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**TOWARDS LAND
GOVERNANCE IN
THE MIDDLE EAST
AND NORTH AFRICA
REGION**

**VERS UNE
GOUVERNANCE
FONCIÈRE DANS LA
RÉGION DU MOYEN
ORIENT ET DE
L'AFRIQUE DU NORD**

**HACIA LA
GOBERNANZA DE LA
TIERRA EN LA REGIÓN
DEL ORIENTE MEDIO Y
ÁFRICA DEL NORTE**

ABSTRACT**LAND GOVERNANCE****CONFLICT AND POST-CONFLICT SITUATIONS****LAND TENURE REFORM****ISLAMIC LAND TENURE****SUSTAINABLE LAND MANAGEMENT**

The Middle East and North Africa region (MENA)¹ covers a vast geographical area and diverse political and socio-economic systems. Land rights in the MENA region are affected by violent conflicts, the impact of climate change and desertification, migration, population growth and urbanization. Rule of power, inefficient State institutions and services, a widening gap between rich and poor, and increasing landlessness are the results of the governance gap in many of the countries in the MENA region.

There is significant progress in modernizing land administration

RÉSUMÉ**GOVERNANCE FONCIÈRE****SITUATIONS DE CONFLITS ET SITUATIONS D'APRÈS CONFLITS****RÉFORME FONCIÈRE****DROIT FONCIER ISLAMIQUE****GESTION DURABLE DES TERRES**

La région du Moyen Orient et de l'Afrique du Nord² couvre une vaste zone géographique et divers systèmes politiques et socioéconomiques. Dans cette région, les droits fonciers sont soumis à de violents conflits, aux effets du changement climatique et de la désertification, aux migrations, à la croissance démographique et à l'urbanisation. Le déficit de gouvernance dans la plupart des pays de la région a conduit à un affaiblissement de l'autorité de la loi, à l'inefficacité des services de l'Etat, aux différences entre les riches et les pauvres et à l'accroissement du nombre de paysans sans terre.

SUMARIO**GOBERNANZA AGRARIA****DESPUÉS DE LOS EPISODIOS DE CONFLICTO****REFORMA DE LOS SISTEMAS DE TENENCIA DE LA TIERRA****SISTEMAS DE TENENCIA DE LA TIERRA ISLÁMICOS****GESTIÓN SOSTENIBLE DE LA TIERRA**

La región del Oriente Medio y África del Norte³ abarca una extensa zona geográfica y distintos sistemas políticos y socioeconómicos. El derecho de tierras en la región se ve afectado por los conflictos violentos, las repercusiones del cambio climático y la desertificación, las migraciones, el crecimiento de la población y la urbanización. En muchos países, el imperio del poder, la ineficiencia de las instituciones estatales y servicios, la brecha cada vez mayor entre los ricos y los pobres y la siempre más acentuada falta de tierras resultan de los vacíos de gobernanza.

systems in most countries of the region. However, progress is mainly technology driven (e.g. the geo-industry) and too often not accompanied by progress in reforming land policies, improving the normative framework, involving civil society, and reengineering institutional processes. It is therefore important to facilitate reforms in the land sector, build professional capacities and generate an enabling environment towards improved land governance.

The article identifies major land-related problems and also highlights best practices and work in progress. Lessons learned are identified and recommendations for continued reform processes are summarised.

Dans la plupart des pays de la région, les systèmes d'administration foncière ont réalisé d'importants progrès en termes de modernisation. Mais ces progrès sont surtout imputables à la technologie (géo-industrie) et ne sont généralement pas accompagnés par des progrès correspondants en termes de réforme des politiques foncières, d'amélioration du cadre normatif, d'association de la société civile et de réingénierie institutionnelle. Il est donc important de faciliter les processus de réforme dans le secteur foncier, de renforcer les capacités professionnelles et de créer un environnement favorable à l'amélioration de la gouvernance foncière.

Cet article identifie les principaux problèmes liés aux questions foncières et met en lumière les bonnes pratiques et les progrès accomplis. Il identifie les principales leçons tirées et propose des recommandations pour la poursuite des processus de réforme.

En la mayor parte de los países de la región se han registrado progresos significativos en la modernización del sistema de administración de tierras. Sin embargo, los avances han estado impulsados sobre todo por la tecnología (es decir, la geoindustria) y con demasiada frecuencia no han sido acompañados por reformas de la política agraria, la mejora del marco normativo —que involucra a la sociedad civil— y la reestructuración de los procesos institucionales. Por consiguiente, es importante facilitar las reformas en el sector agrario, crear capacidades profesionales y generar un ambiente propicio para el perfeccionamiento de la gobernanza.

