



**The Republic of Sudan
Ministry of Agriculture and Forests
National Forest Corporation**



**Reducing Emissions from Deforestation and Forest
Degradation (REDD+) Readiness Program**

LAND TENURE IN SUDAN: STUDY REPORT

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Executive Summary

This report is intended to provide support to the National REDD+ Programme of Sudan which has the ultimate objective of “The inventory of the country’s renewable natural resources particularly forests, woodlands, range resources and wildlife habitats, assessment of their present condition and subsequently subject them to sustainable management with the aim of conserving them and maximizing their direct and indirect benefits in a participative, transparent and equitable manner.” The report is based on collation and rigorous review of existing information supplemented by the Consultant’s own data and experience from different parts of the country.

Sudan is a dry country exhibiting a Sahelian zone with its characteristic low amount of rainfall that shows enormous spatial and temporal variations with drought being a recursive phenomenon. Out of the country’s (1.87 million km²), 1.13 million km² (60.4%) is desert and semi desert; the remaining 0.740 million km² (39.6%) is divided unevenly between low rainfall savannah and rich savanna that extends extensively in the Republic of South Sudan. This last category is the high potential area where ecological conditions dictate patterns of land use that foster intense competition over land. The diversity of environment has given rise to a variety of habitat, livelihood options and land tenure arrangements as well as being detrimental to large scale land acquisition. On the rain lands of the country, land use and human adaptation are dominated by traditional rain-fed cultivation and pastoralism as the two fundamental livelihood systems. Sudan entered the 3rd Millennium mired in a wide range of conflict that impacted the Sudanese society in different ways. Poverty incidence in places like North Darfur where conflict has been going on since 2003 is officially reported to exceed 60%. Land tenure remains, at least, one part of a complicated combination of factors contributing to violence in the country.

In Sudan land is a central issue to all rural communities. It is the means for basic survival and social reproduction, a source of individual and tribal pride, a general relationship between social groups and also a constant source of potential exploitation and conflict. However, the legal framework for land tenure is a very complex domain far. This is partly because land is vital for a variety of livelihood systems in rural areas, and partly because already prior to independence there existed relatively well-developed and semi- codified system of land ownership and user rights that combine some aspects of Islam and local traditions.

Two parallel systems of land tenure in Sudan exist: (i) individual property rights developed along the Nile and its tributaries in northern Sudan since colonial time; and (ii) communal usufructuary rights prevalent in the rainlands of the country. In the former security of tenure is ensured by the provisions for the registration of titles as provided for in the existing statutory legal frameworks. In the rainlands, only usufruct communal rights are recognized with individual access guaranteed by virtue of community membership.

Customary tribal homeland exercised through the power of tribal leaders is dominant form of land tenure in the rainlands of the country. The system follows historically derived tribal territorial rights initially constituted during the successive indigenous kingdoms of pre-colonial Sudan. Within the customary land tenure arrangements security of access to land among sedentary communities, was legitimized through membership in a village community. Pastoralists legitimized access to the

rangelands by membership of fluid structures of tribal groupings organized around power centres controlling strategic resources or through negotiated arrangements with village leaders.

The nationally recognizable existing statutory legal frameworks directly related to land tenure are 1925 Land Settlement and Registration Ordinance; Land Acquisition Ordinance 1930; Civil Transactions Act 1984 which repealed the 1970 Unregistered Land Act; and Urban Planning and land Dispossession Act 1994. This is in addition to many sectoral laws such as the Forests National Corporation Act 2002, Investment Act 2013, and Range and Pastures law 2015. Legal frameworks to land recognize and declare unregistered land before 1970 as government lands while deny any formal legitimacy or juridical status to unregistered or usufructuary customary property rights. Sudan Interim Constitution 2005 recognizes regulation of land tenure, usage and exercise of rights over it as concurrent competence, exercised at the appropriate level of government; that all levels of government should institute a process to develop and amend the relevant laws to incorporate customary laws, practices, local heritage and international trends and practices. The Constitution also stipulates the rights of the holders of land rights to consultation, compensation and sharing of benefits from the development of subterranean natural resources in their area.

In present-day Sudan, competition and conflict over access and use of land are at a historical peak. Growth in humans and livestock populations; population instability and large-scale displacement; the new demands for land from the petroleum, gold mining, private agribusinesses investment, climate change, separation of the South and the need to relocate the returnees have combined to create land as scarce resource open to competition, rights contestation and eventually fuelling of conflicts. Land degradation and the resultant mass dislocation of population have introduced considerable challenges to land tenure regimes on the rainlands that set in motion wide range of conflict. At the same time, farmers and in order to compensate for the declining income from the degraded land, started to expand their cultivated land by encroaching and closing up livestock routes; this has turned to be one of the root causes of the disputes between pastoralists and farmers. Irregular and undocumented occupation and use of land has also become common practice particularly within the semi mechanized farming sector.

The dichotomy between customary and statutory systems is, however, the most conspicuous feature of the land tenure regime in the country as it resulted not only in confusion but more importantly in an apparent confrontation between legality and legitimacy. This has been compounded by the failure to meet the obligations of the 2005 Interim Constitution concerning establishment of Land Commissions and the incorporation of the customary law and its harmonization with the statutory law. Because of that, legal land framework continues to constitute one of the core issues of the land question in the country while created land as a scarce resource that people could compete for. Lack of law to sanction and secure the rights and entitlement of traditional farmers and pastoralists to land and natural resources remain a critical legislative gap. Lack of title to land has denied traditional farmers and pastoralists the right to access public resources, namely formal credit creating them as highly disadvantaged and marginalized groups.

The implementation of REDD+ in Sudan will involve enormous tracts of land, particularly forest and Range lands, where the statutory laws and customary norms that define rights are poorly defined and weakly enforced and sometimes contradictory. Clarity of property rights will have a critical influence on the eligibility of all stakeholders to benefit from REDD+ activities. This uncertainty of

how REDD+ carbon rights will be defined in Sudan complicates efforts to design a REDD+ benefit-sharing mechanisms.

The existing land, forest and tree tenure system in Sudan is problematic and pose a lot difficulty for equitable distribution of REDD+ benefits among different stakeholders so Sudan need to carefully consider how establishing carbon rights and determining eligibility to receive REDD+ benefits.

Work on tenure remains an urgent priority for REDD+ in Sudan for the purpose of livelihood as well as for reducing deforestation and forest degradation in Sudan. This can be done through participatory engagement of different stakeholders and land tenure policy reform

Land governance also remains a major issue in the country. There is no clearly recognized unified institutional structure responsible for the allocation, administration and management of land. Multiple, parallel and poorly coordinated structures exist. The Central government, State ministries of agriculture, traditional local authorities, investment commissions and localities are all engaged in this area of responsibility. This is in addition to responsibilities of conservation and protection of forests and rangelands performed by Forests National Corporation and Range and Pasture departments, respectively. The widely held assumption that land continues to be plentiful has resulted in commitment to land policy founded on horizontal expansion that further contributes to competition over land, fuelling of land-based local level conflicts and eventually erosion of social ties and peaceful coexistence that characterized the oral and written history of Sudanese society. In the processes, the potentialities of land and natural resources for promoting social and economic development in the country have been grossly compromised. The study recommends:

- REDD+ policies and measures to be effective, equitable and legitimate in Sudan, there is a need to address land, forest and tree tenure insecurity and conflicts and to establish a fair and proper REDD+ benefit sharing mechanism
- The urgency of institutional reform of land governance and administration involving nationwide and state level review of existing institutions and review of existing regulatory frameworks for the identification of gaps and possible actions;
- There is crucial need for collating the large but scattered body of information pertaining to land tenure and management.
- Establishment of land information centre, housed within FNC and branched down to states and localities. Besides providing for knowledge the centre will also be mandated with collating and availing of data related to land tenure and use patterns, including land users, title holders, land leases, land compensations.....etc.
- Establishment of adequate and transparent regulatory framework for private and public sector investments in land and extractive natural resources and resource-based industries adhered to principles of Corporate Social Responsibility founded on the UN 2000 Global Compact principles
- Comprehensive and critical assessment of the impact of decentralization and federalism on land administration in the country

- Build research capacities, involving training of university staff, availing of research funds, and exposure to international and regional experiences and support to undergraduate and graduate research projects.
- Establish State-level task force for in-depth review of existing land lease holds in the semi mechanized farming sector to identify gaps and develop relevant and transparent criteria for land leasing
- Establishment land forums for public consultations at national, state and local level to inform national debate and dialogue
- Use results of reviews and consultation forums, organize an inclusive and representative national conference on land tenure and consensus building on the required reform in land tenure while prepare the ground for the process of national land use policy development.
- There is need for investment in building the capacity of government structures including of tribal leaders and chiefs in their role as land administrators, conflict transformers. local development agents and mobilization of community.

1. INTRODUCTION

Competition and conflict over access and use of land are at a historical peak globally. Demographic growth and urbanization, climate change, threats of global food crisis and decades of liberalization and commitment to market forces have generated considerable changes in land use and tenure particularly in places like Sub-Saharan Africa where processes of change are significantly mediated by power relations which are themselves complexly constituted and are the subject of re-formulation both at the level of everyday life and in the wide political and social discourse. In spite of the often-contradictory assortment of conclusions, recommendations and policy ideas the established fact is that land tenure remains, at least, one part of a complicated combination of structural factors contributing to poverty and violence in contemporary Africa. Security of rights to land, according to de Soto (2000) is one essential measure for poverty eradication and prosperity in places like Africa.

Secure property ownership has been the foundation upon which capitalism has flourished in the west and must be extended to the poor in the developing world if it too is to prosper (Hemando de Soto, 2000)¹.

In spite of the long decades of modernization Sudan remains agrarian in economic, social and cultural outlooks where land is a central issue of multifaceted nature: as a place, basis for livelihood and social reproduction, culture, a source of individual and tribal pride, a general relationship between social groups and also a constant source of potential exploitation and conflict. For rural Sudanese, land is not just a material resource that people use or compete over, but is essentially a human world replete with meanings and symbols as an ethnic/tribal identity, social interaction, different life styles and a set of gender and age roles. Such symbolic dimensions usually tend to lend themselves to ideological, social, and political struggles or even manipulation

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2. LAND RIGHTS IN THE INTERNATIONAL LAW

The human rights tradition intrinsically involves a pro-poor approach. However, because there is no explicit human right to land in international human rights law, the obligations related to access to land have not yet been fully determined. Nonetheless, the right to land of rural communities is implied in other human rights recognized in international covenants, such as the right to property, the right to self-determination, the right of ethnic minorities to enjoy and develop their own culture, as

¹ De Soto, Hemando, 2000, *the mystery of capital*, Bantam Press

well as the right to an adequate standard of living. A number of relevant international legal instruments (Table 1), mainly on the human right to food, lend support to the idea of a human right to land and other productive resources, with vulnerable people as the main rights holders.

