to document communities' land rights and boundaries. Two examples were shared, including Burundi, where a community jingle about land rights was broadcast and Cameroon, where a common methodology to map communities' tenure rights was recently adopted.

### *Côte d'Ivoire – Land certificates make progress to recognize customary lands*

Different ministries manage land in Côte d'Ivoire but the Ministry of Agriculture and Rural Development specifically manages rural land. Since the 1998 reforms, the government has transferred its land ownership back to communities, thereby recognizing customary land. Land Certificates are issued as proof of community ownership but Côte d'Ivoire is still working to develop an official registry to secure full rights.

### *Mali – Land titles delivered at local level under new legislation*

The original legislation guiding land management in Mali was the "Code Domaniale et Foncier" (*Land and Estate Law*) which recognized customary land rights. After 1991, the need to review the rural land management process was widely acknowledged. This resulted in the Loi d'Orientation Agricole (*Agricultural Orientation Law*) being passed in 2006 and the establishment of a follow-up committee known as the "Conseil Supérieur de l'Agriculture," (*Agriculture High Council*) presided over by the President of the Republic and charged with the drafting of complementary laws in collaboration with ministerial departments, farmers' organizations, chambers of agriculture, and the civil society. Under the Agricultural Orientation Law, the national agricultural policy and the Agricultural Land Law were created, and both documents have helped to secure land rights in Mali. In this way, at the local level, land titles are delivered to landowners by councils at low cost, and they boast almost the same value as land certificates. These land titles can be used as collateral at banks and they can also be passed on to heirs.

### *Madagascar – Local traditions challenge efforts of the Land Commission*

Traditional practices are at odds with legal measures to secure community land rights. Implementing laws to protect and promote community's land rights would turn traditional ways of life and culture upside-down, and most local communities do not accept outside involvement in the management of their property. In addition, many traditions and cultural practices contradict statutory laws and regulations. However, the security of customary land tenure practices in Madagascar will continue to deteriorate without specific laws and protections on the books. To address this, Madagascar seeks to receive recognition from members of traditional communities and their neighboring communities to demarcate different communities' territorial boundaries using community arbitration methods. The Land Commission's strategy necessitates a land inventory and the delineation of communities which will be reported in the Local Land Use Plan.

### *Niger – Agricultural land encroaching on pastoral land managed through land use*

In Niger, customary rights and statutory rights co-exist. In 1961, the National Assembly passed a law confirming the legality of customary land rights. Niger is wealthy in total land surface, however, space for agricultural land is limited. Because of population growth, agricultural land

has expanded and has been encroaching on pastoral land. Due to this, conflicts have erupted and the government has been required to oversee land use and land management. The government is now mapping land indicating different regions and their uses. Experience has shown that there is a real and present need to sketch out residential land, pastoral land, and agricultural land.

#### *Zambia – National titling program proposed*

Two tenure systems exist in Zambia: the leasehold and the customary tenure systems; both are recognized by the Constitution. The leasehold system is clear and straightforward. In 2014, the government proposed a national titling program to enhance secure tenure and revenue collection. Local land documenting processes are used to document boundaries, household parcels, and boundaries for community resources, in collaboration with development partners.

## FIELD VISITS TO GBawe KWATEI AND KWABENYA FAMILY CUSTOMARY LAND AREAS

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To provide participants with a clearer picture of land management in Ghana, field visits were organized to the Gbawe Kwatei and Kwabenya Family customary land areas in Accra. Participants were sorted into two groups. Participants from the same country were encouraged to join different groups to gain different perspectives and later exchange notes. Background information was provided on the two land areas, which helped participants select which location was more relevant for them.

### *Discussions at the customary land areas*

Both families gave introductory remarks about the history of their respective lands including acquisition, management, land use, challenges and prospects. In a question and answer session, the Kwabenya community responded to questions about land acquisition by women and foreigners, the cost of land and annual land rents, land ownership in Ghana and the resolution mechanisms for land related conflicts. In response, the community informed attendees about a number of positive measures that exist in Ghana to ensure equal access to land rights. In Ghana, every woman can acquire land, independent of her marital status, if she is able to meet the allocation requirements. Secondly, the process for land acquisition is the same for everyone. In the case of foreigners, the maximum lease they could receive is for a period of 50 years, and the value of the land is dependent upon its location. Annual ground rents are collected by the OASL and are shared according to the constitutional formula of 10% to OASL to cover administrative costs, 49.5% to the District Assembly and 40.5% to the land owners. In Ghana, the state owns 20% of the land, the remaining 80% is owned by the customary sector. Customary lands are held in a trust by chiefs, clan and family heads for their subjects. Skin lands are found in the 3 northern regions of Ghana and have the same characteristics as stool lands.

At Gbawe, questions were also raised about conflict resolution, the role of women and youth in land management, land acquisition by community members, the community's relationship with the administration, and lease transfers. In response, the community said that for individual land conflicts, they are reported to the palace and handled by elders following which the two parties are called for reconciliation. Complex conflicts are referred to court. Women (Queen mothers) are members of the land management committees and youth are consulted by elders in some cases. Any land use activity requires the approval of the CLS, and they maintain a cordial relationship with the government.

The community stated that one improvement the government could implement would be a method for registering community lands, and to streamline the lease process. Additionally, this would increase the community's involvement in land management and reduce the more top-down approach of the government. Registration information held by the CLS is well-maintained, however more information about the identification of leaseholders could be kept on file. The attendees appreciated viewing examples of local land governance systems and understanding how the government and the communities collaborate. For a more in-depth history of each of the Gbawe Kwatei and Kwabenya community lands, refer to Annex 4.

## NEXT STEPS

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### Concluding recommendations to secure community lands

Participants worked together in small groups to develop recommendations to secure community lands at national, sub-regional and regional levels. These were then shared in plenary and synthesized into a set of final [concluding recommendations](#).