El artículo singulariza los principales problemas relacionados con la tierra y también destaca las mejores prácticas y los trabajos en curso. Se mencionan las lecciones aprendidas y se sintetizan algunas recomendaciones para el proseguimiento del proceso reformista.

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- 1 MENA region in FAO terms is the following countries: Algeria, Bahrain, Egypt, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Palestine, Oman, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Emirates and Yemen.
 - 2 Pour la FAO, la Région du Moyen Orient et de l'Afrique du Nord fait référence aux pays suivants : Algérie, Arabie Saoudite, Bahreïn, Égypte, Émirats Arabes Unis, Iran, Iraq, Jordanie, Kuwait, Lebanon, Libye, Mauritanie, Maroc, Palestine, Oman, Qatar, Soudan, Syrie, Tunisie et Yémen.
 - 3 Para la FAO, la región del Oriente Medio y África del Norte comprende los siguientes países: Arabia Saudita, Argelia, Bahreïn, Egipto, Emiratos Árabes Unidos, Iraq, Jordania, Kuwait, Líbano, Libia, Mauritania, Marruecos, Palestina, Omán, Qatar, República Islámica del Irán, Siria, Sudán, Túnez y Yemen.



INTRODUCTION

"Land is a source of life." With this statement, the FAO Middle East and North Africa regional consultation⁴ was launched to discuss the importance of land and other natural resources in securing livelihoods and in ensuring social, economic, and cultural development. Rights of access to these resources and the associated security of tenure are increasingly threatened by occupation, wars, land expropriation and eviction, and centralized power overriding local land rights. All of these are conditions specific to the MENA region. They prevent individuals from enjoying their legal rights to full sovereignty over their land, to control its natural resources and develop sustainable livelihood. There are additional factors that distinguish the MENA region from other parts of the world, such as the impact of climate change, rapid urbanization, the prevalence of the state as the ultimate owner of the land, laws related to natural resources, and growing demands for land for food production.

Other major challenges include:

- the overriding impact of conflicts in the MENA region
- the lack of political will for reforming the land sector
- the absence of land policy orientation
- the weak capacity and lack of service orientation of public administrations
- the lack of trust between government and civil society, often due to corruption
- the paucity of accessible empirical land data.

Land governance can help to reduce poverty, support social and economic development, reform public administration, and contribute to peace-making. The article will review progress made in reforming land tenure aspects, especially:

- land and gender
- common property rights and pastoralism
- land tenure and water rights interdependencies.

4 Regional Consultation Meeting on FAO Voluntary Guidelines on responsible governance of tenure of land and other natural resources 2010 - <http://www.fao.org/docrep/012/al304e/al304e00.pdf>

Region-specific land issues related to natural resource management, such as management of public land and land management in drylands, will be highlighted. Governance issues in land administration such as transparency, accountability, and efficiency, will be discussed. Progress made in land registration will be identified. Special attention will be given to the consequences of violent conflict, human rights aspects *vis-à-vis* land tenure, and border disputes in the MENA region.

GOOD GOVERNANCE AND LAND TENURE

Gender-responsive land tenure

In most societies women play an important role in agriculture, despite the variations in division of labour from one cultural setting to another. Hence, land is an essential source of livelihood for rural women. Experiences from different countries in the MENA region indicate that women's access to land (and water, which cannot be separated from land issues) is more problematic than it is for their male counterparts. In fact, the question of access is becoming increasingly complex: certain groups in society seem more privileged than others because of coexisting systems – customary or formal – that seem to favour those groups over others, because these systems enable them to negotiate rights and entitlements. Disparity of land access is one of the major causes of social and gender inequalities in rural areas, and as a consequence jeopardizes rural food security as well as the well-being of individuals and families. Research has shown that although land is considered an important issue in the MENA region, gender-oriented land tenure interventions are scant for the following major reasons (Obeid 2006):

- 'Gender-responsive land tenure' is considered a sensitive area because of its link to Islamic law and to customary practices.
- The socio-cultural assumption in the MENA region is often that land is not necessarily a 'question' for women and that land is owned by men as a matter of custom. This is reinforced by the lack of gender disaggregated data and documentation, not only of women's property and access to resources, but also the need for change in their status.

Gender-oriented land tenure interventions are scant in the MENA region



Lack of institutional support

Research needs to address institutional barriers at different levels, from the state and its practices all the way down to local and community based organizations. Why do government organizations in the countries studied endorse a 'gender approach' to agriculture but fail to address the land question as a problem in its own right?

Islamic law provides women with substantial rights to acquire, manage and alienate property. However, under classical Islamic law (*Shari'a*), which governed the devolution of land in full ownership (*mulk*), women were accorded smaller inheritance shares. It is therefore very important to monitor gender-responsive land tenure reforms and draw conclusions for adequate action (UN-HABITAT 2005, Sait and Lim 2006).