Table 1: International legal instruments and human rights lending support to land rights

<p>Article 11 of the International Covenant on Economic, Social and Cultural Rights (1966/1976)</p>	<p>The States parties recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right.</p> <p>The States Parties, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international cooperation, the measures, including specific programmes, which are needed:</p> <p>To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems to attain the most efficient utilization of natural resources</p> <p>Taking into accounts the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies</p>
<p>General Comment 12 of the Committee on Economic, Social and Cultural Rights (1999)</p>	<p>26. The (national) Strategy should give particular attention to the need to prevent discrimination in access to food or resources for food. This should include: guarantees of full and equal access to economic resources, particularly for women, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technology, measures to respect and protect self-employment and work which provides a remuneration ensuring a decent living for wage earners and their families (as stipulated in article 7 (a) (ii) of the Covenant); maintaining registries of rights in land.</p>
<p>Voluntary Guidelines on the right to Food adopted by FAO Council in 2004</p>	<p>Guideline 8B</p> <p>Land: 8.10: States shall take measures to promote and protect the security of land tenure, especially with respect to women, and poor and disadvantaged segments of society, through legislation that protects the full and equal rights to own land and other property, including the right to</p>

inherit.

As appropriate, States shall consider establishing legal and other policy mechanisms, consistent with the international human rights obligations and in accordance with the rule of law, that advance land reform to enhance access for the poor and women, Such mechanisms should also promote conservation and sustainable use of land. Special consideration to be given to the situation of indigenous communities.

Source: UN, 1966², 1999³; FAO, 2006⁴

3. LAND ACCESS AND RURAL POVERTY: THEORETICAL REMARKS

Despite the global historic shift towards urbanization, poverty remains largely a rural phenomenon, and a majority of the world's poor will live in rural areas for many decades to come. Of the 1.4 billion people living in extreme poverty (living on incomes less than US\$ 1.25/day) in 2005 approximately 1 billion (around 70%) lived in rural areas. In Sub Saharan Africa, the region with the highest incidence of poverty, approximately 90% of rural people live on less than US\$ 2/day⁵. The majority of the poor are rural where livelihoods depend on smallholder farming, including livestock production, supported by a wide range of off-farm economic activities.

The world battle against poverty together with the apparent threats of global climate change has created renewed interest in natural resource management and improved land tenure arrangements as potential key drivers of development and poverty reduction. Findings of recent research (IFAD, 2008⁶) from around the world show that:

Landless or precarious land access are often the root of chronic poverty, social exclusion, powerlessness and helplessness;

Land rights and rules of access determine who benefit, and how benefits are shared, from land based developments and improved natural resource management;

2 UN (1966) *International Covenant on Economic, Social and Cultural Rights*

3 UN (1999) *The right to adequate food (Art.11): General Comment Number 12,*

4 FAO, 2006, (2006) *Voluntary Guidelines to support to support the progressive realization of the right to adequate food*

5 IFAD, 2011, *Rural Poverty Report 2011, IFAD, Rome*

6 IFAD, 2011, *Rural Poverty Report 2011, IFAD, Rome*

Because land ownership and political power are often closely connected women are the least empowered and politically disadvantaged;

Rights to use and control land is central to the lives of rural communities in countries and places where the main sources of income and livelihood are derived from these natural resources.

Without rights to land, women's economic, political and physical securities are compromised. However, in all developing countries smallholder farmers and pastoralists, the main land users, face major challenges that tend to be profoundly different from one country to another and even within the same country. One of these major challenges pertains to secure access to productive land, including the water and other natural resources on it is critical. Land alienation and the resultant loss of access and control over land have been widely viewed as among the main factors contributing to rural poverty and intensification of resource-based conflict in developing countries. Available empirical evidence suggests that land dispossession of smallholder producers, pastoralists, indigenous people and other rural communities has been a continuous process over centuries (IFAD 2011).

Yet the new attractiveness of agriculture resulting from higher commodity prices and subsidies for biofuel production are leading to increases in domestic and transnational demands for agriculture land bringing new risks for smallholder producers, farmers and pastoralists; increased demands for land from other sectors such as tourism, timber, mining and agribusinesses compound the problem. The amount of land under negotiation for acquisition or leasing by foreign investors is estimated to range from 15 to 20 million hectares. Most of this land is in Africa, Latin America and certain parts of Asia. IIED and IFAD study (2009)⁷ of land grab in Africa documented an overall total of 2,492,684 hectares of approved land allocations to transnational investors since 2004 in five African countries (Ethiopia, Mali, Mozambique, Sudan and Tanzania), excluding allocations below 1000 hectares. Most if not all productive land targeted for potential investment is likely to be already claimed by farmers, herders, hunters or foragers. Such land claims may be based on present, seasonal or future use. They may involve multiple and nested claims by communal groups (e.g. lineages, extended families), traditional authorities, households or individuals. They commonly draw on unwritten tenure systems founding their legitimacy on "tradition.

Land reforms have worked for poor rural people when they have been characterized by strong local accountability, due attention to secondary use rights, and support to poor rural people's (both men and women) access to complementary assets, services and productive opportunities and markets (IFAD 2011)

Many of long term leases negotiated recently in Africa between states and foreign companies, including sovereign funds, are short of transparency and very unspecific on a range of key issues including how the investments will benefit holders of local land use rights and local communities more broadly (IIED and IFAD 2009). In addition, many deals contain promises of financial investment, employment, technology transfers and income generation but the evidence is scant as to whether these promises have been fulfilled. Experience from different countries, shows that land

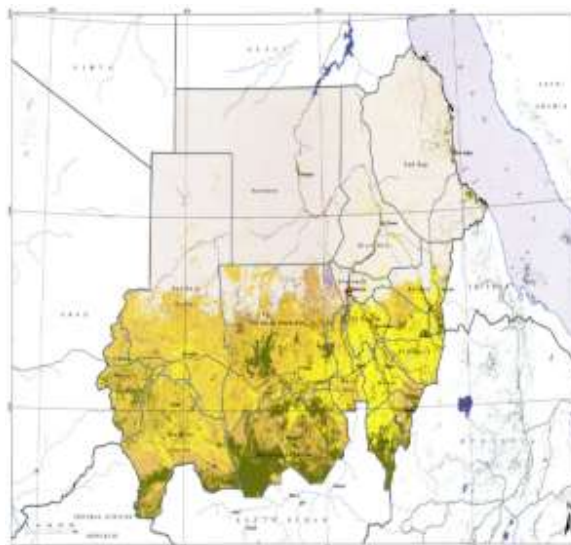
7 ODI and IFAD, *Land grab or development opportunity? Agricultural development and international land deals in Africa, 2009*

legislation (and its implementation) have a mixed record in protecting the interests of small-scale farmers or reducing land dispossession and fragmentation (Nhantumbo and Salomao (2009)⁸.

4. ORIGIN AND EVOLUTION OF LAND TENURE AND RIGHTS

4.1 General

Literature and policy frameworks on natural resources and land are dominated by the highly popularized and propagated idea that land is abundant and hence by implication the issue of land tenure and rights should assume insignificant importance. However, given the development of the land tenure system, particularly in the high agricultural potential areas of central rainlands Sudan, statements about land abundance are debatable. A recent study (FAO and UNEP 2012) shows that out of the total area of the country (1.87 million km²), 1.13 million km² (60.4%) is desert and semi desert (rainfall between less than 100 mm and 299 mm per year); the remaining 0.740 km² (39.6%) is divided between low rainfall savannah (300- 500 mm per year) and the rich svanna (above 500 mm of rain per year) that extends extensively in South Sudan⁹. This last category is the agriculturally high potential area where the prevailing ecological conditions dictate patterns of land use that foster intense competition over land and other resources between different types of users. The loss of vast tracts of land that were once agricultural and pastoral, especially along the southern margins of the desert in North Kordofan, North Darfur and Northern White Nile adds for challenging the mindset of Sudan having an abundance of natural resources.



The diversity of environmental conditions, especially in relation to water availability, rainfall amount and soil type has given rise to a wide variety of habitat, livelihood options and land tenure arrangements as well as being detrimental to large scale land acquisition. On the rain lands of the country, as in much of the African Sahel, where water is the main limiting factor, resource management and human adaptation were centred on traditional rain-fed cultivation and animals herding but with great variation due to local environmental conditions and technical and marketing constraints. Seasonal movements across zones, hunting and gathering and wage labor were supportive engagements. However, animal herding based on traditional pastoralism remains the most extensive land use system in terms of spatial coverage.

⁸ Nhantumbo, I., and Salomao, A., 2009, "Biofuels, Land access and new business models for rural livelihoods in Africa

⁹ FAO/UNEP 2012, land cover map of Sudan

This type of adaptation processes has also affected cultural and political boundaries between groups (Manger 2002¹⁰). Adaptation movements have also helped forging links between groups, violent ones as well as peaceful ones. Reciprocity, rendered imperative by ecological variations was common. Close symbiotic relations, amounting to ‘alliances’, forged through negotiations between tribal leaders were also common. The emerging local markets and trading centres as important meeting places further helped to develop and expand relationships between communities.

Pastoral systems in the country vary along a north-south axis with camel pastoralism dominates the desert and semi desert areas north of latitude 16 degrees and cattle herding in the savannah belt towards the south. Similar to other herding groups in the African Sahel, pastoralists adapt their livelihoods to fluctuations in pastoral resources through extensive mobility between wet season grazing towards the north and dry season grazing towards the south. This has created a historically dynamic relationship between drier environments in the north and the wetter environments towards the south. Such dynamism has been attained through numerous pastoral mobility routes linking dry season and wet season grazing areas while creating these areas as part of pastoral territorial domains. Territorial mobility and ecological dynamism have brought most of Sudan pastoral groups into direct contact with sedentary farming communities, a situation that turned to be among the main causes of conflicts over land and natural resources.

4.2 Land tenure regimes

4.2.1 Pre-colonial period

The legal framework for land tenure has perhaps been the most complex domain of natural resource legislation and governance in Sudan so far. This is partly because land is vital for a variety of livelihood systems in rural areas, and partly because already prior to independence there existed a relatively well-developed and semi- codified system of land ownership and user rights

Accounts of land tenure in the country usually tend to distinguish between individual property rights developed along the Nile and its tributaries in northern Sudan and communal usufructuary rights prevalent in the rainlands of central, eastern, and western Sudan. In the former security of tenure is ensured by the provisions for the registration of titles in all legislation since the colonial time. In the rainlands, on the other hand, only usufruct communal rights are recognized with individual access guaranteed by virtue of community membership. There are no legal provisions in all legislation for the registration of titles in the rainlands.

Historically, rights to land and access to resources were based on the concept of customary tribal homeland exercised through the power of tribal leaders. The system followed historically derived tribal territorial rights initially constituted during the successive indigenous kingdoms of pre-colonial Sudan and reinforced through considerable legislations during the British colonial administration. Within the tribal homeland the collective security of the tribe is constituted and individual rights to

¹⁰ Manger, Leif Ole, 2002 *Roots of conflict in Darfur, North Kordofan and Upper Nile*, UNDP

land were recognized and could be inherited but with no power to alienate land from the ownership of the tribe (Shazali 2002¹¹).

