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LAND TENURE AND PROPERTY RIGHTS ASSESSMENT: AGRICULTURAL ENTERPRISE INITIATIVES OF USAID/KENYA



AUGUST 2008, UPDATED MAY 2009

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ACRONYMS AND ABBREVIATIONS

ADC	Agricultural Development Corporation
AEZ	Agro-Ecological Zone
AFC	Agricultural Finance Corporation
BOO	Build, Own, Operate
BOT	Build, Own, Transfer
CFA	Community Forestry Association
CSO	Civil Society Organization
dNLP	Draft National Land Policy
DFID	Department for International Development (UK)
DoA	Department of Agriculture
FHH	Female Headed Household
GOK	Government of Kenya
GTZ	German Technical Cooperation Agency
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
HRD	Human Resource Development
IDP	Internally Displaced Person
IT	Information Technology
KARI	Kenya Agricultural Research Institute
KDDP	Kenya Dairy Development Program
KFS	Kenya Forestry Service
KHDP	Kenya Horticultural Development Program
KMDP	Kenya Maize Development Program
KSC	Kenya Seed Company
LRTU	The Land Reform Transformation Unit
LTPR	Land Tenure and Property Rights
MHH	Male Headed Household
MoA	Ministry of Agriculture
MoF	Ministry of Finance

MoL	Ministry of Lands
MTEF	Medium-Term Expenditure Framework
MWPA	Married Women's Property Act
NCPB	National Cereals and Produce Board
NGO	Nongovernmental Organization
NRM	Natural Resource Management
RLA	Registered Land Act
SACCO	Savings and Credit Cooperative Organization
SFT	Settlement Fund Trustees
SOW	Statement of Work
SRA	Strategy for Revitalizing Agriculture
TIST	The International Small Group Tree Planting Program
UNDP	United Nations Development Program
USAID	United States Agency for International Development
WUA	Water User's Association

PREFACE

Globalization of the world's economies, the increasing and sometimes violent competitive demands for scarce and valuable natural resources, and the (re)emergence and expansion of important nations in the world economy create new economic and political opportunities and challenges for the United States. The way in which nations define property rights—such as private, public, state-held—and permit citizen to hold property (e.g., private, leaseholds, etc.) and defend those rights through the rule of law or administrative procedures, greatly influences the processes of globalization, national economic growth, and the development of democratic society. Indeed, property rights are seen as a critical factor in economic growth, nation-building, governance, and political stability in the U.S. Foreign Assistance Framework.

While there is a need in every society for state-held and public land, “private rights,” whether individual, corporate, or community, have been shown to be the most robust, facilitating investment, economic growth, and more sustainable use of natural resources. These private rights can be administered and secured through formalized systems, including land registration and titling, or through less formal systems, such as customary, “traditional,” or other non-statutory systems as seen in many parts of Africa and Asia. The degree of formalization needed depends on the development of national markets; the needs of the country; its administrative capacity; and other social, political, economic, and cultural challenges and opportunities. It is not uncommon or necessarily problematic to have both formal and informal or less formal systems operating in one country at the same time.

When these dual systems exist, the challenge is not to eradicate one in favor of the other—the informal in favor of the formal—but to create linkages between these systems that will provide security of property rights and allow individuals, communities, and corporate structures opportunities to make transactions between these systems, and opportunities to upgrade or transform property rights (from less formal to more formal) when economic conditions are right, and institutions exist to administer, record, and adjudicate more formalized rights.

From the inception of the organization, the United States Agency for International Development (USAID) has focused on fostering the development and promotion of property rights in countries where it works. Over the years, critical thinking from within USAID, U.S. universities, and the Agency's domestic and international partners has led to new programmatic approaches to foster property rights around the world. These programs have contributed to economic growth and increased private investment; fostered political stability, improved governance, and mitigated violence; and improved sustainable and profitable management of natural resources. The lessons learned from these programs have, in turn, led to new strategies and sequencing in reforms to promote property rights in diverse economic, political, and cultural settings.

In 2003 and 2004, USAID embarked on a small-scale program to develop (a) a more uniform methodology to understand and address property rights issues, and (b) measure the demand from USAID missions for technical assistance to address property rights reforms and institutional development in our partner countries. This led to a much more ambitious program beginning in 2004 to develop a comprehensive framework and tools to conceptualize, programmatically address, and promote property rights around the world. This program was implemented as a Task Order (Lessons Learned: Property

Rights and Natural Resource Management) through the RAISE¹ IQC. The results of both sets of work have defined the conceptual framework for land tenure and property rights (LTPR) as part of USAID foreign assistance and tools for USAID’s engagement in LTPR programming internationally.