Islamic land tenure reform

Land tenure concepts, categorizations and arrangements within the Islamic world are multi-faceted, generally distinctive and certainly varied. This 'web' of tenure regimes is often dismissed as intractable, inscrutable or outdated, but the lack of adequate systematic research hampers our understanding of how Islamic land concepts are manifested on the ground. The evolution of Islamic land tenure regimes from the classical and Ottoman periods to colonial and contemporary times provides vital insights into the dynamics of Islamic land. What emerges is the interplay of a range of Islamic land approaches, state interventions, customary practices and external influences. Too often, global reviews of land tenure are undertaken without taking Islamic laws relating to land sufficiently into account. The Land and Tenure Section of UN-HABITAT therefore carried out in-depth studies of the Islamic land and property rights. (UN HABITAT 2005, Sait and Lim 2006) and organized a first training programme in 2009 (Box 1).

Common property rights and pastoralism

Pastoralists are those communities that rely on mobile rearing of livestock as a livelihood strategy for human survival and socio-economic development on marginal arid and semi-arid lands. Due to low average productivity and

great variance in the productivity of this type of land, animal mobility enables risk to be spread and optimizes productivity by exploiting seasonal pastures and water. Pastoral resource management is based on a complex set of temporary or semi-permanent claims to pasture, water and other resources, as well as on the underlying principles of flexibility and reciprocity.

In the MENA region the relationship between pastoralists and the State must be considered an important but in many cases unresolved governance issue. It has often been characterized by the nationalization of pastoral resources and the state-led organization of herders in collective/associative groupings. The rationale was as follows: by nationalizing natural resource control, organizing pastoral groups into associations, and providing them with services and/or facilities, herders' access to resources would be improved and their identification with State institutions would be facilitated, resulting in less conflictive relationships. Governments either tried to superimpose new institutions on existing ones, or to co-opt traditional ones into state structures. In practice this strategy resulted in the dispossession of pastoralists from their most valuable resources through their incorporation into state and market mechanisms.

**The relationship between
pastoralists and the State is
in many cases unresolved**

In December 2009, the International Islamic University of Malaysia (IIUM), in cooperation with the Global Land Tool Network (GLTN), Training and Capacity Building Branch (TCBB) of UN-HABITAT and the University of East London (UEL) successfully hosted an international pilot training on land and property rights issues in Islamic contexts.

The training attracted participants from 10 countries, including the MENA region. The objectives of the training were to: test the pilot training package for wider dissemination and use; communicate founding principles of Islamic law and how they relate to land and property rights; develop knowledge, networks and capacity on Islamic approaches to land and property rights; generate possible action plans and strategies for use in training and workplace settings. The training was a success in realizing its objectives and building networks.

Box 1
**Best practices for Islamic tenure
reform and capacity building**

Source: First Islamic land training successfully piloted in 2009 (UN HABITAT 2009)



Two factors especially contribute to the process of reshaping pastoral livelihoods in the MENA region: the fact that it has never been the focus of mass international development assistance and the weaker capacities of local civil society. It is very likely that these factors are closely correlated. In most MENA countries today, most pastoral communities are organized into 'producers' associations'. About a half of pastoral livestock feed requirements come from grazing on range, stubble and crop residues, while the other half is provided through purchased feed, often subsidized by the government.

By acknowledging herd mobility as a critical factor for sustainable pastoral livelihoods (and as also defined in the UN Convention to Combat Desertification (UNCCD) operational framework), governance and policy imply that:

- Pastoralists' rights to land must be secured (Box 2).
- Authority to administer natural resources must be decentralized; power and responsibility must be devolved to or shared with local institutional levels.
- Within these policies – which are appropriate to the mobility paradigm – legal mechanisms and support systems must be set in place, in order to move away from central and remote control of rangelands and make pastoral communities responsible for their own evolution towards economically, socially and environmentally sustainable livelihood systems. (ICARDA 2007)

This enabling environment should define the operational framework in which resource access, resource use and resource management takes place. This will comprehensively address diverse claims and enable different local institutions to work towards fair negotiation and brokerage of different interests, to avoid conflict and resource degradation. (Ngaido *et al* 2004). Further developments along these lines evolved into so-called co-management systems (Kirsch-Jung *et al* 2006), which suggest that where resources are scarce and variable and income streams uncertain, communal property systems are the most efficient, because the relatively low returns from the arid resource do not warrant the cost of organizing and enforcing more exclusive forms of tenure. Management of livestock mobility involves continuously contested claims and rights, and requires multiple institutions working at multiple levels of

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The Mauritanian Code Pastoral⁵ may be considered an example of 'legal best practice' as it is consistent with the local as well as the global environments. It is a well-written, short and clear piece of legislation, formalizing local traditions and outlining the role of different stakeholders. Its content and its application are culturally embedded in the society's tradition. At the same time, it is consistent with three UN Conventions: on Biological Diversity, on Climate Change and to Combat Desertification. The Code incorporates the conventions' objectives by establishing a framework for exploitation of natural resources consistent with the preservation of local ecology, in order to preserve and foster human survival within the environment.