Within the customary land tenure arrangements security of access to land among sedentary communities, was legitimized through membership in a village community. Pastoralists legitimized access to the rangelands by membership of fluid structures of tribal groupings organised around power centres controlling strategic resources or through negotiated arrangements with village leaders.

During the Turkish (1821-1884) colonialism and the brief Mahadist rule (1885-1898) no radical changes were introduced to the basic structure of the land tenure system. Tribal stabilization on the rain lands of Sudan was, however, interrupted during the Mahdiya when tribal leadership was abolished and a new administration based on army leaders was instituted (Shazali, 2002). Vast tracts of land were also transferred from disloyal to loyal groups; but this was soon to be reversed by the British colonial administration (Awad, 1971¹²).

One of the most important features of such customary tenure is the right and sovereignty exercised by the leadership of the native customary institutions in the allocations of land rights, its administration and the settlement of disputes over it. This right was consolidated through the institutionalization of the Native Administration, based on the principle of Dar, or “tribal homeland, and empowered by economic and legislative mechanisms. Customary law tends to be the unwritten social rules and structures of a community derived from shared values and based on tradition. Customary law is not uniform across Sudan, but there are some common features summarized by Adam (2002¹³) as follows:

- Occupied lands for cultivation, pasture, woodcutting, etc., are not formally registered;
- Usufructuary rights, not ownership rights, are the predominant forms;
- Rights are liable to be defeated/reversed after the lapse of a certain period of time over which such rights are not exercised;
- Land is deemed to be the property of a tribe and dealings in land are an exception rather than the rule;
- The allocation of land rights and resolution of conflict over it are vested in community indigenous structures constituted in the power of tribal institutions.
- Customary law pertaining to women’s land tenure is based on social relations between men and women and, more specifically, husbands and wives
- Customary law seems to have few provisions for divorced women and even fewer for single women.

¹¹ Shazali, Salah, 2002, *Share the land or part the nation: Pastoral land tenure in Sudan*, UNDP

¹² Awad, Mohammed Hashim (1971) *The evolution of landownership in the Sudan*, *The Middle East Journal*, Vol. XXV, No. 4, pp. 212-228

¹³ Adam, Farah Hassan, 2002, *Land tenure in Darfur, North Kordofan and Upper Nile*, UNDP,

4.2.2 British Colonial Period

One of the most important and daunting economic and administrative issues that confronted the early British colonial government was the question of land rights that had evolved over the centuries, combining some Islamic aspects and local traditions. Wars, droughts and famines during the Mahdist rule had resulted in tribal migrations, abandonment of cultivation, abrogation of rights and a general decline in agriculture. Thus, the immediate resumption and continuation of cultivation was essential both economically and politically, and was considered by the colonial authorities as the best guarantee for peace (Babikir 2005¹⁴). To achieve this, cultivators had to be assured that the new authorities would not challenge their rights over land. In other words, it was made clear that insecurity of tenure would not only provoke countless time-consuming and possible violent local disputes but would hamper the revival of agriculture and the desired increase in government revenue. Thus, the future economic wellbeing of the country was seen to rest mainly on the settlement of agricultural land. Because of that number of legislative actions was put in place.

Early in 1899 it issued its first Titles to Land Ordinance by which it recognized and started registering as private property the continuously cultivated lands in northern and central riverain Sudan. The Ordinance excluded land settlement and registration of the rainlands of central, eastern and western Sudan as well as all lands in Southern Sudan. No individual private landownership of any land in these regions was recognized. As the case with the uncultivated riverain land in northern and central Sudan, the ‘unsettled’ areas were categorically classified as Government-owned divided into two classes:

Government land subject to no right (confined mainly to the northern, central riverain regions and includes the deltas of Tokar and Gash in eastern Sudan.)

Government land subject to *customary usufruct rights* vested in a community such as tribe, section, village, or, at least in the case of the Nuba Mountains in individuals (mainly the abundant rainland and the whole of Southern Sudan).

Because the “customary usufruct rights” are not legally registered they are also implicitly subject to withdrawal by government. Accordingly, subsequent colonial land legislation served to further consolidate The Civil Transactionsthe right of government to withdraw the customary usufruct rights. These legislations included¹⁵:

- 1903 Land Acquisition Ordinance, which gave the government, powers to acquire land for irrigation schemes and other public purposes.
- The 1905 Land Settlement Ordinance made general provision for the settlement and registration of claims to lands which were, or which were alleged to be waste, forest or

¹⁴ Babikir, Mustafa, (2005) *Land Tenure in the Sudan: An Overview, Paper presented to: UNDP Dry Lands Development Centre Workshop on Land Issues In North Africa and the middle East, Beirut, 2005*

¹⁵ Egemi, Omer, 2005, *land tenure and challenges to social peace in Sudan, in Galal El Din El Tayeb (ed), land and conflict in Sudan, Sudanese Environment Conservation Society*

unoccupied and added the important provision that all such land should be deemed the property of the government unless claims to the contrary were proved.

- Native Disposition of Lands Restrictions Ordinance, 1918, by which the colonial government sought the ‘protection’ of the native private landowners from dispossession by expatriates.
- 1920 Declaration on Gash, which stated that: *the whole of the land situated in the delta of the River Gash is government land and the government reserves its full rights of ownership of land and the flow of the river through the area* declaring the full rights and control of government over the delta
- The Gezira Land Ordinance, 1927, the first instance of withdrawing usufruct rights on a large scale, which undermined further the position of wathiga-holders and provided for the ownership of all land in Gezira by the government
 - The 1925 Land Settlement and Registration Ordinance: to enable anybody that claims title or right on land to be recognized and registered. Title to land as tainted by the common law principles was classified into either free hold or lease holds ownership, which is individual rather than the traditional tribal ownership system. The Ordinance which still in force to date:
 - Details on how land rights are identified and registered
 - States that “all waste, forest and unoccupied land” shall be deemed to be property of the government until the contrary is proven
 - Deals mainly with urban land and agricultural land with infrastructure, exclusively confined to north and central riverain Sudan
 - Does not recognize individual land rights on the rain lands of Sudan (Darfur, Kordofan, Blue Nile, East Sudan).

The major impact of this Act on rural communities is that within the framework of government ownership, customary land rights are recognized and maintained. Tribes, clans, families and rural dwellers could consider land as de facto their “own” in a communal arrangement system. Security of tenure was maintained through proof of visible occupation of land such as agricultural fields, residential areas and permanent assets (trees, hand dug wells.... etc).

The Land Acquisition Ordinance, 1930, paved further the way for government to acquire any “*land subject to village or tribal rights*” when it “*appears that it is likely to be required permanently or temporarily for any public purpose*”.

Following the above, by the early 1930s, the entire Sudan came to acquire a tribal structure with relatively well-defined tribal agglomerations headed by tribal chiefs and inhabiting carefully delineated and recognized tribal homelands based on customary rights (Shazali 2002). An important features of such customary tenure is the right and sovereignty exercised by the leadership of the native customary institutions in the allocations of rights land, its administration and the settlement of

disputes over it. This right was consolidated through the institutionalization of the Native Administration, based on the principle of Dar, or “tribal homeland, and empowered by economic and legislative mechanisms.

One important observation about the colonial land tenure arrangements, however, is that except for the recognizable and socially legitimated ‘tribal usufruct rights’ to government land, British colonial countrywide legislation was largely silent on the entitlement of pastoralists to natural resources. Nevertheless, pastoral entitlements were catered for by other means, notably through local level legislation in the form of Local Orders, strict enforcement of ‘grazing lines’, manipulation of water policy and administrative measures, including the creation of Native Administration. Colonial legislation on Native Administration, moreover, instituted mechanisms for the enforcement of pastoral resource tenure. These arrangements later on proved weak and ineffective enough in guaranteeing the rights of pastoralists to natural resources particularly land.

4.2.3 Post Colonial legislations

The 1970 Unregistered Land Act: It was in 1970 when the first substantive national legislation on natural resources, the Unregistered Lands Act, was introduced and implemented indiscriminately all over the country, even in places that have or had no previous system of land registration. Article 4 (1) states that:

All land of any kind whether waste, forest, occupied or unoccupied, which is not registered before the commencement of this Act shall, on such commencement, be the property of the Government and shall be deemed to have been registered as such, as if the provisions of the Land Settlement and Registration Act, 1925, have been duly complied with¹⁶.

The Act, however, had the untapped potential of resolving the existing confusion between the customary and statutory land tenure law. This is particularly true in the sense that the Act explicitly declared the full control of government over land in the country, which is one of the basis for the legitimacy of the state itself which is currently contested by the customary system founded on the principle of tribalism which turned to be one of the root causes of conflicts and a major constraint to investment in land and natural resources and their effective utilization.

However, the Act had also its inherent problems and weaknesses as it did not provide for expanding and completing land registration on the rainlands of the country in the way had been done along the Nile under the 1925 Land Settlement and Registration Ordinance. To the contrary, it denies any formal legitimacy or juridical status to customary property rights. This issue has remained as one of the critical land issues to be resolved. It also explains why each of the peace agreements in the country (Comprehensive Peace Agreement 2005; Abuja Peace Agreement for Peace in Darfur 2006; Eastern Sudan Peace Agreement 2006; and the Doha Document for Peace in Darfur 2011) called for harmonization between the customary and statutory laws while stipulated the establishment of Land Commission to resolve the issue of land.

In addition, the 1970 Act was introduced at a time when there was institutional vacuum at the community level following the dissolution of the Native Administration system which preceded the introduction of the law by just few months. Because of that the Act suffered crucial problems of

¹⁶ Shazali, Salah, 2002, *Share the land or part the nation: Pastoral land tenure in Sudan*, UNDP

implementation as the local government structures created were very poorly equipped to undertake that responsibility besides suffering problems of legitimacy at community level. The failure to effectively implement the Act has set the stage for large scale and acquisition, heightened competition over resources and proliferation of land-based conflicts throughout the rainlands of Sudan.

The Civil Transactions Act 1984: The 1984 Act repeals the 1970 Unregistered Land Act but is more comprehensive giving some details and guidelines for its practical implementation. The Act maintains the basic principles of usufruct rights but recognizes that registered tribal or individual usufruct rights are of equal status to registered ownership. The Act also considers the following issues that are important to securing land tenure:

- Transfer and inheritance of rights
- Compensation for land appropriated by the state
- Granting of land leases to cooperative bodies and communities
- Conditions for obtaining usufruct rights
- Possibility of registering easement rights (rights of way)

The Act legalizes elements of *Sharia* Law by recognizing the unregistered land rights (urf) while confirming the role of the state as land owner and manager. According to the Act “*No court of law is competent to receive a complaint that goes against the interest of the state*”.