- The final list of recommendations includes five action points. Workshop participants pledged to: continue efforts to identify, recognize, and protect communities' land rights, especially women, youth, and vulnerable people;
- Agreed to relocate land management to the level closest to communities;
- Enhance the capacities of various stakeholders in land management;
- Institutionalize design workshops and consultative frameworks; and
- Adopt and enhance Alternative Dispute Resolutions mechanisms.

### Return-to-work plans

Participants broke up into three groups of English speaking ECOWAS countries, East Africa, and French speaking African countries to reflect on what they think needs to be integrated in their daily work as they return from the conference. In addition, each country submitted a return-to work plan for their respective countries.

## CLOSING

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At the close of the three days' workshop, participants committed themselves to advance policies, legal and regulatory reforms and to ensure their effective implementation to recognize community land rights. These recommendations made by participants were then synthesized and consolidated into the workshop's concluding recommendations. Those consolidated recommendations were read back to participants and they approved them (see full workshop recommendations in Annex 3).

**Arvind Khare, Senior Advisor to RRI**, shared reflections from a global perspective on the implementation gap between the policies that have been passed to secure community lands, and the implementation of those policies on the ground, in communities. He stated that there is a real and tangible opportunity for land commissions to close the gap, with one caveat: they must work with local communities. In his remarks, he provided three weaknesses that were preventing real, localized change. First, the belief that all reforms must be continental. What is most important, he said, is demonstrating at some scale the achievements local communities can obtain once their rights are recognized. This is much more powerful than a continental policy that is never implemented. Second, the belief that land reforms are in conflict with development. This is not the case. The third weakness is conflicting land policies and land rights. Without a clear, unambiguous commitment to community land rights we will not be able to undo the legacy of inequality. Mr. Khare shared a story from Stora Enso, a forestry company, in which the company claimed that just because you have a piece of paper from the government does not mean that you can start to operate. It is imperative that companies have the consent of the local communities, otherwise they will run into costly conflict. TMP Systems' research shows that the costs of these conflicts can be up to 29x the original investment. It is in investors' best interest to work with local communities, otherwise their investments will face risk. Land commissions and other agencies require a robust evidence to focus on land rights and to disseminate success stories to show the impact.

**Closing remarks** came from participants, the Executive Secretary of the Ghana Land Commission, Dr. Wilfred K. Anim-Odame, RRI Africa Program Deputy Director, Lien De Brouckere, and LPI coordinator, Dr. Joan Kagwanja. They all acknowledged and appreciated the steps taken to bring together African Land Commissions to exchange on their practices, challenges and to look for the way forward to improving land reform processes in Africa, as land remains the bedrock for development. They agreed that the challenge of implementation of existing land legislation remains a major limitation to the land commissions in achieving their mission, but they believe that a closer collaboration with their various governments and governmental institutions will be a helpful step in resolving this challenge.

In his address during the official closing of the workshop, the Technical Director at the Ministry of Lands and Natural Resources of Ghana, Alhaji Sulemana Mahama, appreciated the successful convening of the workshop in Ghana. He pointed out the challenge linked to the lengthy process of land reforms (in Ghana it started in 2003), but recognized its importance in ensuring everyone's land rights. He added the fact that recognizing customary land rights is of immense importance to ensuring communities' rights and a guarantee to investment and development. The issue of scarce funding of the process and the low interest of development partners for sustained support as well as CSOs in the process were also highlighted. Concluding he thanked

the organizers for the initiative and the National Land Commissions for their efforts in their various countries and encouraged all to press on for a better development of Africa.



## ANNEXES

### Annex 1: List of Participants

Country	Name	Affiliation	Position
Burkina Faso	Blaise Yoda	Direction Général du Foncier, de la Formation et de l'Organisation du monde Rural au ministère de l'Agriculture	Directeur de la législation, de la Règlementation et de la Sécurisation Foncière
	André Anatole Yameogo	Ministry of Agriculture	Ingénieur Agronome ; Directeur Général du Foncier, de la Formation et de l'Organisation du Monde Rural (DGFOMR)
Ivory Coast	Xavier Edouard N'Cho	Ministère de l'Agriculture et du Développement Rural	Sous-directeur chargé du suivi du cadastre rural
Ghana	Wilfred K. Anim-Odame	Lands Commission	Executive Secretary
	Yaa Agyeman Boadi	Lands Commission	Director – LRD
	Kwabena Asiedu Gyan	Lands Commission	Ag. Director – LVD
	Jones Ofori-Boadu	Lands Commission	Deputy Executive Secretary – Cooperate Services
	Wilson K. Opoku	Lands Commission	Director – SMD
	Kofi Owusu-Poku	Lands Commission	Director - PVLMD
	Christiana Bobobee	Office of the Administrator of Stool Lands	Administrator of Stool Lands
	Alhaji Sulemana Mahama	Ministry of Lands and Natural Resources	Technical Director
Kenya	Tom Aziz Chavangi	National Lands Commission	Secretary/CEO
	Fibian Kavulani Lukalo	National Lands Commission	Director of Research
	Prof. Muhammad	National Lands Commission	Chairperson

	Swazuri		
Liberia	Stanley N. Toe	Liberia Land Authority	Executive Director
	Ellen Pratt	Liberia Land Authority	Commissioner
Madagascar	Jean Ousmane Camara	Cellule de Coordination de la Réforme Foncière, Ministère auprès de la Présidence en charge des Projets présidentiels, de l'Aménagement du Territoire et de l'Équipement	National Coordinator
	Rasetaharimalala Omega Marie Denise	Direction Générale de Services Fonciers	Directeur des Domaines et de la Propriété Foncière
Malawi	Devie Benton Chilonga	Ministry of Lands, Housing and Urban Development	Senior Land Officer
Mali	Mme. Coulibaly Téné Kadidia Sangare	Secrétariat permanent de la loi d'orientation agricole	
Niger	Alhou Abey Bazou	Code Rural du Niger	Permanent Secretary
	Zouéra Idrissa Also	Code Rural du Niger	Agro-environmentaliste
Nigeria	Rev. O. O. Onabanjo	Federal Ministry of Power, Works and Housing	Director of Lands
Tanzania	Adam P. Nyaruhuma	Land Investment Unit, Ministry of Lands, Housing and Human Settlements Development	Head
	Evelyne Mugasha	Ministry of Land, Housing and Human Settlement	Acting Chief Government Valuer