Box 2
Best practice from Mauritania

authority, function, and spatial scales. Rather than framing these dynamics simply in terms of aggregate population pressure on a limited natural-resource base, a more disaggregated 'entitlements approach' considers the role of diverse institutions in mediating the relationships between different social actors, and different components of local ecologies.

The water rights and land tenure interface

Land and water rights are instrumental to the realization of fundamental human rights such as the right to food and the right to water. Addressing the problematic areas of the land/water rights interface contributes to the progressive realization of those human rights, which is required by international human rights treaties. Water is not an issue that can be treated separately from land – for the world's poor the linkage between the two is self-evident on a daily basis – land without water is of little use in an arid climate as is access to water without land. Securing access to land can secure access to water too;

5 Available at www.glin.gov or www.glin.mr



this enables farmers as well as urban dwellers to invest with confidence in management practices and technologies that enable them to improve their livelihoods and to use limited water resources wisely. (UNDP DDC 2005)

Four broad areas can be identified in the MENA region for regulating the interface between water rights and land tenure (Hodgson 2004):

- Where customary law has prevailed, the need to clarify the status of existing arrangements and guarantee their stability and transparency will be crucial to ensure that specific users and user groups are not marginalized. It is particularly important to clarify the relationship between statutory and customary rights.
- When we move beyond the generally low-intensity customary use of water in rural settings, and scale up to land tenure and water rights within formal irrigation schemes, the impulse to de-link land tenure and water rights becomes more apparent, particularly with the demise of central planning and command-and-control style water administration.
- Where there is a move away from centrally planned economies, there will be a need for progressive re-regulation of water use rights in support of decentralized land management. In reality there needs to be a clarification of formal and informal rights and appropriate institutions in place to regulate water rights, land tenure, and above all the interface between the two.
- Land and water will continue to be tightly bound and the separation of land tenure and water rights is critical. The economies of the MENA region that are dependent on groundwater are a case in point.

In countries where irrigation systems are being improved or new irrigation systems established, the design and functioning of these systems will be greatly enhanced if pre-existing patterns of land and water rights and established procedures for system operation are taken into account, for example through land consolidation procedures (Essadiki 2005). An appreciation of these rights and procedures can greatly influence the layout of the water distribution network, water and land management practices, anticipated cropping patterns, and the related incidence of project benefits. Failure to do so will almost certainly have an adverse effect on the functioning of the irrigation system, and can often result in serious conflicts.

GOOD GOVERNANCE IN LAND AND NATURAL RESOURCE MANAGEMENT

Sustainable land management in dryland

Land is an essential productive asset on which many livelihoods depend, particularly in the drylands of the MENA region (Box 3). For the poorest populations, land degradation has enormous implications for productivity, food security and sustainable livelihoods. Lack of access to natural capital not only constrains development opportunities at the level of the individual, but also has macro-economic effects at the national scale. There is a strong positive correlation between equity of land ownership and subsequent national economic growth rates. Good governance of land-based resources means positive outcomes of land and related policy in terms of equity, efficiency and environmental sustainability.

Land

Agricultural production and rural farming are not possible without land; therefore, the implementation of a socially-just land policy, land-use plans and sustainable land management practices, continue to represent enormous challenges in sustaining livelihoods. This will therefore require the implementation of the following policies:

Policies

Countries of the Arab region are heading towards establishing and implementing national policies aiming at:

- ensuring socially-just land tenure systems and designing realistic enforceable land-use plans
- enhancing sustainable land management practices and protecting land from degradation
- promoting scientific research in natural resources protection in order to achieve sustainable development
- enhancing the role of the private sector and civil societies in implementing sustainable development programmes and applying integrated policies to eradicate poverty.

Box 3

Statement of the proposed policies and measures for the Arab region on the thematic area Land



The ways in which natural capital is managed – including the rules that govern who may use which land resources under what conditions – is central to development outcomes in many societies. This is particularly true where financial capital is scarce, meaning that peoples' welfare is more directly reliant on the management of natural capital (UNDP DDC 2005).