The Local Government Act 1998 was an attempt to restore the land administration vacuum at the local level created by the abolition of the Native Administration system in 1971. The Act confers important responsibilities to the States and localities (mahaliyya) and calls for:

- Identification of territories of jurisdiction that reflect rural reality with the possibility of identifying territories of local governance that coincide with customary land management territories;
- Setting and functioning of land management committees
- Development of local bylaws for regulation of land management, including grazing lands and transhumance routes
- Active and legal involvement of customary authorities and land users in land management
- Accountability for proper land management

Urban Planning and land Dispossession Act 1994

Recognizing the 1925 Land Settlement and Registration Ordinance the Act provides procedures for land dispossession, land compensation and regulation of land use. Although the Act seems to deal principally with urban land but it has been applied to all of what the Act calls “government land” including lands under oil and other mineral uses as well as lands allocated under Sudan investment laws. The Act also gives government the right to appropriate land for public interests as provided for

in the 1930 law. Compensation accounting for 25% of the appropriated land has been recognized by the law.

Chapter (3) of the Act 1994 stated the mandate and powers of the National Council for Physical Development (NCPD) as the following:

1. Drafting national strategies and policies that streamlined with the national comprehensive development plans amongst the states, and rural/urban settings.
2. Development of tools and mechanisms that lead to participation and co-ordination between planning institutions at all levels - national and state levels.
3. Conduct research and studies in co-ordination with planning authorities at state levels in urban planning fields and in particular areas of land use for housing, transport, municipal and rural services.
4. Check the structural plans for urban development prepared by state authorities and forwarded to council of minister for final approval.

The Act set the following mandate to the state ministers:

1. Direct the state urban planning administration to prepare structural development plans at state level.
2. Endorse the structural development plans for the state and it's cities that have approved by the state urban planning committee and forwarded to NCPD for revision.
3. Approve the general urban planning policy prepared by the state authorities.

Land tenure in Sudan Interim Constitution 2005:

The Sudan Interim Constitution includes provisions that relate directly to land and natural resource management:

Article: 186. (1) *The regulation of land tenure, usage and exercise of rights thereon shall be a concurrent competence, exercised at the appropriate level of government.*

Rights in land owned by the Government of the Sudan shall be exercised through the appropriate or designated level of Government.

All levels of government shall institute a process to progressively develop and amend the relevant laws to incorporate customary laws, practices, local heritage and international trends and practices.

Article 190

- I. *Persons enjoying rights in land, shall be consulted and their views shall duly be taken into account in respect of decisions to develop subterranean natural resources from the area in which they have rights. They shall share in the benefits of that development,*

- II. *Persons enjoying rights in land are entitled to equitable compensation on just terms arising from acquisition or development of land for the extraction of subterranean natural resources from the area in respect of which they have rights,*
- III. *The communities in whose areas development of subterranean natural resources occurs have the right to participate, through their respective states, in the negotiation of contracts for the development of those resources,*

In setting out the sources of States revenue Article 195 stipulates the entitlement of the States for raising revenue or collecting taxes from different sources including: (a) *state land and property tax and royalties; (b) agricultural taxes*¹⁷

The Constitution establishes a National Land Commission and a land commission for each of South Kordofan and Blue Nile. Establishment of land commissions for each of Darfur and Eastern Sudan was stipulated in Darfur Peace Agreement (in Abuja and Doha) and Eastern Sudan Peace Agreement. The NLC is mandated to arbitrate between willing contending parties on land claims, enforce the application of law, assess appropriate land compensation and advise relevant levels of government regarding land reform policies, recommending land reform policies and incorporation of customary land rights. With the exception of established and functional Darfur Land Commission none of the other commissions has been established.

To conclude this section it could be safely judged that existing legal frameworks to land are largely confused with apparent dichotomy between statutory and customary rights. This dichotomy between statutory and customary arrangement has created strong confrontation between what De Wit calls legality and legitimacy¹⁸. Specifically, it is not clear at all whether statutory or customary rights that have legal status in terms of who owns and who controls and how access to land can be made, remade, legitimated or contested. As a result of that, borders between the so called government land and tribal land is highly blurred with statutory laws appearing having no recognition or legitimacy at community level, a situation that has created wide range of disputes between the State and communities. Similarly, there seems to be clear legislative gap to sanction the right and entitlement of smallholders, both farmers and pastoralists to land and natural resources.

The emphasis on the hakura and the rights of its holders, as one of the prerequisites for durable peace in Darfur, as stipulated in the both Abuja Peace Agreement 2006 and the Doha Document for Peace in Darfur 2011 provides reflects the magnitude and complexity of land tenure issue in the country. One of the main problems associated with such stipulation is that not all groups in Darfur, namely the camel nomads, have hakura. This raises the crucial and legitimate question of how the rights to land of the non- hakura holders is to be maintained and legitimated within framework of an overall land settlement in Darfur. The questions remain one of the critical questions to be resolved, if any peaceful settlement to land tenure issue is to be concluded. Similar to the situation of the camel herders in Darfur is the situation of hundreds of thousands of agricultural labourers in places like the Gezira and New Halfa agricultural schemes.

¹⁷ *Government of Sudan, 2005, the Interim National Constitution of the Republic of Sudan*

¹⁸ *De Wit, Paul V, 2001: Legality and legitimacy: A study of the access to land, pasture and water, Report prepared for the IGAD Partner Forum Working Group on Planning for Peace in Sudan by the Food and Agriculture Organization of the United Nations*

5. Land Tenure and REDD+

5.1 *The Role of Land Tenure and Property Rights in REDD+*

In 2005, a discussion on deforestation was initiated within the United Nations Framework Convention on Climate Change (UNFCCC) negotiations. From this discussion, the concept of reducing emissions from deforestation and forest degradation (REDD) emerged. The concept of REDD was later expanded to include conservation of forest carbon stocks, sustainable management of forests and enhancement of forest carbon stocks. The combination of REDD and these three additional activities is called REDD+. The proposed REDD+ mechanism within the UNFCCC aiming at reduction of emissions from forests relative to a calculated reference level through provision of financial compensation and incentive to keep forests intact.

REDD+ is formally recognized in the United Nations Climate Change Framework in Paragraph 2:

“Parties are encouraged to take action to implement and support, including through results-based payments, the existing framework as set out in related guidance and decisions already agreed under the Convention for: policy approaches and positive incentives for activities relating to reducing emissions from deforestation and forest degradation, and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries

The concept of REDD+ continues within the UNFCCC where, the technical guidance for REDD+ was completed at the end of 2013. The guidance includes the setting of reference levels, adequate safeguard frameworks and approaches to monitoring, measuring, reporting and verification. In addition to reducing Emissions from Deforestation and Degradation (REDD+) is REDD+ is expected to promote economic growth and reduce poverty. REDD+ mechanism is considered to be an income-generating activity that offsets opportunity costs of legal land-use change.

Incentivizing reductions in greenhouse gas (GHG) emissions from deforestation and forest degradation, conserving and enhancing forest carbon stocks and sustainably managing forests (REDD+) has emerged as a key international strategy to halt land-use change in developing countries and involve them in climate change mitigation efforts¹⁹. The quantification of forest carbon presents a potentially new commodity and emerging market through the implementation of REDD+, as well as a new object for claiming in the near future.

5.2 *Forest and tree tenure in Sudan*

5.2.1 **Current forest/tree tenure systems**

Prior to 1970, anthropological studies on land use and tenure systems were often framed in the context of the balance between agriculture, forestry and range. Prior to the colonial era, most of the

¹⁹ Angelsen, A. *Realising REDD+: National Strategy and Policy Options*; Center for International Forestry Research: Bogor, Indonesia, 2009

tenure rights and traditional land use systems for forest, tree and pasture resources were based on customary law and indigenous traditions usually based on tribal structures and leadership.

The colonial system started its control on the land by issuance of the *Title to land act 1899*, and the *Land Settlement and Registration Act 1925* that provided land title to someone on the basis of continuous cultivation, recognizing lands that were under permanent cultivation as privately owned land. Trees and woodlands on these types of land were left for land users. The Act recognized no private property in the range lands of Sudan and these were considered government land that was either subject to no rights other than that of the government or in some cases subject to tribal customs.

Land, and the resources on it, was unregistered but customs and regulations defined all unregistered lands as common property. Land allocation for agriculture, forests or pasture was under the control of tribal leadership and collaboration between tribal leaders and formal institutions. However, during the 1970s and 1980s concern focused on environmental and development policy issues in relation to the categorization of use of land under government control. That was because, in 1970, the government had issued an Act that stated that all unregistered land is government land²⁰. Information from the periods prior to and after 1970 indicated the impacts of changing land tenure laws on the environment. Thus, the land tenure system contained in the 1970 Act greatly influenced the use of natural resources in range and forest lands, as well as in other uncultivated or non-residential lands and has shaped the form of tenure up to the present. Although the government had the formal ownership of the unregistered land, it was not possible to exercise effective control over the forest resources and their sustainable utilization. This created an administration vacuum which negatively affected the forestry resources²¹. The ambiguity in the tenure system led to the loss in the majority of natural forests – the forest cover declined from 40% of Sudan's area in the late 1950s (Harrison and Jackson, 1958) to approximately 29% in 2005²².

Sudan is lacking comprehensive environmental and natural resources policies and legislation that deal with land and resource tenure in an integrated fashion. Instead, there are sectoral policies dealing with a wide range of specific interests, e.g. forestry, wildlife and other resources. While land in Sudan is generally for agriculture, grazing and forestry, legislation relating to resource tenure could only be found in the Land Settlement and Registration Act (1925), the Acquisition Act (1930), the Town/Village Planning Act (1961), and the Unregistered Land Act (1970). Land not being registered by 1970 were deemed property of the government of Sudan.

The absence of laws governing tenure issues resulted in a situation that led to conflicts between land uses and land users. The conflicting interests of traditional rainfed farmers, mechanised farmers, pastoralists and forest product users and the state (as owner of all unregistered land), discourage proper forms of resource management, particularly forest management. In many cases, the forest policy and legislation that deal with conservation and sustainable management of forests were not respected and usually encroached upon in favor of mechanised farming. However, forest land under customary tenure is more stable because of the effectiveness of the traditional laws governing tenure

²⁰ Gaafar Abdalla 2011. Forest plantation and woodlots in Sudan

²¹ Forest National Corporation (FNC), 2000. Forestry Outlook Study for Africa (FOSA), Sudan Country Outlook Paper. Ministry of Agriculture and Forests, Forests National Corporation.

²² FAO, 2005. Global Forest Resources Assessment 2005 – Sudan. Country Report 212, FAO, Rome

and use. However, on the other hand, the concept of forest reservation is well understood as an efficient and effective forest and tree tenure system that provided for forest and tree ownership at government, communal, private and enterprise levels. Tree tenure is based on land tenure which is contained in three types of land ownership which emerged in association with the continuous issuance and amendments of the legislations related to the land use and land settlement systems²³. These include *private*, *government* and *community* lands. Most land is under government control. However, each category faces many problems generated by conflicting rights of use and legislation that gives the government greater control on resource use.