		Developments (Valuation Unit)	
Uganda	Nabakwa Eunice	Ministry of Lands, Housing and Urban Development	Senior Land Officer
	Olekwa Abdunasser	Ministry of Lands, Housing and Urban Development	Senior Land Officer
Zambia	Veronica Mwiche	Ministry of Lands, Natural Resources and Environmental Protection	Director of Planning
Zimbabwe	Tendai Ruth Walker Bare	Zimbabwe Land Commission	Chairperson
Facilitators and Resource Persons	Minister David Abouem A Tchoyi	Lead Facilitator	
	Alain Diouf	RRI	RRI Fellow
	Samuel Mabikke	UN-Habitat GLTN	Program Officer – Country Operations for Anglophone Africa
	Samuel Nguiffo	Center for Environment and Development and the Africa Community Rights Network	Secretary General
RRI	Dr. Solange Bandiaky-Badji	Rights and Resources	Director, Africa Program and Gender Justice
	Claire Biason- Lohier		Director, Coalition and Strategic Networks

	Lien De Brouckere	Initiative (RRI)	Deputy Director, Africa Region
	Arvind Khare		Senior Advisor
	Albert Katako		Civic Response (RRI Partner)
	Mary Nyuyinwi		RRI Consultant, Rapporteur
LPI	Keymisrak Berhanu	United Nations Economic Commission for Africa	Research Assistant
	Janet Edeme	African Union Commission	Acting Director, Department of Rural Economy and Agriculture
	Hirut Girma	LPI	Senior Attorney, Land Tenure & Gender Specialist
	Joan Kagwanja	LPI	Chief, Land Policy Initiative
	Sandra Nyaira	UNECA	Public Information Officer
	Wordsworth Odame Larbi	LPI	Land Tenure Officer attached to LPI and the EU Transversal Project Coordinator FAO Sub Regional Office for Eastern Africa
	Mamoudou Sebego	LPI	Economist, ECA sub-regional office for West Africa

## Annex 2: Keynote Address by Hon. Deputy Minister of Lands and Natural Resources of Ghana

- Distinguished Representatives of the Land Policy Initiative and United Nations Economic Commission for Africa,
- Representative of RRI,
- Representatives of the African Lands Commissions,
- Invited Guests,
- Members of the Press,
- Ladies and Gentlemen,

Good morning.

Permit me to also warmly welcome you to Ghana for the Conference of African Lands Commissions and the African Regional Gender Workshop which follows immediately after the Conference.

In welcoming you, I recognize the critical role you are playing in your various institutions and countries to ensure the efficient, equitable and transparent management of land and its resources within the African continent. We recognize the critical and fundamental role of land in our developing economies and our heavy dependency on it for our livelihoods and socio-economic development.

My attention has been drawn to a recent World Bank publication on securing Land for Africa, authored by the eminent land specialist, Frank Bymugisha that shows the serious dichotomy between the availability of vast land resources and yet extreme levels of poverty. The report discloses that Africa has the highest poverty rate; 47.5% of the population lives below \$1.25 (USD) per day. While we have most land suitable for agriculture our productivity gap turns to be the highest; we see land ownership inequalities and landlessness growing in several African countries; women as majority primary producers are constrained by customary laws; arable lands, forest and wet lands are being degraded at an alarming rate while there is a high rise in urban slums that undermine urban developments and poverty reduction efforts.

This alarming situation must have been recognized earlier on leading to the African Heads of State and Governments of the Africa Union making a firm Declaration on Land Issues and Challenges in Africa to enjoin all countries to take steps to recognize the centrality of land to sustainable socio-economic growth, development and security of the social, economic and cultural livelihoods of our people. At the same time, it is recognized that land issues and systems are very diverse and complex and therefore there is need for comprehensive policies to guide the access, utilization and management of land resources within our various countries. It is heart-warming that this declaration has been moved forward by the forward-looking activities of institutions such as United Nations Economic Commission for Africa (UNECA) and the African Development Bank which launched the Land Policy Initiative to support and carry forward the required measures necessary to ensure the fair and equitable distribution of land resources to the people of Africa in their different countries.

A key tool to ensure all counties move in the same direction to achieve the all- important declaration on land is to foster close collaboration and constant contact with one another to facilitate mutual understanding and learning lessons from each other. It is in this light that my predecessor in office participated in a workshop at this same venue for Traditional Leaders in land governance in 2016.

Locally in Ghana, a land policy was initiated and launched in 1999 with the key aims of facilitating access to land, ensuring security of tenure and enhancing institutional capacity for land management among others. This policy document has been used as a tool to seek funding for the implementation of the Land Administration Project (LAP) which started in 2003. The Land Administration Project is a fifteen to twenty-five-year land administration reform program. Phase one of the project started in 2003 and ended in 2011. The second phase commenced in 2011 and due to end in February 2018.