Under the **Property Rights and Resource Governance (PRRG) task order, implemented through the PLACE² IQC**, USAID seeks to expand upon the LTPR Framework, and refine existing and develop new companion tools to augment the Framework. This task order focuses on the promotion of the Economic Growth objective, within the new U.S. Foreign Assistance Framework, by promoting property rights and natural resource governance. The task order has the following goals:

1. Improve Knowledge Management and Best Lessons: develop and transfer lessons learned/best practices regarding land tenure, property rights and resource governance to development practitioners including partner institutions, USAID, and other USG partners.
2. Improve Economic Growth: through the development of methodologies promoting property rights (including private individual and “group,” corporate, shareholder, and community rights) through such tools as land titling and registration, community demarcation, and the development of new models for enterprise property rights. An emphasis will include tools to promote land and natural resource markets.
3. Promote Governance and Mitigate Conflict: through development of methodologies and tools to improve transparency in land and natural resource access, to broaden civil participation in decision making, and in the development of tools to resolve disputes and conflicts over natural resources (including land, forests, wildlife, and coastal and mineral resources such as diamonds and oil).
4. Improve Natural Resource Management and Biodiversity Protection: by promoting methodologies to link property rights for land, forest, water, wildlife, and other resources with natural resource management practices (particularly in protected, buffer, and corridor areas, and in areas adversely impacted by conflict).
5. Address Gender and Vulnerable Populations Needs: by developing best practices/lessons for access and rights to land and natural resources by women and vulnerable populations’ (e.g., indigenous groups, minorities, displaced and disadvantaged groups). This will promote economic growth and equity for frequently disenfranchised populations. It could also create options, through access to productive resources, which would mitigate the transmission and/or economic impacts of HIV/AIDS for women and vulnerable populations.
6. Provide Technical Support to USAID Missions and operating units: by providing evaluation, design, and technical support for activities related to property rights and natural resource governance. These activities may include (but are not limited to) property rights in privatization, economic growth, finance, governance, conflict resolution, post-conflict reconstruction, conflict resources, natural resource management, biodiversity, gender, and resettlement of displaced and vulnerable populations.³

The PRRG Program is managed for USAID by ARD, Inc., of Burlington, Vermont, USA. Key partners on this task order include the Rural Development Institute, the World Resources Institute, and Links Media.

The Program’s CTO is Dr. Gregory Myers, Senior Land Tenure and Property Rights Specialist, EGAT\NRM\LRMT, United States Agency for International Development; gmyers@usaid.gov.

¹ Rural and Agricultural Income with a Sustainable Environment (RAISE).

² Prosperity, Livelihoods, and Critical Ecosystems (PLACE).

³ Gregory Myers, EGAT\NRM\LRMT, excerpt from Property Rights and Resource Governance Global Task Order.

EXECUTIVE SUMMARY

In March 2008, USAID/Kenya commissioned a desk review of Kenya's draft National Land Policy (dNLP), and two field assessments of USAID programs in Kenya – one focused on agricultural and agroforestry enterprises, and the other on natural resource management (NRM) and conservation. This report represents one of three documents prepared under the initiative.⁴

The purpose of this assignment was to assess how issues related to Land Tenure and Property Rights (LTPR)⁵ are impacting success of small- and medium-scale agricultural enterprises. The assessment team focused on issues of i) regularization of rights to agricultural land, ii) access to land markets, iii) diversification of local livelihood, and iv) issues of equitability and efficiency in the land administration system. The assignment was to also provide USAID/Kenya with an understanding of how Kenya's dNLP might impact sustainability and growth of the small- and medium-scale farming sector.

Field visits were conducted over a two-week timeframe (March 8–20, 2008) in Central Province (Nyeri and Nanyuki Districts) and Rift Valley (Trans Nzoia and Uasin-Gishu Districts) in the locations of Eldoret, Kitale, and Cherangani Hills. Other meetings and workshops were held in Nairobi. A combination of focus group discussions and individual interviews were held with small- and medium-scale agroforestry, horticulture, maize, and dairy farmers; HIV/AIDS-affected groups; and health workers. To ensure broad inclusiveness, joint interviews with men, women, and youth were followed up with separate interviews with women. Other key informants included larger-scale leasehold farmers, small- and large-scale agricultural traders, private horticulture companies, banks, government agricultural agencies, and private agricultural input companies.