The problem of food insecurity is still largely a rural issue in most Arab countries. Currently, about 44 percent of the population of Arab countries live and work in rural areas and depend on agriculture for their livelihoods. In addition, the development potential of those rural areas is compromised by low education attainment levels, inadequate basic infrastructure, and poor access to health and education facilities. Desertification and land degradation are constraining agricultural productivity in the Arab region. Concerted efforts are therefore needed to combat desertification and reverse land degradation trends through sustainable land management practices, including improved tenure security.

**Concerted efforts are needed
to combat desertification and
reverse land degradation trends**

Management of public land

The management of public land across the world is often badly handled and is certainly a major governance issue in which misuse of power and vested interests are constantly involved. The vesting of the ownership or administration of substantial portions of a nation's land in the hands of the public sector is a widespread feature of many land tenure structures in the MENA region, where probably more than 80 percent of all land can be considered as public land (Box 4).

In some countries the new interest in improved and more effective management of public land is mainly driven by public sector and fiscal reform, while in other countries it is mainly driven by devolution of state assets from central to local government or the challenge of governance and accountability (FAO, FIG and LING 2008). There are many good practices, but in the MENA region such examples are scattered, not systematically analysed, and not easily accessible or documented. Not only is there an enormous need and interest for sharing experiences about work in progress in all countries, but also a need and interest in tailoring capacity-building opportunities in effective management of public land (Zimmermann 2009).

Decades of reliance on the sectoral development model have resulted in a complex and fragmented institutional landscape for public land management, characterized by an unusual split between multiple central government authorities controlling public land and local governments controlling public land, divided along geographic lines. This unusual situation is the result of the accumulation of layers of legislation over the past four decades, with as many as 45 directly and indirectly related laws and decrees that are not harmonized and are often conflicting. The problem is further compounded by a multitude of differentiated, non-transparent, complex and arbitrary procedures related to public land allocation, pricing and development controls. Egypt also lacks a coherent public land information system; investors and non-investors alike are often unable to figure out which authorities control public land and where public land is available. In addition, there is ineffective land-use planning, with little gauge of demand and without consideration of the opportunity cost of land development.

Box 4
Governance problems in managing public land in Egypt

Source: World Bank, 2006

Public land will continue to have increasing social and economic significance. Consequently, the related institutional, legal and operational arrangements that should secure multiple rights and interests in specific locations will take on additional political importance. Reforming the management of public land in the MENA region must contribute to a basic set of development principles, namely reduction of severe poverty, sustainable management of natural resources, progress in good governance (Franco 2009) and transparent fiscal management of the public sector. We have only scratched the surface as far as crafting new institutional arrangements pertinent to public land is concerned.

Public land will continue to have increasing social and economic significance

Sustainable urban land management

The forces generating urbanization and urban growth are irreversible, at least in the short and medium terms, and in many respects they are beneficial both to the increased urban populations and national economic development. Climate change, violent conflicts, and a tendency



for globalization to concentrate capital and landholdings in fewer hands all reinforce rural–urban migration and urban growth. In the MENA region, 66 percent of the population is already living in urban space. Although urban areas make a significant contribution to economic growth, many of their existing and projected inhabitants are poor: this is resulting in a growing urbanization of poverty. Policies are required to guide and manage the process of urban growth through effective land management, planning and tenure systems, within a governance framework that advances, or at least protects, the needs of the urban poor.

Urban space provides people with places to build houses, factories, shops and social and service facilities (such as schools, hospitals and movie houses). This space needs to be organized in an efficient way. Around half of the people living in cities in the MENA region live in slums.

However, city authorities tend to view most people living in slums as illegal residents. Because of this, cities do not plan for or manage slums, and the people living in them are overlooked and excluded. They receive none of the benefits of more affluent citizens, such as access to municipal water, roads, sanitation and sewage. This attitude to slum dwellers, and specific policies that disregard them, perpetuate the levels and scale of poverty, which impacts on cities as a whole.

Urban human settlements require a more inclusive approach to planning and land management if they are to sustain all the people who live in them. A basic need for all people living in cities is shelter. Cities that want to meet this need will have to integrate all people and recognize all city dwellers as citizens of the city. The first step in creating sustainable urban settlements is for cities to recognize that people living in slums have a right to be in the city. This recognition will begin to make slum dwellers legitimate citizens, which in turn will start to legalize their tenure.

Forced evictions in urban and peri-urban locations are carried out in both developed and developing countries, in all regions of the world. They are usually directed at the poor, living in informal settlements or in slums. The effect on the lives of those evicted is catastrophic, leaving them homeless and subject to deeper poverty, discrimination and social exclusion. Such communities are invariably evicted against their will, in most cases without any compensation or alternative housing.