Some of the key areas covered have been:

1. Reform of the institutional settings for land administration in the country. Four separate land institutions were merged into One Corporate Institution to ensure efficiency and effectiveness through the passage of the Lands Commission Act, 2008 (Act 767).
2. The re-organization of the Town and Country Planning Department (TCPD) through the Land Use and Spatial Planning Act, 2016 (Act 925) to strengthen land use planning in the National, Regional and Local levels. Currently, a National Spatial Framework for Ghana has been developed and two (2) Regional Frameworks for the most densely populated regions (Accra and Kumasi) are under preparation.
3. Land dispute resolution mechanisms has been improved through a reform of the rules of court and the establishment of twelve (12) lands courts in Accra and three (3) regional lands court. The duration of the Land dispute settlement process has now been reduced from an average of 3-7 years to 10 months generally.
4. To enhance customary land administration, support has been provided to the customary authorities by establishing 87 Customary Land Secretariats (CLSs) to improve records keeping and provide certainty in customary land transactions.
5. To speed up land documentation procedures and the issuance of land titles and registered deeds, five (5) Client Service Access Units (CSAUs) have been established and equipped with re-engineered business processes to minimize human contact in land documentation. This has improved the turn-around time from an average of 7months to 3months. It is intended that by December 2017 this should be reduced to 30 days.
6. In order to enhance total digital coverage in land administration in the country, a Ghana Enterprise Land Information System (GELIS) is being designed and developed. It will be piloted in the Greater Accra in 4 districts by October 2017.
7. A gender strategy has been developed and currently being deployed in all aspects of land administration.
8. A comprehensive Land Bill has also been formulated and currently submitted to Cabinet for policy approval and passage before December 2017. This revises and consolidates the numerous laws on land in the country into one consolidated document.

These efforts at reform in land administration in Ghana strongly recognizes the fundamental role of Customary Land. Estimated that close to 80% of land ownership is held in customary tenure, any reform measure that does not take this fundamental fact into account is doomed to failure. This thus has influenced greatly all the processes of implementing the Ghana Land Administration Project through constant consultation, dialogue, trade-offs and collaboration. Many valuable lessons have been learned in this process and I am sure the Ghana Lands Commission and the Office of Administrator of Stool Lands will share their experiences at the appropriate time.

The efforts being made in Ghana are by no means going to solve entirely all the challenges in land management and resource allocation within a very short period. Our experiences confirm the sheer diversity and complexity of dealing with land even within a relatively small country like Ghana. What this calls for is a constant effort at consultation, collaboration and commitment to agreements reached. In

doing so, one must also recognize the various international conventions, policy guidelines, principles and agreements including the Sustainable Development Goals, Food and Agriculture Organization's (FAO) Voluntary Guidelines on the responsible governance of Tenure of Land, Fisheries and Forest - (VGTF) and the Land Governance Assessment Framework (LGAF).

It is on this note that I will urge you to dispassionately engage in the discussions on land issues and continue the debate towards achieving a fair, equitable and sustainable land governance system that will be of benefit to the people of Africa in particular and the world as a whole.

I now have the singular honor to formally open the African Lands Commissions Conference on Security of Community Land Rights and also the African Regional Gender Workshop which commences immediately after this conference.

I thank you for this honor.



### Annex 3: Concluding Recommendations

Regional Workshop with African Land Commissions on Securing Community Land Rights |  
July 19, 2017 - Accra, Ghana

We, participants at the Regional Workshop with African Land Commissions on Securing Community Land Rights, co-organized by Rights and Resources Initiative (RRI), the African Union Land Policy Initiative (LPI), and co-hosted by the Ministry of Lands and Natural Resources and Civic Response, representing land commissions and similar agencies leading land reforms from countries including Burkina Faso, Côte d'Ivoire, Ghana, Kenya, Liberia, Madagascar, Malawi, Mali, Niger, Nigeria, Tanzania, Uganda, Zambia and Zimbabwe,

Noting the diversity of our contexts, policies, legal frameworks and local communities, reaffirming our commitment to secure community lands by implementing AU decisions relating to land governance and management including: the AU Declaration on Land Issues and Challenges in Africa (2009), which endorses the use of the AU Framework and Guidelines on Land Policy in Africa; the resolution of the AU Specialized Technical Committee (STC) on Agriculture, Rural Development, Water and Environment, which recommends Member States allocate at least thirty percent of land in women's names; and the STC decision endorsing the use of the Guiding Principles on Large Scale Land Based Investments to, among other things, protect the land rights of communities.

Further reaffirming commitments made by AU Member States in the auspices of continental platforms in recognition of human, economic, social and cultural rights of local communities, women and Indigenous Peoples, including: the AU Agenda 2063, the African Charter on Human and Peoples' Rights, the Maputo Protocol to the African Charter on the Rights of Women; and the 2004 Declaration on Gender Equality in Africa, as well as instruments at the sub-regional level, such as of ECOWAS.

Recognizing that these African instruments work in concert with obligations and commitments flowing from instruments and initiatives at the international level, such as the Voluntary Guidelines on the Good Governance of Tenure, the UN Declaration on the Rights of Indigenous Peoples, the International Bill of Human Rights, the Convention on the Elimination of Discrimination against Women, Agenda 2030 of the Sustainable Development Goals, and the UN Framework Convention on Climate Change.

Accordingly, we commit to advance policy, legal and regulatory reforms and ensure their effective implementation in order to recognize community land rights.

In this regard, we agree to:

1) **Continue efforts to identify, recognize and protect communities' land rights**, including those of the most vulnerable people (youths, women, nomads, the disabled and other groups with particular ties to lands:

- Participants recall that lands pertaining to communities account for the largest area of lands on the continent. Despite the near generalization of the recognition of customary land rights by national land Commissions, there remains an imbalance between such land rights recognized as

the communities' and those held by the State or individuals through a land title. Though procedures might differ, action must be taken to balance these rights (for expropriation, availability of loans, compulsory land certificate, etc.);

- Participants encourage States to adopt positively discriminatory approach in favour of women, youths and vulnerable people, who represent the vast majority of the continent's population, namely by instituting priority quotas for these groups when planning.

**2) Relocate land management at the level closest to communities**, by establishing institutional frameworks giving greater powers to Communities, and by instituting procedures to recognize customary rights, moving from devolved management to a relocated management (at the level of land holders as it is the case in Ghana or, to a lesser extent, Côte d'Ivoire) for community lands.