The assessment analyzed viability of specific enterprises, and assessed constraints and opportunities for developing new enterprises, including analysis of value and supply chains, and competitiveness. The assessment generated lessons and recommendations for securing agricultural property rights and contract agreements to promote equity in access; efficiencies in land administration⁶ and access to land markets; improved agricultural productivity; increased investments in countering degradation of the land base via investments in more sustainable production systems; and stronger, more diverse agricultural value chains with the purpose of raising incomes of small- and medium-scale commercial farmers.

Lessons learned and best practices identified here are intended to promote USAID-focused interventions on policy reforms in specific commodity sectors, increasing farm productivity and energizing commodity markets through access to credit and business development services, and targeting value chains in horticulture, maize, dairy, sustainability, and growth of the small- and medium-scale farming sector.

⁴ The other two documents are as follows: Bruce, John. August 2008. Kenya Land Policy: Analysis and Recommendations; and Aggarwal, Safia and Chris Thouless. August 2008. Land Tenure and Property Rights Assessment: The Northern Rangeland and Coastal Conservation Programs of USAID/Kenya.

⁵ Land tenure may be defined as the institutional (political, economic, social, and legal) structure that determines how individuals and groups secure access to land. Property Rights refers to the right to the use and transfer (through selling, leasing, inheritance, etc.) of natural resources. Different rights (strands of the bundle) may be distributed in various combinations among natural and legal persons, groups, and several publics, including many units of government.

⁶ Land administration refers to the processes of recording and disseminating information about the ownership, value, and use of land and its associated resources.

KEY FINDINGS

1. AGRICULTURE AND ECONOMIC GROWTH

- In the 44 years since Independence, Kenya has been challenged to have a transparent and fully functioning land administration system. Overall land administration remains highly centralized, and suffers from low accountability, inadequate human resources, and limited information technology (IT). Land registry records remain unreliable, and it is difficult and costly to access records.
- There are many examples of a complete lack of transparency in land administration with significant land grabbing and corruption, particularly in the settlement schemes.⁷ Many farmers lack genuine land title deeds,⁸ particularly on settlement schemes.
- Even farmers with title deeds remain insecure. Kenya experienced violent clashes in January 2008, post-election, with severe loss of life and property; many persons were displaced, even those who had titles to their lands.
- There is a severe lack of investment in land and natural resources. Short-term rural land rental markets coupled with inefficient parastatals are discouraging long-term investments in land. Water use is largely guided by a mining approach. Hence, there is increased water scarcity, and very high dependence on rainfed agriculture. Also there is indication that agricultural productivity may be in decline due to soil degradation.
- There is continued land subdivision to uneconomical sizes, including subdivision to less than an acre. Many small farms are no longer economically viable. Those wanting to leave farming are unable to do so because they do not have valid land title deeds.
- Women constitute around 52 percent of Kenya's population, provide over 70 percent of the agricultural labor force, and yet represent only one percent of the land title holders of which joint titles are 5-6 percent. Women have few if any genuine rights in family partnerships as land title holders. The majority of women rely on marriage and male kin for access to land and property. Poverty, high costs of land, and customary practices limit women's entrance into land markets. Tenure insecurity (for women and youth) constrains their creditworthiness and investment potential, negatively impacting their participation in agricultural improvement. Women who lose their husbands to HIV/AIDS or are HIV/AIDS-infected are stigmatized.
- Over 2 million Kenyans live with HIV/AIDS, and 50 percent of these are women and girls. There are an estimated 1.8 million orphans at risk of disinheritance from their family land. The severe economic vulnerability occasioned by HIV/AIDS calls for urgent redress of customary and legal practices that disenfranchise women and children. Women and girls are forced into prostitution as poverty increases in AIDS-affected households, further accelerating the spread of HIV.
- Sixty percent of Kenya's population is below 18 years of age. Seventy percent of youth (18-35 years old) are either unemployed or underemployed. Limited off-farm employment options for youth have resulted in further fragmentation of scarce land resources through inheritance systems. Young men inherit land but parents wait too long to grant them tenure security.⁹

⁷ Established to settle populations that had been displaced during the colonial period.