Private land holdings are generally small holdings usually for agricultural practices. When land productivity declines, farmers abandon agricultural practice and leave the land for tree growing, usually *A. senegal* gum trees in a bush-fallow system. Farmers are the owners of the tree producing gum Arabic for income generation. Other trees like *B. aegyptiaca*, *A. seyal* and *Ziziphus spina-christi* are also grown. The system is defined as bush-fallow, a well-known land use practice in Sudan since the early 20th century. It allows for multiple land use practices including grazing and tree growing. However, most of the privately owned land is not registered and have been subjected to land acquisitions from companies and individuals practicing mechanized farming following the 1970 Unregistered Land Act. The situation has created obvious conditions for conflicts between different stakeholders²⁴.

It is the Unregistered Land Act of 1970 that puts these *lands under government* control and allows for the intensive use of all unregistered land for agricultural purposes based on mono-culture mechanized farming. As a result, forests were degraded and pasture lands were taken, resulting in major problems for forest development and pastoralists. Between 0.5 and 0.7 million ha of natural forests are annually cleared for agricultural land use, added to the previously cleared lands. At present there is about 15 million ha of bare wasted land in the central clay plains which were once covered with forests. Most of these lands fall within the four States Sennar, Blue Nile, Gezira and Gedarif.

Communal land refers to unregistered land managed under traditional leadership based on local administrative leaders who were responsible for land allocation to individuals or families also in the past. These leaders, in collaboration with community members, protect the natural resources and resolve conflicts. Systems have changed since 1970 following the issuance of the Unregistered Land Act. However, since the mid-eighties, community forest continued to be reserved under communities' title managed by the communities.

The Sudan Forest Policy of 1986, and the new one of 2006 (under process), emphasized these facts concerning forestry tenure:

- Recognized and encouraged the establishment of community, private and institutional forests;
- Stressed the role of people participation in forest plantation, management and protection;
- Conceptualized the multiple uses of forests in the comprehensive National Strategies; and,

²³ Gaafar Abdalla 2011. Forest plantation and woodlots in Sudan

²⁴ Gaafar Abdalla 2011. Forest plantation and woodlots in Sudan

- Encouraging local populations to participate in the preparation of forestry and environmental projects and their execution.

5.2. 2. Forest/Tree Ownership patterns and Management in Sudan

Though rights and responsibilities of different partners in the gum Arabic out-grower's system are not documented, they are institutionalized in the sense that FNC is guarding and enhancing the system towards satisfactory production conditions and gum marketing, particularly in connection with gum producer associations. Other types of forest out-growers are indicated in the rights and privileges of communities living inside and around forest reserves to participate in forest establishment and to collect and sell dead wood and NWFPs. Agreements in a form of partnership between FNC and communities are stated in the document written at the time of forest reservation which sets out these rights²⁵.

The irrigated forests that belong to Farmers' Unions were established with the objective of wood provision for farmers and agricultural workers in the form of wood fuel and building poles to compensate for the scarcity in wood supply created as a result of clearing forests during land preparation of the irrigated scheme. In the case of the Gezira irrigated scheme, for example, 850 000 ha are bare of tree cover. However, other objectives included income generation for the peasant unions to facilitate funds for running the union and support services at villages²⁶.

The most important forests in Sudan are in the gum arabic belt, which is a zone of about 520,000 km² that extends across Central Sudan, accounting for one fifth of the country's total area. The belt is an important area because it accommodates around one fifth of the population of Sudan and two thirds of its livestock population. The belt acts as a natural barrier to protect more than 40% of the total area of Sudan from desert encroachment. It is also an area of intense and diverse human activities where most of the county's agriculture and animal production are practiced. This includes irrigated agriculture, mechanized rainfed agriculture, traditional rainfed agriculture and forestry²⁷. The biggest out-grower plantation Programme, that made a breakthrough in social forestry in Sudan, was the Restocking of gum arabic belt project during the period 1981-1996 where more than one hundred million seedlings were distributed and planted in communal land. The area thus reforested was estimated at 300 000 ha.

Community forests on the other hand are developed for multiple purposes. The main purpose is to generate revolving funds to support village development in various aspects, e.g. school maintenance, water supply development, health services support and poverty reduction, in addition to provision of wood to the village inhabitants at subsidized prices. Increasing areas of community forests are aiming at generating revolving funds²⁸. Gum arabic gardens are managed for gum production, which is sold locally to small entrepreneurs or transported to auction centers. Gum producers' associations enhance the development of farmers owning gum gardens and support marketing of the produce.

²⁵ Gaafar Abdalla 2011. Forest plantation and woodlots in Sudan

²⁶ Forest National Corporation (FNC), 2000. Forestry Outlook Study for Africa (FOSA), Sudan Country Outlook Paper.

²⁷ Ballal, M.E., 2002. Yield trends of gum arabic from *Acacia senegal* as related to some environmental and managerial factors. Ph.D. thesis, Faculty of Forestry, University of Khartoum

²⁸ Abdel Magid, T.D. and A.A. Salih, 2005. Forestry, food Security and poverty alleviation in Sudan: Issue Paper. Assistance to the Revision of National Forestry Policy, Legislation and Institutional Reorganisation. FAO

In the case of the forest component of mechanized rainfed agriculture, the land is on lease based on lease contracts between the government that owns the land and the farmer that uses the land. The farmer enjoys the right of using the land for agriculture during the period stated in the contract. The legal status of the forest established on the 10% of the area of the mechanized farm is not defined by any legislative framework and this situation creates an ambiguity when the lease terminates. It is only understood that the farmer can use the land and the forest growing on it as long as he is using the main land (90%) for agriculture and protects it. Usually, the farmer cultivates *Acacia senegal* gum tree on the 10% of the land where he produces gum but also uses the area under the hashab forest for grazing.

The case of community forest is quite usually clear. The forest land is a reserve and registered in the Sudan Gazette under the title of the community. The community has the right of ownership and bears the responsibility of protecting and managing the forest and the land. For ensuring such responsibility, the community forest is usually put under the responsibility of an elected village committee that bear all responsibilities of management of the forest, sales of the produce and administration of services.

Table 1. forest area under different ownership patterns and management/use systems

Category of owner and management system	Area, ha (rounded)	Percent of total
Government/public forests	17 000 000	72
Privately managed :		
2.1 Gum Arabic producers (societies/families)	6 006 000	26
2.2 Individual farmers	49 000	0.2
2.3 Private companies	126 000	0.53
Community managed	300 000	1.27
Total	23 481 000	

Source: FNC 2018

5.3. REDD+ and Forest/ Tree tenure in Sudan

REDD+ fit well within current environmental and socioeconomic development strategies in Sudan. This is because the current forest and environmental policies aim to reduce deforestation, enhance sustainable forest management, biodiversity conservation and hence forest carbon stock.

Land tenure play a central role in determining who can benefit from REDD+ and may establish new **carbon rights** regimes that determine who is eligible to receive REDD+ benefits. These carbon rights

could be based on existing rights to forests or could be allocated independently of current tenure systems.²⁹

Land tenure and carbon rights constitute critical issues to take into account in achieving emission reductions, ensuring transparent benefit sharing and determining non-permanence (or non-compliance) liabilities in the context of REDD+. This is so because tenure systems influence who becomes involved in efforts to avoid deforestation and improve forest management, and that land tenure, carbon rights and liabilities may be linked or divorced with implications for rural development³⁰.

Clarification of tenure arrangements and improvement of tenure security for local stakeholders have been widely recognized as priorities for fulfilling REDD+ in a way that is effective, efficient, and equitable³¹

The implementation of REDD+ in Sudan will involve enormous tracts of land, particularly forest and Range lands, where the statutory laws and customary norms that define rights are poorly defined and weakly enforced and sometimes contradictory. Clarity of property rights will have a critical influence on the eligibility of all stakeholders to benefit from REDD+ activities. This uncertainty of how REDD+ carbon rights will be defined in Sudan complicates efforts to design a REDD+ benefit-sharing mechanisms.

As REDD+ becomes a prominent component of Sudan response to climate change, it is important to ensure that REDD+ creates economic opportunities and acts as a positive force for rural development

It can be concluded that, the existing land, forest and tree tenure system in Sudan is problematic and pose a lot difficulty for equitable distribution of REDD+ benefits among different stakeholders so Sudan need to carefully consider how establishing carbon rights and determining eligibility to receive REDD+ benefits.

Work on tenure remains an urgent priority for REDD+ in Sudan for the purpose of livelihood as well as for reducing deforestation and forest degradation in Sudan. This will require participatory engagement of different stakeholders and tenure policy reform. Based on forest and tree tenure systems in Sudan the following land use system are recommended to develop, secure and improve carbon rights and associated mechanisms for benefit sharing

- Traditional bush fallow system in gum arabic belt to secure carbon tenure and rights for gum Arabic producers

²⁹ **Matt Sommerville, PhD**, Chief of Party of USAID's Tenure and Global Climate Change Program implemented by Tetra Tech Release Date: April 17, 2013

³⁰ Esteve Corbera, Manuel Estrada, Peter May , Guillermo Navarro 5 and Pablo Pacheco, 2011. Rights to Land, Forests and Carbon in REDD+: Insights from Mexico, Brazil and Costa Rica

³¹ Cotula, L., & Mayers, J. (2009). Tenure in REDD: Start-point or afterthought? London, UK: International Institute for Environment and Development

- Participatory Forest Management system in the government Forest Reserves to secure carbon rights to local people involved in rehabilitation, protection and management of Reserves
- Commercial plantations (private system) to secure carbon tenure to the private sectors and carbon rights to involved local communities in establishment of commercial plantation
- Shelterbelts established on rainfed mechanized agricultural schemes (10% of each scheme area) to secure the carbon right to the land users
- On farm trees This includes planting trees to capture carbon through agro-forestry and protection of naturally generated trees scattered on farms to secure carbon tenure for farmers and carbon rights for other land users

6. LAND TENURE ARRANGEMENTS UNDER PRESSURE

5.1 *General*

The different land legislations together with the apparent gaps have created enormous pressures on customary land tenure arrangements. Particularly important in this respect is the 1970 Unregistered Land Act which marked a major shift in customary rights arrangements. The Act, a de facto nationalization by the state, denies any formal legitimacy or juridical status to customary property rights. In effect, this implies the cancellation of all rights relating to land, water and grazing as well as the suppression of any future income related to such rights. The Act applies to the whole rain lands of Sudan in Darfur, Kordofan, the East and Blue and White Nile areas. Devoid of practical guidelines on the modalities for its implementation the Act involves heavy cuts in rural communities' rights to land while it demonstrates the long term potential effects on the land users who have acquired customary use rights that were not registered. According to the Act:

If any person is in occupation of any land which is not registered or deemed to be registered in the name of the Government may order his eviction from such land and may use reasonable force if necessary³²

The Act also deprives prior land users from the right to compensation for the loss of land or for the opportunity to be generated from the use by the government or the private sector. The promulgation of the Act was also most untimely for rural communities on the rain lands of the country, as it coincided with a period of severe droughts, large-scale environmental degradation, and massive population movements, a situation that later emerged as a major cause of conflict, especially in Darfur. The Act and other legislations that followed, including the 2013 Investment Act have created land as a scarce commodity for smallholders while setting in motion a progressive process of their alienation and marginalization. The 2013 Investment Encouragement Act (IEA) encourages investments in agriculture, industry and service sectors. Foreign and domestic investors get important incentives including low profits tax; exemptions from added value tax for imported capital

³² Egemi, Omer and Pantuliano, Sara, 2007, *the political ecology of resource-based conflicts in Sudan, Paper to OSSREA 7th Congress, Khartoum*

investments, customs duties for machinery and equipment including commercial vehicles; reduced duties on intermediate inputs and spare parts; and access to land below commercial value. The Higher Council for Investment has also been legitimized as the institution responsible for the allocation of land to the investors. The investor, according to the law, has the right to sell or collateralize the allocated land, if the land was fully or partially utilized. The main pressures on land tenure arrangements could be summarized as follows:

6.2 Land acquisition

Large scale acquisition of customary land for modern agriculture (both irrigated and semi mechanized) and recently for minerals sector (oil and gold) has been a major feature of Sudan development policy since independence. By early 1960s New Halfa irrigated scheme was established on the Butana plains of Eastern Sudan to resettle the Nubians dislocated by Aswan High Dam on the Nile in Egypt. By 1970s large irrigated schemes for production of cotton were established in Rahad and Suki areas in eastern Sudan. The post independence period also witnessed the establishment of number of irrigated sugar plantations in El Guneid, Khashm Al Girba, West Sennar, Assalaya, Kenana and more recently the White Nile Company resulting in the transformation of vast tracts of rainfed cropping and grazing lands into other land use systems.

The introduction and expansion of semi mechanized farming on the central clay plains in the kassala, Gedarif, Blue Nile, Nuba Mountains, White Nile, and West Kordofan resulted in heavy cuts in lands available for smallholders' production. The area under semi-mechanized farming increased from 214,000 feddan³³ in 1954/55 to 2.0 million feddan in 1970/71. By 2014 the area reached around 13.5 million feddan³⁴. Considering the fact that the semi-mechanized farmers do not usually cultivate more than 60% -70% of the allocated land the land leased for the sector is estimated to range between 30 million and 40 million feddan; this is in addition to unaccounted for large scale land appropriation under the unplanned squatter semi-mechanized sector. The ultimate result is enormous cuts in rural communities' rights to land and natural resources, including agricultural land, water resources and pastures; this is besides the dislocation of considerable people out of land. Even whole villagers have been left landless and forced to work as precarious wage labourers on their own land or to migrate outside to urban centres (Ijaimi 2005³⁵).

**Mechanized farming and the creation of landless groups
Case #1: Phase one of Umsainat- Sumsam Extension (Gedarif State):**

There were about 4100 families in villages of Rashid, Ndarait, Um-rakoba, Um-Blail, Wad-fartouk, Alhammad in Gedarif area. They were traditional farmers. To establish the first phase of Umsainat (Sumsam extension) a total area of 200,000 feddans around above villages had been demarcated as mechanized farms distributed to 200 investors from outside the area. Only an area of 14,000 feddans representing 7% of the total area was distributed to 350 families; the rest of the families (3750 families or 90.5%) have been left landless.

To implement the second and third phases of Umsainat, the villages of Um-Maleeha, Tamra, Saraf Saeed, Alam, Daneekola, Babikery and Dokah have lost their lands completely (Ijaimi 2005)

³³ Feddan = 0.42 hectre

³⁴ Directorate of Agricultural Planning and Economics, Ministry of Agriculture and Forests, 2014

³⁵ Ijaimi, Abdelatif Ahmed, 2005, *mechanized farming and conflict in Sudan in Galal El Din El Tayeb (ed) Land tenure and conflicts in Sudan, SECS, Khartoum*

Dramatic expansion in the sector during the 1990s was facilitated by the Presidential Decree of 1990 initiating the Food Security Campaign under the slogan “we eat what we produce and we dress what we manufacture”. The period also witnessed the dissolution of the Mechanized Farming Corporation that created major institutional vacuum resulting in the haphazard and uncontrolled expansion of the sector.

6.3 Oil industry

The introduction of oil industry has been associated with marked shifts in customary land tenure arrangements and land use systems resulting in the dwindling of pastoral resources, both grazing and water. Available data (Pantuliano et al, 2009) revealed that the introduction of oil industry has created land as remarkable shifts in customary land as scarce resource for both pastoralists and traditional farmers through appropriation of enormous grazing resources and agricultural lands while setting the scene for heightened competition and disputes over land. The rapid construction of air fences (zaraib hawaa) by farmers in anticipation of compensation has led to blocking of pastoral routes and increased tension between pastoralists and farmers. Non Misseriyya communities who lived in the area for more than a hundred year of enjoying access to cultivable land through customary arrangements have recently been denied such rights (Pantuliano et al 2009). The recent conflict over land rights near Balila (Fula Locality) between Awlad Hiban (Misseriyya Zurug) and Awlad Sirur (Misseriyya Humur) and which claimed the lives of more than 200 persons rights provides a typical example

6.4 Changing political context

The independence of the Republic of South Sudan has created new realities in Sudan, particularly along the border areas in South Darfur, South Kordofan, White Nile, Sinnar and Blue Nile States. Land tenure arrangements in these areas are currently under severe pressure. Pastoralists who historically used to spend the dry season grazing in the South (Fig) have effectively lost these grazing grounds resulting in marked shift of once vast grazing areas in South Sudan to the border States of the country. This is anticipated to result in enormous pressures on the pastoral systems and their long-term viability. In reality, the implications of South Sudan independence on livelihoods security and environmental conditions in border areas are much deeper and serious than to be reduced to issues of pastoralism only. This could be illustrated by the followings:

- Border areas are the most densely populated areas of the country accounting for 31% of Sudan total population and more than 45% of the country’s rural population; population density is approximately 24 persons/km² compared to the national figure of 15 persons/km²

Misseriyya traditional livestock route



- Border areas accommodate around 41% of the livestock population in the country. Realizing the fact that border areas are the main dry season grounds for pastoralists from as far as North Darfur, North Kordofan, Red Sea and Butana livestock numbers in the border areas during the dry season could be of anything more than 60% of total livestock population in the country³⁶.
- Land is turning to be a scarce resource taking into account that the border areas are the main areas for semi-mechanized agriculture and oil production in the country, the two sectors that appropriate much of the lands in these areas;
- Land disputes which are endemic, especially in Blue Nile and South Kordofan. This is in addition to the unresolved issue of Abyie
- The enormous human and livelihood insecurities, including displacement, introduced by the conflict in Darfur and current political instability in each of Blue Nile and South Kordofan
- Fragility of the social environment where poverty, conflict, population instability, spread of militias, small weapons and erosion of governance are defining features of the social and political landscapes in these areas. Many potential drivers of risks and insecurity do also exist including Abyie issue and cross border conflicts.

Livestock in the Border Areas

Cattle	15344305
Sheep	14003361
Goats	11569924
Camels	559990
Total	41477580
Source: Ijaimi, 2010	

6.5 Population issues

The population of Sudan is growing at a very rapid pace, from approximately 8 million in 1955/56 to over 30 millions in 2008 and an estimated 36 million in 2014. During 1955/56 -2008 the population of Darfur increased from 1.33 millions to 7.5 millions reflecting an average annual growth rate of 8.9%. This figure could only be explained by the influx of migrants across Sudan porous borders with the neighbouring West African countries.

Another feature of Sudan's population is the high level of mobility, made imperative by spatial variations in ecological conditions and gross disparities in economic development and opportunities. Population mobility has however, reached unprecedented rates since the mid 1980s as a result of the severe drought of 1984 and the associated tragic famine that culminated in conspicuous shifts in the population landscape map of Sudan, particularly along the southern margins of the Sahara in Darfur, Kordofan and White Nile areas. This shift in population has introduced enormous challenges to land tenure arrangements in many places in the country.

Sudan Population

1955/56	8 m
2008	30.9 m
Average annual long term Growth rate: 5.7%	
Source: Sudan Government: First Population Census 1955/56 and Fifth Population and Housing Census 2008	

³⁶ Egemi, Omer, *Equitable sharing of natural resources for development and social peace in Sudan melting pot states, paper to SECS pastoral Forum, 2010*

In Darfur, the areas of the Fur, Birgid, Berti and Daju tribes were the targets for waves of hundreds of thousands of displaced groups from Northern Darfur, especially Zaghawa and various camel pastoralists whose livelihoods were severely ruptured and devastated by the disaster. The displaced people brought a strong challenges and contestations to the prevailing customary land tenure arrangements founded on the *hakura* system. To guard their interests the new comers opted for a different concept relating to access to natural resources based on what De Witt (2001) referred to as the “legal shopping”. Capitalizing on the 1970 Unregistered Land Act, they used the argument that they are Sudanese nationals with equal and inalienable rights over land and its resources. The immediate results of that were the widespread of conflicts that took an ethnic dimension where each group began to overplay its cultural and ethnic differences from the other to justify its rights over land and to call for an autonomous administration, not on a geographical but on an ethnic basis. The recent creation of autonomous emirates for the migrant groups within the traditional homelands of indigenous tribal groups was held responsible for the escalation of the present conflict in Darfur (Takana 2010³⁷).

Similar challenges to customary land tenure arrangements are anticipated to be created by the large number of IDPs displaced by Darfur conflict. All of the 139 camps in which the IDPs are found are located on lands that were customarily held by individual farmers. Not only that but these lands have been out of production for almost thirteen years with the rights of the original owners being highly compromised. The nature of land tenure problems associated with displacements and return issues takes various forms including:

Population of Darfur 1956-2008	
1956	1,328,7
1973	2,181,000
1983	3,111,406
1993	4,638,000
2008	7,515,445

- Permanent occupation of land abandoned by displaced persons
- Establishment of IDPs camps on lands owned by recognizable individual farmers
- possession of property by military, public institutions and new comers;
- Sale of non owned plots;
- reallocation of non expropriated property;
- temporary allocation of abandoned land and property turning into “de facto” ownership;
- multiple allocation of the same plot by local administrations or tribal chiefs;
- unauthorized buildings on non owned property

Conflict over occupied land and other economic assets is also expected to be a hot issue in places like Darfur. The restitution of lost land and property rights will also remain central issues for the voluntary return of the IDPs. However, realizing the fact that displacement has never been a transient phenomenon considerable number of IDPs will remain where they do exist now around the major cities, therefore, their integration into the urban settings will be an immediate task.