**3) Enhance the capacities of various stakeholders in land management**

Land tenure administrations locally are still understaffed and underequipped. Hence, the need to set up continuous training systems tailored to the specific needs of recipients, to clarify their mandate when necessary, so that they might be able to integrate the land rights of the most vulnerable as they manage. All relevant administrations should also join these capacity-building activities, with special emphasis on training local government staff and community-based customary land management institutions.

**4) Institutionalize design workshops and consultative frameworks** which, while recognizing that experiences in land management, and specifically in customary land tenure, are very rich and diverse from one country another, point out that such experiences are neither conceptualized nor mainstreamed. Design workshops should be set up at different stages to better characterize concepts and procedures towards mainstreaming.

**5) Adopt and enhance Alternative Dispute Resolutions mechanisms**, amidst difficult community access to State justice, namely due to the remoteness of courts from rural areas, the cost induced by procedures, the ignorance of State law by the communities, and the high number of pending and stalled cases in courts. Hence, it is vital to resort to alternatives to resolving conflicts of proximity that are less expensive, faster and tailored to the local practice of conflict resolution. These local conflict management institutions should be enhanced and better supervised by the State.

## Annex 4: Field Visit Reports

As part of the Regional Workshop with African Lands Commissions on securing community land rights, a field trip was organized to the Nii Odai Ntow Family Customary Land Secretariat and to the Gbawe Kwatei Family land to afford participants the opportunity to interact with the landowners to enhance their understanding of how community / family lands are managed and the kind of land tenure in place.

### **A) Background: The Nii Odai Ntow family – Kwabenya**

Nii Odai Ntow, a hunter founded the Odai Ntow family land through conquest. He occupied an area of 12,690 acres. He had 7 children, 3 of them passed on. The descendants of the remaining 4 are the people gathered here today and the people managing the family land. Lands given out have to be signed by all 4 family heads before it is a valid document.

Land is given out to individuals, estate developers and the government. Land is not for sale, it is leased out for 99 years in the first instance and renewed for another 45 years. On expiry of the lease, the land reverts back to the family. Thus, ownership of the land remains with the family in perpetuity.

There have been about 5 judgments on the land since 1904 which all were as a result of encroachment of the land and all the judgement were in favour of the Odai Ntow family. The 1904 judgement ordered the Odai Ntow family to have the land surveyed, with a site plan etc. This judgment gave legal rights to the Odai Ntow family over the Odai Ntow family land. In June 2013, the family established the Odai Ntow family secretariat which was operational until August 2015 when the Office of the Administrator of Stool Lands (OASL) came in to support the functioning of the secretariat with the coordination of the tenants on the land.

#### *Structure of the Customary Land Secretariat*

The CLS has an Administrative, a Finance and security, a Legal and documentation and a Site department. The administrative department is headed by a director who coordinates all the activities of the CLS. The director reports to the land management committee weekly. The land management committee is made up of all the heads of departments. The finance and security department is in charge of monetary issues. It has a cashier who is in charge of all revenues and issues receipts for all revenues received. A marketing officer deals with pricing of lands which varies depending on whether the land is located in a prime area or not. Monies collected are paid into the bank on a daily basis.

On a weekly basis, the head of the finance and security reports to the director of administration. Security issues of concern are encroachments. Encroachers are reported to the police who prosecute them in court. It is the policy of the Nii Odai Ntow family that when a court rules in favor of the Nii Odai Ntow family, the family would engage the encroachers if they have already started any development project on the land to regularize the development for a fee to enable

the developer to continue with his work as a tenant to the family. Alternative dispute resolutions (ADR) are used occasionally for out-of-court-settlements. The documentation and legal department deals with land documentations such as indenture preparation, site plan development etc. Before a surveyor can go to site for the development any site plan, he does that based on a formal instruction received from the Director of Administration through a form. In reporting back, the surveyor would fill the form. Indentures have unique numbers generated from a land log book. All indentures are recorded into the log book. Guidelines are provided to potential developers who fill a form and return them with 2 passport size pictures.

In a question and answer session, the community clarified questions about land acquisition by women and foreigners, the cost of land and annual land rents, land ownership in Ghana and land-related conflicts with their resolution mechanism. To these points, participants were informed that in Ghana every woman can acquire land whether she is single or married, depending on whether she is able to meet certain requirements. The process for land acquisition is the same for everybody. In the case of foreigners, they are allowed a lease for a period of 50 years. The value of land depends on its location, and annual ground rents are collected by the OASL and shared according to a constitutional formula: 10% to the OASL to cover administrative costs, 49.5% to the District Assembly and 40.5% to the Land owners (the four families). In Ghana, the state owns 20% of the land and the remaining 80% is owned by the community and referred to as customary lands (Stool or community lands held in trust by chiefs for their subjects, Skin lands found in the 3 northern regions and Family lands) as in the case of the Nii odai Ntow family.

## **B) Background: Gbawe Kwatei Family**

The Gbawe Kwatei Family is one of the finest families in the Greater Accra Region with proper customary land management systems. Their enviable record in customary land administration and management lead the government of Ghana to recognizing and supporting the family to establish its own CLS through the Ghana Land Administration project under the Ministry of Lands and Natural Resources in 2004.

The Gbawe Kwatei Family is the Legitimate and recognized owner of vast track of lands in the North-West part of Accra with a land size acreage of 9836.56 hectares. The family's title to the said track of land was confirmed by seven (7) Supreme Court Judgements, nine (9) Courts of Appeal judgements, and nine (9) High Court Judgements given or acquired at different times in different litigations. The Gbawe Lands house traditional communities such as Old Gbawe, Oblogon, Djaman, Kokroko, Odorkor Bojor, Otojor, Mallam Sakumonaa, Awoshie, Onyaa, Kpabobo and Gonsee. The Gbawe lands has two municipalities (Ghana South and Ghana Central) and a metro (Accra Metropolitan). The serene atmosphere and professional layout which is also 100% litigation free, makes the Gbawe lands the toast of developers in the city of Accra.