Changing official and social attitudes and mindsets about informal settlement, with residents having a 'right to the city', would be a major step towards giving the urban poor some form of tenure security. Their security would be greatly strengthened if the policies and law were made congruent with such a change of attitude (FIG 2008). In some countries this could be more easily achieved than in others. Altering urban law, policy, instruments and procedures would probably take a long time to take effect.

Additionally, climate change poses many challenges to the region's cities, hubs for economic, social, cultural and political activities. Rising sea level could affect 43 port cities – 24 in the Middle East and 19 in North Africa. In the case of Alexandria, Egypt, a 0.5 metre rise would leave more than 2 million people displaced, with \$35 billion in losses of land, property, and infrastructure, as well as incalculable losses of historic and cultural assets. Development options for urban planning and financing need to tread a fine line, balancing innovative solutions (such as Masdar, Abu Dhabi⁶) with rehabilitation/regularization of the numerous informal settlements. This remains a pressing need in the MENA region.

Good governance in land administration

Reforming the organizations and practices responsible for land administration is one of the most difficult governance challenges in the land sector. Efforts to improve land governance and land policies will directly target the land administration system. In either case, reform may require the transformation of land administration systems that have been operational in their current form for a long time, and changes to an organizational culture that has developed around existing rules and procedures.

Progress in land registration in the MENA Region

Jordan, UAE and Lebanon, for example, have effectively modernized the land administration system and implemented a modern title registration system (Box 5). In Jordan almost all land is registered and covered by cadastral maps in digital format. A comprehensive land valuation system

The driving force for the modernization of land registration systems in the MENA region is technology and not the reforms in land tenure and land policy orientation

6 <http://www.masdarcity.ae/en/index.aspx>



Both the Land Market Seminar and Land Administration Forum (Tehran 2009)⁷ identified the following issues (among others) to assist improvement and management of land administration systems:

- developing a National Land Policy that addresses land-related issues in a holistic way and provides a foundation for economic development, ensures all have access to land, and protects women and vulnerable groups
- taking action to improve the legal and institutional framework for land-related activities
- making land-related information more open, transparent and accessible for the public
- speeding up the processes of core land activities (registrations, plans, valuations, etc.) through process re-engineering, computerization and closer co-operation between all land-related agencies
- developing an information policy to provide a framework for the sharing of data between agencies as part of an e-government strategy and, as appropriate, with the public
- ensuring appropriate institutional and technical arrangements are in place to facilitate the integration of cadastral and topographic data within Spatial Data Infrastructures (SDI) to support sustainable development
- strengthening the relationship and understanding between the land administration and financial sectors.

is operational, registers and cadastral maps are updated and harmonized, services and professional capacities are strengthened and the private sector is playing an increasing role. However, state land is badly defined and there is still a wide gap between de jure and de facto land rights on public land. In summary, the driving force for the modernization of land registration

7 http://www.fig.net/news/news_2009/tehran_may_2009.htm

systems in the MENA region is technology (geo-industry) and not the badly-needed reforms in land tenure and land policy orientation.

The Chapter 'Registering Property' in *Doing Business in the Arab World* (World Bank and IFC 2009) examines the steps, time, and cost involved in registering property, assuming a standardized case of an entrepreneur who wants to purchase land and a building that is already registered and free of title dispute. The study covers a wide range of country situations. The number of procedures legally required to register property ranges from 1 to 11, the time spent in completing the procedures ranges from 2 to 72 days, and the cost (expressed as a percentage of the property value) such as fees, transfer taxes, stamp duties, and any other payment to the property registry, notaries, public agencies or lawyers, range from 0 to 28 percent.

Transparency and accountability in land administration

The absence of corruption is one obvious prerequisite to good governance in land administration. However, features of good land governance also include accountability, political stability, government effectiveness, regulatory quality and rule of law, as well as control of corruption. The principles of land governance can be made operational through equity, efficiency, transparency and accountability, sustainability, subsidiarity, civic engagement and tenure security.

Transparency International's Global Corruption Barometer (GCB) 2009 presents the main findings of a public opinion survey that explores the general public's views of corruption, as well as experiences of bribery around the world. It assesses the extent to which key institutions and public services are perceived to be corrupt, measures citizens' views on government efforts to fight corruption, and, for the first time in the 2009 survey (in cooperation with FAO), includes land questions about the level of bribery and political corruption in the land sector. The 2009 barometer interviewed 73 132 people in 69 countries. The results for the MENA region are exposed in the Box 6.

**How serious do you think the problem of grand or political corruption is in land matters in Middle East and North Africa?**

Box 6

Land question (10 B) of the GCB 2009 in selected countries of the MENA region

Grand or political corruption refers to corruption in the privatization of state-owned land, zoning or construction plans assigned without technical support, and/or land being expropriated (compulsory purchase) without appropriate or even any compensation for actual land value.