³⁷ Takana, Yousif S, 2010, Roots of conflict in Darfur, Paper presented to SECS, Khartoum

6.6 Land degradation

In spite of the absence of detailed and up-to-date studies, there is a general consensus among planners, decision makers and land users that land degradation is a serious problem in Sudan. Several case studies on land degradation were carried out in Sudan during the two closing decades of the 20th Century. Major among these were the assessments by UNEP (1977)³⁸; FAO/UNEP (1984)³⁹; UNEP/ISRIC (GLASOD) (1990)⁴⁰; and Dregne 1991)⁴¹. According to Ayoub (1998)⁴² of the agricultural land, pasture and forest and woodland (170 million ha in total), nearly 75 million ha (45%) have been degraded severely to very severely by human factors in recent history. 81 percent of the total degraded area is in the susceptible arid, semi-arid and dry sub-humid areas. Most of the degradation (74 % of the total degraded soils) is in the arid and semi-arid zones.

Since 1960s Sudan has been experiencing severe problem land degradation, especially along the southern margins of the Sahara in Darfur and Kordofan besides the enormous threats to the main Nile. Vast tracts of land that were previously agricultural and pastoral have been converted to desert. UNEP 2007 remarked that a particular problem in Sudan has been the conversion of semi desert habitat to desert. Recent evidence⁴³ suggests a 50 to 200 km southward shift of the boundary between desert and semi desert has occurred since the 1935s. Empirical evidence from Darfur suggests that the conflict has resulted in an unprecedented destruction of environmental resources⁴⁴. This situation has been further supported by Emelie Dahlberg and Daniel Slunge (2007)⁴⁵ who noted that most of the remaining semi-arid and low rainfall savannah, representing approximately 25% of Sudan's agricultural land, is at considerable risk of further degradation which is projected to continue to move southwards due to climate change and changing rainfall patterns causing an estimated 20% drop in food production.

Land degradation associated with reduced land capability and productivity remains a serious problem in the country. An SOS Sahel UK study from North Kordofan (2002)⁴⁶ maintained that average dura grain (sorghum) yield per feddan has declined from 630 kg in early 1970s to 270 kg in 2002. A very recent study⁴⁷ from

³⁸ UNEP 1977. *United Nations Conference on Desertification, 29 August-9 September 1977. World Map of Desertification at scale of 1: 25,000,000. A/CONF. 74/2.*

³⁹ FAO/UNEP (1984). *Map of Desertification Hazards: explanatory note. Nairobi, Kenya: United Nations Environment Programme*

⁴⁰ UNEP/ISRIC (GLASOD) (1990). *World Map of the Status of Human-induced Soil Degradation, Nairobi: UNEP.*

⁴¹ Dregne, H.E. (1991). *Desertification Costs: land damage and rehabilitation, International Centre for Arid and Semiarid Land Studies, Texas Tech. University.*

⁴² Ali Taha Ayoub, 1998, *Extent, severity and causative factors of land degradation in the Sudan Journal of Arid Environments (1998) 38: 397–409*

⁴³ UNEP (2007), *Sudan Post conflict Environmental Assessment 2007*

⁴⁴ UNEP (2007), *Sudan Post Conflict Environmental Assessment*

⁴⁵ Emelie Dahlberg and Daniel Slunge, 2007, *Sudan Environmental Policy Brief, Department of Economics, Göteborg University, Sweden*

⁴⁶ Omer Egemi et al, 2003, *Towards a local peace: SOS Sahel experience of conflict transformation between pastoralists and farmers in El Ain, North Kordofan, IIED*

⁴⁷ Omer Egemi, 2014, *Livelihoods and food security strategies of pastoralists and small farmers in Gedarf State, East Sudan, Maan Organization and Oxfam Novib*

Gedarif State of East Sudan shows that the average of dura yield per feddan has declined from 720 kg in 1960s to 180 kg in 2013. The enormous declining yield from land has been also documented by Government of Sudan Study of the mechanized farming sector in the country in 2008⁴⁸.

Land degradation has been created enormous pressures and challenges to the existing land tenure arrangements. An immediate result of the problem relates to the dramatic expansion of cultivated land by traditional farmers to compensate for their declining yield from land which further contributes to clearance of land cover, competition over land and eventually proliferation of conflicts. Livestock routes all over the country have shrunk because of the expanding agriculture leading to loss of pastoralists to their customary entitlement to natural resources and resting places, a situation that contributed to intensification of conflicts and the emergence of the pastoral sector as a highly militarized livelihood system at present.

6.7 Transition to market economy

The rapid transition to market economy, under conditions of large-scale environment degradation, rapid population growth and an global climate change, has created enormous modification in land tenure regime and access resources. Empirical evidence from North Kordofan and Butana suggests that the average plot size per individual household increased from 5-7 feddans in the mid 1970s to more than 20 feddans in the year 2014 to cope with the increase need for cash together with the need to compensate for the declining yields from land⁴⁹. The introduction of modern agricultural technology, especially tractors, significantly contributes to such an increase in farm size. The replacement of traditional rain-fed agriculture by a modern intensive commercial horticultural sector based on irrigation and land enclosures in places like Kabkabia and Kutum areas of North Darfur has resulted in modified access of pastoralists to land and resources. This has led to the erosion of the symbiotic processes that previously characterized the relation between pastoralists and farmers while creating pastoralism and farming as competitive sectors rather than complementary ones. This has turned to be one of the root causes of the conflict and the consequential present disturbances of both livelihood systems throughout the rainlands of Sudan.

7. LAND GOVERNANCE AND ADMINISTRATION

Land and environmental governance in Sudan at present is in disarray. The rapidly changing dynamics of land tenure has made the existing institutional arrangements obsolete and manifestly incapable to keep pace with the progressively evolving national and local contexts of land administration and management. The structure of land administration, at both the federal and state level, is characterized by multiplicity of institutions that are not closely linked or integrated. Key structures are the Ministry of Environment, Forests and Physical Development and its Higher Council for Environment and Natural Resources; Ministry of Justice; Ministry of Tourism and Wildlife; Ministry of Water Resources, Dams and Electricity and the National Agency for Investment. At the State level a wide range of institutions and actors do exist including: the Walis, Ministries of Agriculture, Forests National Corporation, Investment Commissions, Land Dispossession Committees at the Mahaliyya level and the Native Administration and Popular Committees at the local or village level.

⁴⁸ *Government of Sudan, 2008 Study of the Sustainable Development of the Semi Mechanized Farming Sector in Sudan, Ministry of Agriculture and Forests*

⁴⁹ *IFAD, WSNRMP and BIRD Supervision Missions Reports 2014*

Although Sudan Interim Constitution include provisions at the national and local levels designed to reform governance structures existing institutions continue to suffer lack of coordination and systemic problems of capacities, accountability, and unclear or overlapping authorities. Years of underfunding have rendered these institutions manifestly incapable to deliver services and to perform their responsibilities. Added to this is the hesitant and partial process of decentralization of natural resource management which manifestly failed to proceed to a robust devolution of authority to the states and localities. The stipulation of land administration in Sudan Interim Constitution as concurrent competence between the States and federal Government has resulted in a continuous and a progressive encroachment of the Central government on States lands and power over it with the resultant distortion in the decision making process between the various levels of governance that add to the deepening land problem and conflict over it. The process has been facilitated by existing land laws that give government the right to appropriate land for the so-called “Public interest” without specifically defining what constitutes the public interest.

The situation has been complicated by the demise of the native administration and the subsequent absence of a recognizably credible institution capable of managing and administering land and natural resources at local level. Despite its reinstatement since the mid 1980s, the Native Administration System has remained weak and ineffective in controlling illegal appropriation of land, protecting customary rights of communities, managing grazing resources and facilitating seasonal mobility. This could be attributed to the followings:

- The dissolution of the institution in 1971 had severely impacted the economic power of the tribal leaders. When the institution reinstated in 1986 its tribal leaders had already lost most of their power.
- Much of the roles historically played by customary institutions have been captured by modern governance structures.
- Being hereditary, the institution is highly accused of being non democratic and out of touch of contemporary universal value systems grounded in concepts of democratization and human rights
- The power and legitimacy of tribal leaders is highly contested by the newly emerging political forces led by the youth and who accuse tribal leaders of being politicized and are accountable to politicians in urban centres rather than to their constituencies in the rural areas.
- Establishment of many parallel institutions at local level (popular committees, security committees, village development committees) that stripped tribal leaders of many of their traditional powers.

8. CONCLUDING REMARKS

1. Land tenure is a major cause of instability in the country at present. Most of the conflicts that straddle the rainlands of Sudan at present have directly or indirectly related in one way or another to the question of land tenure. Besides being a cause of conflict and instability existing land tenure continues to an important impediment to effective utilization of natural

resources and the translation of these resources into a broad base for economic and social development in the country.

2. Existing legal frameworks to land are largely confused with apparent dichotomy between statutory and customary rights. Specifically, it is not clear at all whether statutory or customary rights that have legal status in terms of who owns, who controls and how access to land can be made, remade, legitimated and contested.
3. There is a clear legislative gap to sanction the right and entitlement of smallholders, both farmers and pastoralists to land and natural resources.
4. Lack of title to land has denied traditional farmers and pastoralists the right to access public resources, namely formal credit, thus creating them as a highly disadvantaged and marginalized groups
5. Issues associated with the weak governance of natural resources and land access and tenure and in particular the multiple and parallel systems of natural resource management and governance that exist – have created an environment in which resource rights are open to dispute, where confusion over claims to natural resources is common, and in which conflicts can emerge and play out in a destructive manner.
6. Appropriation of land for semi mechanized sector has resulted in significant modifications in land tenure arrangements with apparent heavy cuts in the rights of smallholders to land and natural resources
7. the context for natural resource management in Sudan is changing: there are new demands on land, for example from the mining; the petroleum sector and domestic and agribusiness investors; the legitimacy and authority of traditional leadership, responsible for many aspects of customary land management, is in decline in many contexts; the independence of South Sudan has closed off many pastoral routes and resulted in the need to relocate a population of returnees from that country; growing populations of both people and livestock are increasing the pressure on land; and climate change is multiplying the impact of land degradation and pushing population towards the less dry south of the country. There is urgent need for a new framework for land governance, to address the problems of today and tomorrow.
8. The independence of the Republic of South Sudan has created new challenges to land tenure in Sudan border States with the Republic of South Sudan which are already under pressure from rapid growth in human and livestock populations.
9. There is apparent absence of clear and recognizable institution for the administration and management of rural lands in the country. Existing institutional arrangements for land management and administration suffer problems of poor capacities, lack of coordination and compartmentalization between different government institutions with an apparent ambiguity concerning roles and mandates of the various actors at various levels of governance (local councils, native administration, land dispossession committees, ministries of Agriculture.etc);

10. The Native administration system, historically the custodian of rural land and administration has been severely weakened over the decades and its powers have been progressively contested by the emerging political institutions
11. There is ambiguous and confusing division of power between the federal and state governments resulting in conflicting decisions over land and continuous encroachment of the federal government on land in the states.
12. The definition of land administration as a concurrent power between the federal and states governments is a major gap in the legislative structure of land management. The prevalent centralized authoritarian mentality is part of the problem
13. The gray and ambiguous concept of “public interest” has been a major factor contributing to land dispossession of smallholders on the rain lands of the country
14. Despite the importance of land to women, their land rights are still largely discriminated against in customary and statutory laws. Unequal and insecure access and control over land is one of the ways that poor rural women are often disadvantaged
15. The current tribal polarization on the rain lands of the country has created customary law in both form and practice as manifestly exclusive with apparent violations to the rights of the large population who have been for centuries living within the domains of the existing tribes but without recognizable or legitimate rights to land
16. The existing policy, legal and institutional frameworks to the administration of land and natural resources are manifestly incapable to cope with the current challenges associated with population growth, increasing demand for resources, national interests in resources and security of rights to traditional farming and animals herding groups.
17. The Investment Encouragement Act of 2013 suffers the absence of social dimension and conflict sensitivity in relation to land.