Unlike other customary land administration systems, Gbawe land is solely managed by the **Gbawe Kwatei Family** which is headed by a Family head. The great ancestor Kwatei was one of the leaders who migrated to Accra. He first settled to Ayawaso and then moved down south to Accra. He was a hunter

Two brothers (A hunter and Black smith) The Hunter lead the Gbawe family while the Black smith included three families Kwakwa Tall, Kwakwa Short and Kwakwa White

#### *Process of Land Acquisition and Disposal*

The Gbawe land dates back to the 14th century. Saturdays are set aside for handling land issues in the Chieftdom. The chief and elders sit together to allocate land (for residential, commercial, farming, etc.) As a rule, the Land Management Committee does not give more than 2 plots for residential purposes, but more for farming purposes.

In 1995, elders decided to train their children to manage lands, established a committee to manage land affairs. Selected a 7-member land management committee, which manages lands until today. However, the final decision for allocation of lease offer is left to the head of the family with the signatories. The decision was made without the knowledge of central Lands Commission. Gbawe has one official surveyor who surveys, demarcates with town planning to comply with the Town Planning Ordinance, then approves for lease. Land is not sold as a freehold. Its only 99 years leased to the people with an annual lease rent and renewable for 45 years. Foreigners are allocated leasehold of not more than 50 years, though renewable, same for commercial purposes. Normally 4 Elders sign the lease offer. It's mandatory that among the signatories, the Head of family, and Secretary sign the offer as well as 2 family members. The family members can be changed unlike the family head and secretary.

Questions equally related to conflict resolution, the role of women and youth in land management, land acquisition by community members, their relationship with the administration, and lease transfer animated the discussions. As to individual land conflicts, they are reported to the palace and handled by elders whereby, the two parties are called for reconciliation. Complex conflicts are referred to court. Women (Queen mothers) are said to be members of the land management committees and youth are consulted by elders in some cases. It was interesting to note that any government activity requires the approval of the CLS.

## APPENDIX

### COMPARATIVE TABLE ON AFRICAN LAND COMMISSIONS AND NEW LAND POLICIES FOR THE PROTECTION OF COMMUNITY RIGHTS

*Compiled by Alain Diouf, RRI Fellow, based on answers given by participants to a questionnaire distributed before the RRI-LPI Regional Workshop with African Land Commissions on Security Community Land Rights, held in Accra in July 2017.*

*This Appendix contains information from Benin, Burundi, Ethiopia, Rwanda, and Senegal, which was provided in advance of the workshop, although participants from these countries were ultimately unavailable to attend.*

Country	Responsible Institutions	Strategies on Community Land Rights	Legal Innovations	Main Results	Challenges	Prospects
Benin	National Land Agency		White paper on Land Policy  Land Code, adopted in 2013	15,000 rural land certificates, with the possibility for the certificates to develop into property certificates  Land offices decentralized to community level		Establishment of a land register  Research to create a registration process that is less burdensome and more reliable  Mechanism to make customary rights more accessible to vulnerable persons, notably youth and women

<p>Burkina Faso</p>	<p>National Committee for Rural Land Tenure Security (CONA-SFR). The decree that established CONA-SFR dates from 2002 and was renewed in 2008.</p>	<p>Cooperation between players in terms of securing rural land titles with a view to creating synergies.</p> <p>The recognition of customary land rights through an official document called the Rural Land Possession Certificate (APFR).</p> <p>Taking gender into account (the law encourages the State and communities to undertake hydro-agricultural developments for women and young people).</p>	<p>National Policy Paper on security of rural land tenure, 2007.</p> <p>Land Acts of 2009 and 2012.</p> <p>Official recognition of customary land rights (formalized via land possession certificates and loan agreements) and transfer of land management to rural communities.</p>	<p>Rural Land Possession Certificate (APFR).</p> <p>Local land charters resulting from negotiations between local populations and recognized officially by government agencies and local communities.</p>	<p>Clearer boundary definition and proof of customary land ownership.</p> <p>Leveraging the experience of other countries' Land Commissions for their own Land Commission.</p>	<p>Scaling up the introduction of land laws.</p>
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Burundi	<p>Inter-ministerial Steering Committee on Land Reform, 2012</p> <p>Coordination Unit of the National Land Program</p>	More precise demarcation process and modern land management tool	<p>Land Tenure Policy Paper, 2010</p> <p>New Land Code, 2011. End of the presumption of state ownership and recognition of an untitled right of private ownership based on custom</p>	<p>Roll-out of Community Land Registration Services</p> <p>Issuing of land certificates</p>	Precise demarcation and identification of customary land	National coverage of community land registration services
Ethiopia	Rural Land Administration and Use Directorate (RLAUD) in the Ministry of Agriculture and Natural Resources.	<p>The Federal government together with regional states are doing an assessment in Oromiya Regional States (Borena &amp; Guji Zones) and Afar Regional States to address the issue of land use right in pastoral areas. Oromiya Regional States together with the Directorate are planning to do some pilot</p>	<p>Ethiopian Federal Constitution, Article 40, sub-article 5 states: "<i>Ethiopian pastoralists have the right to free land for grazing and cultivation as well as the right not to be displaced from their own lands. The implementation shall be specified by law.</i>"</p> <p>Rural Land Administration and Proclamation/law: 456/2005 includes pastoral land use</p>	<p>The Federal government has given support for two major pastoral States (Afar Regional States and Ethiopia Somali Regional States) to enact their own Pastoral land administration and Use policy and proclamation within the framework of the Federal law.</p>	<p>The major factor that contributes to the insecurity of pastoral land use rights manifests in the form of land alienation, involuntary settlement, resource-based-inter ethnic conflict that disrupt the livelihoods of pastoralists and misconceptions of policy makers on the nature of the pastoralist</p>	<p>Although misconception among policy makers is gradually improving, intensive awareness creation among federal, regional, zonal and woreda officials is required on this subject to enable them to make policies and decisions with evidence-based information.</p>