ANSWERS	TOTAL SAMPLE	MIDDLE EAST AND NORTH AFRICA			
	69 countries	Iraq	Kuwait	Lebanon	Morocco
1 Not a problem at all	2%	3%	1%	1%	0%
2	6%	11%	7%	1%	0%
3	18%	17%	10%	4%	2%
4	23%	22%	18%	14%	17%
5 Very serious problem	36%	21%	56%	79%	77%

Quote GCB 2009: In the Middle East and North Africa, the most bribe-prone institutions are reported to be those handling procedures related to buying, selling, inheriting or renting land.

Quote GCB 2010: The regional differences are significant. It is notable that in MENA and in Newly Independent States (NIS), the reported bribery in land services is very high.

LAND GOVERNANCE IN CONFLICT AND POST-CONFLICT SITUATIONS**Land tenure in conflict**

Land tenure issues in conflict situations are a human right concern as well as a governance issue. Conflict over land is a major cause of poverty, marginalization and debasement of whole societies and economies. Land disputes are particularly problematic in cases of violent conflict. The causes of violent conflicts are typically complex. Some violent conflicts are directly linked to competition for land and other natural resources. Growth in population without increases in productivity or new opportunities to

acquire off-farm income tends to place increased pressure on natural resources, and the resulting environmental degradation may cause still greater competition for the remaining natural resources. As access to land is often related to social identity, the rights of people to land may be used in the political exploitation of tenure. Other violent conflicts arise without scarcity of land and other natural resources being a fundamental cause, although land disputes may merge with other issues, and different sides in the conflict may attempt to gain control over natural resources (Unruh 2004, FAO 2006).

Land tenure issues can be a source of tension (in the case of competition over essential natural resources, for instance), and can equally fuel violence once it has erupted (e.g. dominance of valuable resources such as water and oil). Land and its resources are often used to fund conflict. Land and natural resources can be implicated in all phases of the conflict cycle, from contributing to the outbreak and perpetuation of violence to undermining prospects for peace. In addition, land resources and the environment itself can fall victim to conflict, because direct and indirect environmental damage, coupled with the collapse of institutions, can lead to environmental risks that threaten people's health, livelihoods and tenure security. Land tenure is also often a critical element when designing and implementing humanitarian responses to the consequences of armed conflict and other situations of violence (GLTN 2009).

The Rio Declaration (1992) states in Principle 24 that "Warfare is inherently destructive of sustainable development." This is nowhere more apparent than in the MENA region, where wars and conflicts have set back sustainable development gains, with significant repercussions for the region as a whole. While developments since the 1992 Earth Summit have brought calm to parts of MENA, the lack of equitable peace and security has been a major constraint to achieving sustainable development.

The specific plight of Internally Displaced Persons (IDPs) as regards land access requires particular analysis. Land tenure is a critical element throughout all phases of displacement, but is particularly challenging in relation to the return, reintegration, and sustainable resettlement – including the resolution of tension – of displaced persons. From another perspective, it is arguable that land tenure is also a socially contested issue, and thus

Land tenure can be a source of tension and fuel violence once it has erupted



largely a human rights concern. Nonetheless, there is wide agreement that unresolved land tenure issues (e.g. return, integration and reintegration, and compensation) can result in resumed violence.

After years of discussion and input from experts involved in property restitution programmes in such areas as the former Yugoslavia and Middle East, the 'Pinheiro Principles, new housing, land and property restitution rights', were formally endorsed by the UN Sub-Commission on the Promotion and Protection of Human Rights, in 2005. They provide practical guidance to governments, UN agencies and the broader international community on how best to address the complex legal and technical issues surrounding housing, land and property restitution. The new Pinheiro principles⁸ are currently applied in the MENA region in Iraq, Palestine, Sudan and Western Sahara. The ongoing case of Iraq⁹ illustrates how extensive the problem of unresolved restitution claims is.

Border issues are land governance issues¹⁰

Since their independence, borders have been a recurrent source of conflicts and disputes between countries in the MENA region. Most of the borders are poorly defined. The location of strategic natural resources in cross-border areas poses additional challenges (Box 7). Large tracts of land cannot be registered in a systematic manner, and are not accessible for the local population to the benefit of their livelihoods, because of security restrictions. People are forcibly evicted from critical border areas and are losing their traditional land rights without being compensated. On the other hand, secure and demarcated borders can be an enabling infrastructure for sustainable development, new access to land and tenure security.