9. STRATEGIC FRAMEWORK TO ADDRESS LAND TENURE ISSUES

The policy, legal and institutional framework to deal with land created during the past century has been rendered inadequate by the tremendous changes in the social, political, economic, cultural and environmental circumstances of the country. The low and declining productivity, increase in population and population redistribution have resulted in heightened demand and competition for access to land and other natural resources. The oil and gold mining have created new demands for land. In addition, the independence of South Sudan together with the changes in the global environment brought about by globalization and commitments to market economy have combined to create a reality that is significantly different from the one conceptualized when the existing frameworks were established. This new reality calls for holistic new approach to land governance, and administration. An important task for the future, then, is to address the existing gaps and injustices involved in land tenure arrangements and to provide a secure tenure situation for rural communities while enabling the State to make the maximum and sustainable use of the land.

In this regards, building of land governance constitutes an important entry point for promoting equitable sharing of land while ensuring that the wealth generated through its uses yields dividends for the entire community. The realization of effective and transparent land governance emphasizes the need to go beyond the narrow or rigidly sequential sectoral approaches to a holistic approach rooted in the link between governance, peace building, human security and development that places the issue of land concretely in the contextual realities of the time and the anticipated future trends of change, locally, nationally, regionally and globally. To this end:

- REDD+ policies and measures to be effective, equitable and legitimate in Sudan, there is a need to address land, forest and tree tenure insecurity and conflicts and to establish a fair and proper REDD+ benefit sharing mechanism
- Research on REDD+ benefit sharing mechanisms and how to integrate forest carbon claims within them is urgently needed
- There is an urgent need for institutional reform of the land governance and administration involving nation-wide and state level review of existing institutions, review and revision of existing land regulatory frameworks and the explicit definition of the relationship between the different government institutions related to land, including the localities and community governance structures. This involves critical review of existing laws and legislations with the objective of identifying gaps, up-dating, harmonization and augmentation of relevance.
- Realizing the current status of information fragmentation there is crucial need for land information Centre, branched down to states and localities and mandated with collection and availing of data on land use patterns, land values, traditional land users, title holders, land leases, land compensations.....etc.
- Establishment of adequate and transparent regulatory framework for private and public sector investments in land and extractive natural resources and resource-based industries adhered to principles of Corporate Social Responsibility founded on the UN 2000 Global Compact principles
- Comprehensive and critical assessment of the impact of decentralization and federalism on land administration in the country
- Building effective research capacities involving training of university staff, availing of research funds, and exposure to international and regional experiences and support to undergraduate and graduate research projects.
- Establish a task force for in-depth review of existing land lease holds in the semi mechanized farming sector to identify gaps and develop a relevant and transparent criterion for land leasing
- Establishment of forums for public consultations, at local level, on issues related to land and natural resource management to inform national debate and dialogue
- Using results of reviews and consultation forums, organize an inclusive and representative national conference on land including identification of the role of community institutions in

land management and administration to inform and identify provisions over land and natural resources in the coming Constitution

- Support and capacity building of local government structures including the power of tribal leaders and chiefs in their role as land administrators, conflict transformers, local development agents and mobilizers of community.

Table 2. The operationalization and realization of the above recommendations require wide range of human, technical and financial resources inputs. The table below illustrates that.

Strategic direction	Strategic objective	Inputs needed
institutional reform of land governance and administration improved and sustained	<p>Nation-wide and state level review of existing institutions related to land</p> <p>Critical review of existing land laws and legislations and identifying gaps, up-dating and harmonization</p> <p>impact of decentralization and federalism on land administration in the country critically assessed and recommendations provided</p> <p>in-depth review of existing land lease holds in the semi mechanized farming sector undertaken identifying gaps and developing relevant and transparent criteria for land leasing</p> <p>Coherent national land policy drafted and applied</p>	<p>5 Teams of experts and researchers</p> <p>Financial resources</p>
Knowledge in land tenure issues particularly carbon tenure and rights promoted and institutionalized	<p>National land information centre branched down to states established</p> <p>Land and REDD+ related issues incorporated in high education curricula</p> <p>Research capacities in land promoted</p> <p>Exposure of experts and graduates to international and regional experiences supported</p> <p>Undertake in-depth research to promote understanding how structural factors of globalization, capital investment, separation of the South, climate change, population displacement affect land tenure regime and built into conflict over land</p>	<p>10 Research assistants for collation of information</p> <p>Library building</p> <p>Electronic library facilities</p> <p>Financial resources</p> <p>Coordinator</p>

<p>Adequate and transparent regulatory framework for private and public sector investments in land and natural resources in place</p>	<p>Establish a task force for in-depth review of existing land lease holds to identify gaps and develop a relevant and transparent criterion for land leasing</p> <p>Review and provide for harmonization of investment law with other land related regulation</p> <p>Develop and apply policy framework and guidelines to ensure that investments in land and natural resources yield dividends to communities affected</p>	<p>Task force 4-5 persons</p> <p>2 Team of experts</p> <p>Financial resources</p> <p>Coordinator</p>
<p>Capacities in land management and administration are promoted and strengthened</p>	<p>Capacities of land related institutions mapped and critical gaps identified</p> <p>Develop comprehensive capacity development programme targeting the various stakeholders including local government structures and tribal leaders</p> <p>Undertake learning route to high level staff for learning from international and regional experiences in land governance</p>	<p>Capacity assessment team</p> <p>2 experts to develop the programme</p> <p>2 Learning route facilitators</p> <p>Financial resources</p> <p>Coordinator</p>
<p>Public dialogue over land sustained</p>	<p>Establishment forums to engage people in dialogue and popular discussions over access and use of land and natural resources</p> <p>Identify mechanisms for negotiating the diverse interests of the various social groups, including the state</p> <p>Organize high level national conference on land including identification of the role of community institutions in land management and administration to inform and identify provisions over land and natural resources in the coming Constitution</p>	<p>Facilitators</p> <p>Platforms for debate</p> <p>Presentations</p> <p>Coordinators</p> <p>Financial resources</p>

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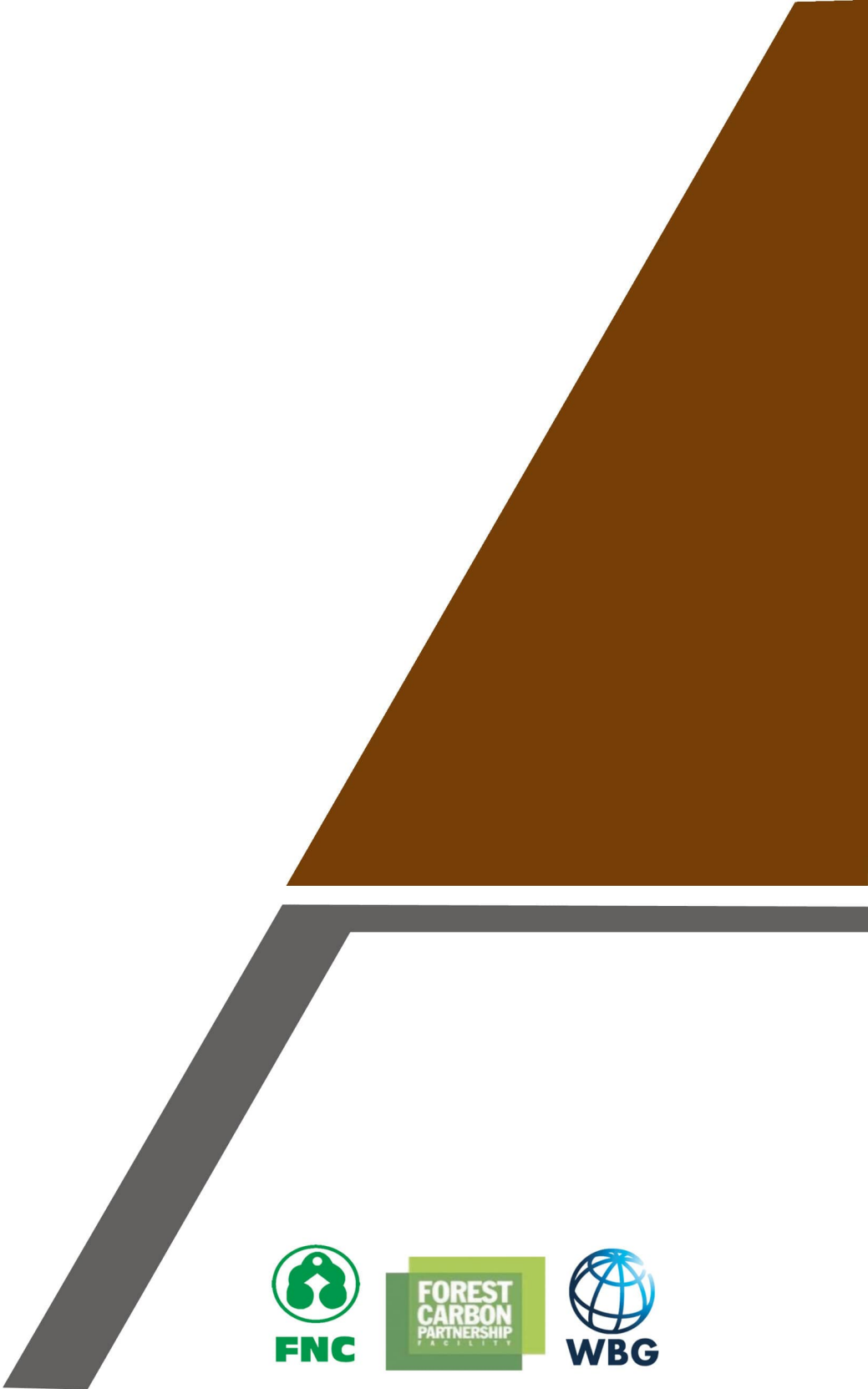
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