		land certification based on customary range land units. The Regional agency has drafted a guideline, which will be used for this piloting purpose in the selected areas.	rights, albeit not clearly.		livestock production system and pastoral livelihoods.	
Ghana	Ghana Lands Commission established by the 1992 Constitution. It was created by the Lands Commission Act of 2008 (Act 767).	Recognition of chieftaincies and their jurisdictions on all chieftaincy lands in accordance with laws and customary uses.	Article 267 of the 1992 Constitution of the Republic of Ghana recognizes traditional chieftaincies.  ADMINISTRATION OF LANDS ACT, 1962: Intended to strengthen enactments relating to the administration of chieftaincies and other lands, with amendments.	The Lands Commission, in partnership with the Land Administration Project (LAP) in Ghana, has created secretariats for customary lands throughout the country to localize administration of customary land and record the lands that are registered with	Imprecise demarcation of customary lands, obsolete and contradictory land legislation leading to conflicts	Real estate appraisals based on land registration and the valuation system

				the Lands Commission		
Ivory Coast	Rural Land Directorate (Rural Land Agency, 2016)	<p>1998 Rural Land Act: Allows land certificates to be issued (assignable and transferrable “real rights”) on customary land.</p> <p>Demarcation of village territories as part of the strategy to secure land tenure.</p>	1998 Rural Land Act: Enables the issue of land certificates (assignable and transferrable “real rights”) on customary land.	3,000 land rights certificates issued. Price too high and changes in policy underway.	<p>Establishment of land register.</p> <p>Seeking a more flexible, less expensive, and more reliable registration procedure.</p> <p>Enabling vulnerable individuals, in particular young people and women, to realize their rights.</p> <p>Implementing land use and planning in terms of land use and development to ensure sensible management.</p>	<p>Aim to certify all rural land plots within ten years.</p> <p>Outsourcing of land tenure actions.</p>
Kenya	National Land Commission Kenya	Working with communities –	Community Land Act 2016 (a) Participated	Development of a land	Some of the customary lands	

		<p>mapping their community land (public utilities within the community land).</p> <p>Advocacy-challenging due to multiple agencies involved in this work.</p> <p>Monitoring of community and monitoring rights to land.</p>	<p>in the “Community Land Regulations’ task force led by the MoLPP (2016-17).</p> <p>Organized and met with indigenous communities (included women and youths) in pursuing their land rights; worked in “Community Land Counties; Desk Research, Is Community Land secure in Kenya.</p>	<p>information system for Community land.</p>	<p>being claimed by the Communities are National water Tower heritage sites e.g. Mau Forest. Other government agencies have control over gazette forests and lands e.g. Kenya Forest Services; Water Towers Authority Lack of recognition of women and youths land rights. Compensation (e.g. development project) of community land.</p>	
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Liberia	Liberia Land Authority created in October 2016. Preceded by Liberia Land Commission (2009-2016).	In 2014, the Liberia Land Commission drafted the Land Rights Act, the legal framework for policy implementation. The key proposals of the draft act included: 1) the relationship between existing concessions and customary land ownership, 2) automatic recognition of customary land ownership, 3) the land rights of community members within collective community ownership, and 4) community governance institutions.	In 2013, the Liberia Land Commission developed the National Land Rights Policy, which introduced four categories of land ownership: private land, customary land, government land, and public land.	Inventories of tribal certificates from the end of 2014 to the beginning of 2015 in four of the 15 counties of Liberia	Ensure that the legislature promulgates the Land Rights Act, which was submitted by the President in 2014.  Field test the processes that communities must go through to be legally recognized.	Continue inventory of tribal certificates in five counties is part of the future project of the World Bank.  Capitalizing on the experiences of others.
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Madagascar	National Land Program, the Land Reform Coordination Unit as part of the Land Ministry with a Joint Orientation and Monitoring Committee and the Land Project Office.	<p>Removal of the presumption of ownership.</p> <p>Presumption of private ownership that the villages are now responsible for formalizing through a recognition process.</p> <p>Establishment of the community of “social” land management agreements with women at a local level.</p>	<p>Land Tenure Policy Paper no. 1, 2005</p> <p>Land Status Act, 2005</p> <p>2006 Law that replaces the presumption of ownership applied to all untitled land with a presumption of private rights managed by the villages.</p> <p>Land Tenure Policy Paper no. 2, 2016</p>	<p>Community Land Tenure Offices set up in 500 villages (out of a total of 1,500).</p> <p>Implementation of Local Land Occupation Plans (LLOP).</p> <p>150,000 land certificates issued (assignable and transferrable “real rights”)</p> <p>Cost of a certificate is \$14, and land title is \$600.</p>	<p>Streamlining of procedures and costs by taking into account collective, customary, and secondary rights</p> <p>Studying the development of areas in specific statutes to better consider occupiers’ rights</p> <p>Greater decentralization (financial management of the village and Land Tenure Office, accountability of elected officials).</p>	<p>National coverage of Land Tenure Offices.</p> <p>Modernization of land ownership services and systematic organization of LLOPs.</p>
Malawi	No land commission: However, there is a department responsible for land within the Ministry of Land, Housing,	<p>Registration of customary land rights.</p> <p>The law on wills and inheritances was amended to</p>	<p>Customary Land Development Act (1967).</p> <p>Customary Land Act (2016), which, once applied, will replace</p>	<p>Customary land rights have been collectively registered by a family representative, including a list of</p>	<p>The Customary Land Act, once applied, will enable women to register land in their own right, even in</p>	<p>Learn from successful initiatives, those that have failed, or those that are treading water and make</p>