Borders are often perceived by borderland populations as imposed barriers which rarely reflect local realities. Strategies need to be developed by Governments to involve borderland populations in delimitation and

8 <http://www.sheltercentre.org/shelterlibrary/items/pdf/PinheiroPrinciples.pdf>.

9 Conference 2010 on 'Towards a land policy for Iraq', UN HABITAT/World Bank; <http://www.gltm.net/en/newspage/conference-on-toward-a-land-management-policy-for-iraq.html>

10 Conference of African Ministers in charge of border issues, March 2010, <http://www.africa-union.org> relevant for Arab countries in Northern Africa.

The Conference was expected to:

- prepare and adopt an Action Plan for the Implementation of the Border Delimitation and Demarcation programme
- publish books on AUBP entitled 'From Barriers to Bridges...' and a Good Practice Handbook on Delimitation of African Boundaries (in Press)
- launch a continent-wide survey of African borders by means of a questionnaire sent to all member states
- establish the Boundary Information System (BIS) a data bank of information on African boundaries
- encourage the Commission to take initiatives to develop cross-border cooperation, both as an indispensable complement of delimitation and demarcation of African borders, where this has not yet been done.

Source: Conference of African Ministers in charge of border issues, March 2010, Addis Ababa, Ethiopia (www.africa-union.org)

demarcation exercises, to ensure that clearly delimited and appropriately-demarcated boundaries are regarded as a valuable foundation for borderland development, rather than a threat to local communities. Borderland populations also have much to contribute to the development and implementation of effective border management strategies.

CONCLUSION

Governance, human rights and sustainable development

It is crucial to understand the nature of the relationship between socio-economic development, respect for human rights, good governance and conflict in the MENA region. The new paradigms for looking at governance in general and land governance specifically may hold promise for creating enabling environments and enabling infrastructure for reform processes and generating an atmosphere of change in the land sector. It calls for greater and non-discriminatory inclusion of the full range of social actors in the land sector, the increased recognition or re-establishment of the rule of law, strengthening of service-oriented institutions, building professional capacities, and civilian oversight of development processes.

Box 7

The second conference of African Ministers in charge of border issues

Land governance may hold promise for creating enabling environments and infrastructure for reform processes



The ways forward

There are many promising best land governance practices in the MENA region, such as the development of the 'code pastoral Mauritania' for recognizing pastoral land rights and strengthening local level participation in managing land and natural resources, or the transparent and modern land administration systems in Jordan and the UAE Municipalities. However, pressing needs for reform in the land sector are clear and obvious in the following fields:

- developing frameworks for land policy, including public consultation
- reforming the normative framework (human rights/gender issues, law enforcement, access to justice, Islamic tenure reform, gender, recognition of customary land rights)
- reforming the institutional infrastructure for land administration (transparency, accountability, service-orientation, effective public land management, access to land information, the role of the private sector)
- linking land issues more systematically with water resource management, with UN CCD and climate change actions, with food security, with peace-building processes, with urban development/rehabilitation and with the finance sector
- supporting the reparation of war and political conflicts in the MENA region through international partnership in the land sector (Conference on 'Toward a land management policy for Iraq 2010')¹¹
- documenting and disseminating best land governance practices and lessons learned in MENA
- fostering public awareness regarding land governance and land rights in appropriate language and media to reach all relevant groups
- facilitating civil society engagement and strengthening professional associations in the MENA region
- modernizing professional education and training programmes in the land sector and strengthening institutions for applied research
- eventually marketing the idea of establishing an Arab Land Tenure Centre for post-graduate studies and research in the land sector
- establishing mechanisms in the Arab region and beyond for exchange of experiences, action-oriented research and enhanced cooperation.

¹¹ <http://www.glt.net/en/newspage/conference-on-toward-a-land-management-policy-for-iraq.html>

Compared to other regions in the world there is a lack of international partnership and international engagement in the land sector involving local and regional partners, as well as a lack of cross-country cooperation in the MENA region. The international community (multilateral and bilateral development institutions, research associations, education associations, professional associations, private sector, NGOs) should play a pro-active and facilitating role in engaging with new regional MENA partners (such as the League of Arab States, UN-ESCWA and the Islamic Development Bank) in land matters, streamlining the often scattered efforts of the international community, supporting systematic capacity building programmes, co-organizing regional and national land governance/policy conferences and offering support to reform processes in the land sector, as well as filling the obvious research gaps. The FAO initiative for developing the *Voluntary guidelines on responsible governance of tenure of land and other natural resources* could thus be considered as promoting the new era of international partnerships, including partnering more with the MENA region (FAO 2010). The democratic governance movements and initiatives currently being observed in a number of Arab countries are calling for a new commitment culture and partnerships with the international community to enable land governance reforms in the region.

There is a lack of international partnership and international engagement in the land sector



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