	and Urban Development.	guarantee the appropriation of property, including land, and infringement.  National policy for gender equality.	the Customary Land Development Act (1967).  National Land Policy Paper of Malawi (2002).	all members of the family.	matrilineal marriage systems	contact with the players in this sector in Africa
Mali	The Permanent Secretariat of the Executive Committee of the Agricultural Council (LOA), established by Ministerial Decree no. 07-0554/MA-SG of March 5, 2007. The Permanent Secretariat reports to the General Secretariat of the Ministry of Agriculture.	Pilot projects to examine the applicability of different legal provisions with respect to land tenure.  Issuing of land ownership certificates in customary land.	Allocation of 15% of land to young women and vulnerable individuals in all state developments and CLs.	Experience with pilot projects such as “Alatonna”.	The law was passed and enacted on April 11, 2017; now waiting for the implementing decree to be issued in order to begin implementation.	Keeping abreast of the implementation of the Land Act in the Ivory Coast, as this is similar to that of Mali
Niger	Permanent Secretariat of the National Rural Code Commission,	To secure community land rights, the SP/CNCR is in the process of	Decree no. 93-015 of March 2, 1993 defining the guiding principles of the Rural Code.	Analysis of the 20-year review of the implementation	The advancement of the “agricultural front” and the creation of fields	Organizing land development forums on rural land tenure ( <i>États Généraux</i> )

	Decree no. 97-008 of January 20, 1997	registering the land rights of local communities in the Rural Registry, drawing up Land Use Maps (SAF) and implementing a Land Information System (SFI)	Decree no. 2010-029 of May 20, 2010 pertaining to pastoralism.  “Herders may be assigned the right of priority use of the natural resources located within their “terroir d’attache” (home grazing territory)”.	of the Rural Code.  Pilot projects in progress.	at the expense of grazing areas.  The development of ranches by private operators, limiting the freedom of animals to move around, and the uncontrolled drilling of water supply points.	<i>sur le Foncier Rural</i> ).
Nigeria	The Presidential Technical Committee for Land Reform (PTCLR) was created in 2009 and renewed in 2011.	The 1978 Land Use Act created obstacles to the registration of customary rights and has therefore been unable to promote customary tenure.	To be able to legitimize the registration of collective rights, the PTCLR has used regulatory projects to amend parts of the law, with the final objective of managing customary rights and the entire land registration process in the country.	Awareness raised among landholders, during and after systematic land title registration pilot projects, in order to ensure they take part in the land registration program.	Funding: the functioning of the commission is seriously hampered by its weak budgetary allocation and delays in financial disbursements.  Resistance from state governors vested with state land management	Modification of the law in force or adoption of a new law.

					powers in the name of Indigenous Peoples.	
Rwanda	National Land Center, 2008, then Rwanda Natural Resources Authority, 2011.	Systematic registration of rights, regardless of their nature.	Strategic road map for Land Tenure Reform, 2008.  The “model” in Africa  Strong leadership; Involvement of local populations.	From 2007 to 2013, 10.3 million plots demarcated, of which 8.6 million certificates were printed. The cost of a certificate is \$8.  66% of women have access to a certificate (individually or as a married couple).	Perpetuation Registration conflict management	Sustainability, maintenance, and updating of the system
Senegal	National Commission for Land Reform (CNRF) dissolved in April 2017.  Establishment of a new institution for land reform in process.	Recognition of customary rights and community rights.  Right may be formalized later into real rights.	Land Tenure Policy Paper formalized in October 2017, pending validation.	Implementation of a project to accelerate availability at a national level.	The move from customary rights of use to real rights.	Aim to make assignable and transferrable “real rights” the norm in the rural environment.  Plan for universal land registry.



Tanzania	The Commissioner for Land under the Ministry of Lands, Housing, and Human Settlement was re-established by the Land Act of 1999.	<p>In more than 12,000 villages, all lands are managed through the village heads, elected for five years.</p> <p>The Commissioner for Lands, through approved agents in the district offices, registers the certificates of customary occupational rights of individuals or communities (collectives).</p>	Customary (collective) tenure is governed by the land policy of 1995 and the Village Land Act of 1999.	<p>The Land Tenure Support Program (LTSP), supported by DFID, DANIDA and SIDA, is currently in progress, and aims to cover three districts</p> <p>Pilot projects are currently in progress. 300,000 individual or collective plots will be registered. Another project, supported by USAID, is in progress in the Iringa district.</p>	Resources necessary to continue planning of the use of village land, arbitration, and the distribution of customary occupation rights certificates.	Implementation of pilot projects.
Uganda	Ministry of Land, Housing, and Urban Development	Community land associations have been created. These are legal entities with the legal capacity to own	<p>1995 Constitution of the Republic of Uganda</p> <p>Land Act, Ch. 227</p>	<p>Translation of laws, policies and guidelines into local languages.</p> <p>Raising awareness</p>	Lack of documentation of customs and traditions governing the registration of	Seek to learn from the experiences and challenges of other countries.

		land as a community, and to issue customary ownership certificates.	Land regulations 2004	among communities.  Collective identification and demarcation of land.  Registration of land and issuing of certificates.	customary lands.  Lack of knowledge on processes and importance of registering customary lands.	
Zambia	Ministry of Land and Natural Resources was created under Article 233 of Constitution (amendment) no. 2 of 2016. It is not yet operational.	The Land Administration Act is intended to help improve securing tenure on customary land, particularly regarding the most vulnerable groups, women and children.	The National Land Policy and the Customary Land Administration Act, has not been finalized but is expected to be finalized by the end of 2017	Customary land documentation tools and processes have been deployed in the chosen districts and chieftaincies, mainly with the support of civil society, NGOs and partners.	No clear directives on registering rights.  Issuing of customary land documents is not standard practice, and is not recorded in the land and property deeds register.	Adoption and application of the new law.
Zimbabwe	Zimbabwe Land Commission, established July 7, 2016.	Zimbabwe Land Commission has no mandate over the administration	Constitution of Zimbabwe (Amendment no. 2), 2013 Agricultural Land Settlement Act, Agricultural Land		Better practices for the administration and management of land.	Land audit and land inspection

		of customary tenure.	Act, Traditional Leaders Act, Rural District Councils Act		Relations with related ministers' Commission funding	
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