⁸ Evidence of ownership.

⁹ "Tenure security" refers to the breadth, duration, and enforceability of rights in land by the state in law or perceived by society.

- The key ministries and implementing agencies for administering land, agriculture, and natural resources in Kenya are the ministries of land, agriculture, forests, livestock, water and irrigation, environment, and others (e.g., commerce, trade, investment, finance, etc.) at the national level. Kenya lacks a nationally coordinated approach to link national objectives and provincial implementation to assist farming communities and agribusiness. The Ministry of Land in particular lacks capacity to address land issues before they fester into historical injustices/grievances.
- The Government of Kenya (GOK) has a “Strategy for Revitalizing Agriculture” (SRA), 2004-2014” which provides a modern and forward-looking agricultural master plan. This document should be used as a guide in agricultural program implementation. Possible food deficits or certainly inequities of agricultural sector production may occur if the Strategy is not promptly and fully implemented.
- Agricultural supply and value chains remain weak. There are some well established private sector trader grouping channels for collection, transport, storage, assembly of rural produce, and trade in and outside the country, but these are largely in the horticulture sector. While horticulture is a key export income earner, there is little value adding, and most products are exported ‘fresh.’ The livestock sector lacks sophistication with the possible exception of the dairy industry; value adding, genuine quality assurance, or other supply chain strengthening approaches are minimal. Overall, there seems to be a lack of innovation and few attempts at crop, product, and enterprise diversification on farm (e.g., crops, livestock, and fisheries) and off farm (e.g., women’s activities including more sophistication in trading, value adding from cottage-based industries such as cheese, or ‘new’ products such as silk from cassava).
- There are many weaknesses in the enabling environment including communications, transport, lack of private investment in post-harvest processing and value adding, lack of support infrastructure (lack of maintained roads, poor railways, air transport limited flexibility, ocean transport constraints). Real opportunities for finances for farmers and agribusiness are limited. While there is a range of rural credit options, unless a farmer has a land title deed, banks are unwilling to lend.
- The draft Kenya Land Policy provides some common vision for addressing land and natural resource-related concerns. However, it fails to indicate the cross links to other GOK policies, legislation, or frameworks, and to officially involve and work with other GOK agencies. Stakeholder involvement in preparing this document remains incomplete, and does not articulate a clear strategy for involving all stakeholders (public sector, private sector, etc.), an approach and framework for implementation, or an approach for resolving issues such as that of disenfranchised persons who lack secure access to land.

KEY RECOMMENDATIONS

Recommendations presented here are an attempt to identify and promote necessary, realistic, and achievable future directions. The recommendations are separated where realistically possible between the national and provincial levels, and what might be implemented under the USAID programs.

I. AGRICULTURAL AND ECONOMIC GROWTH, LTPR

General Recommendations:

- There is a need to address LTPR issues in the agricultural, water, and forestry sectors to drive Kenya’s economic growth, with focus on positively resolving outstanding issues of title deeds to persons on settlement schemes—especially in the Rift Valley Province. Should USAID/Kenya enter the LTPR sector with the GOK, the assessment team recommends field implementation to first help resolve a settlement case in the Kitale locality (greater Trans Nzoia, which may first target “Gituamba” and “Mukukha”).
- The Strategy for Revitalizing Agriculture (2004–2014) should be used as a framework to guide programming in the agricultural and natural resource sectors.

- Dialogue with the GOK should be considered on privatizing all parastatals in the agricultural and natural resource sectors should USAID/Kenya wish to enter this topic.

Recommendations for USAID/Kenya:

- Promote rights regularization and, where desired, titling in pilot contexts to resolve tenure insecurity.
- Where land titles are absent and communities, groups, and associations are working with USAID programs, consider group title, community demarcations, and land use planning to improve governance, tenure security, and livelihoods.
- All USAID/Kenya programs should begin capturing LTPR information and use this to inform interventions.
- Link beneficiaries to other stakeholders (e.g., quality-assured agricultural inputs, rural credit, post-harvest, and agribusiness) for sustainable results in agricultural, horticultural, livestock, forestry, and non-farm production.
- Support dialogue with the GOK to discontinue promotion of settlement schemes, as they have often harmed agricultural sector economic growth and have had other negative consequences. Market-oriented and private sector-led approaches should be promoted.
- Programs should build and strengthen sustainable supply chains. Pre- and feasibility studies should be conducted for specific products, farmers should be coached to accurately prepare gross margins, and business plans should be prepared and regularly reviewed for all enterprises. The same or related criteria will apply to USAID implementing partners/sub-agreement partners in the sector.
- Evaluate the legal implications of programs, such as TIST providing long-term agreements when donor funding is for a shorter duration. This program will also need stronger orientation on supply chain approaches; business advisory services; enterprise establishment, operations, and management issues; human resource development (HRD) based on objective training needs assessments (TNA) and training master plans (TMP); and clarity in implementing partner roles (should consider role of facilitators rather than implementers).
- Wherever possible, future programming can assist the GOK and other stakeholders to coordinate across sectors, agriculture, horticulture, and forestry, adding in investment in natural resources management, watershed management and water harvesting with irrigation, land use planning and enforcement, LTPR administration, strengthening agribusiness functions (in the banking and finance sectors) as a way to demonstrate success through cross-sectoral collaboration.
- Future human resource development (HRD) and training considerations should include farmer field schools (FFS) with farm management or enterprise management curriculum, enterprise development, industry associations, and providing HRD activities via associations or other recognized groups. More systematic approaches to skill and knowledge training, and accreditation of approaches and curriculum into formal institutional homes at the national and provincial levels are needed. A solution is also needed to provide USAID/Kenya program staff with more modern skills as many seem challenged to guide their beneficiaries in product, market, and enterprise development; quality assurance; marketing; planning (operational, short, medium, and long-term plans); financial management; and IT solutions.
- Infrastructure investments can be a key to agribusiness success, with a general separation on the basis of investments more likely to be undertaken by the state for general support to agricultural production (e.g., roads, airports, and railways), specific support (e.g., irrigation systems, facilities to build and lease or sell

to private sector such as markets, cold stores, or abattoirs; investment in forests), and investments that may be solely made by the private sector (e.g., farm sheds, dairies, packing sheds). The National Land Policy should consider the links to this work and, where necessary, give entrepreneurs possibilities to build, operate, and transfer (BOT). Program activities should consider supporting modern agribusiness banking capacity in Kenya's credit service providers (e.g., Equity Bank), focused on locally delivering services.

- Future program implementation approaches should include supply chain studies and ensure that key criteria are included (e.g., ability to replicate, male and female approaches, farmer field schools, etc.). Piloting a range of different activities should be considered. Adopting this approach will allow, for example, comparing the same subsector supply chain (e.g., agriculture, or horticulture, or livestock) in differing geographical locations, at the same time strengthening a supply chain and building program team capacity.

2. GOVERNANCE AND CIVIL SOCIETY

General Recommendations:

- The dNLP needs to be strengthened by clarifying on the roles of all participants in developing the agricultural and natural resource sectors, including the public, private, and NGO sectors, as well as farmers and industry associations. The GOK should give the required vision to the final dNLP by promoting best practice benchmarked against international standards, thereby giving this document the required orientation for Kenya and other African countries.
- The Land Reform Transformation Unit (LRTU) in the Ministry of Lands should review the dNLP recommendations on remedying historical injustices, considering broader policy on national integration and post-election violence. This may require an independent third party from outside Kenya to moderate. The Ministry of Lands should not continue to attempt to implement this in isolation. They must work with all stakeholders. The LRTU should establish working groups to include effective representation from all relevant ministries, private and NGO sectors, civil society, and other relevant groups.
- The final dNLP should be linked and harmonized with industry, investment, urban, population control, and related policies, and enlist consensus with all stakeholders grouping in provinces and not excluding rural communities.

Recommendations for USAID/Kenya:

- Support further consensus building on the dNLP. The LRTU, Ministry of Lands, and the constitutional review process should broaden current consultations to incorporate stakeholder feedback to then modify, where needed, current salient proposals. Support civil society to assist in this process, with the GOK as an important member of stakeholder discussions. As part of this work, support to a national communication strategy (public awareness on proposed land policy principles) may be considered for discussions on the dNLP, followed by publishing the final, approved version.
- USAID should consider supporting LRTU organization and management to finalize the dNLP to the stage of gazetting, and to pilot components of the Land Reform Support Program. The dNLP should include provisions and acceptance to implement the 'Ndung'u Commission' Report.
- Support a framework to resettle past and recent internally displaced persons (IDPs) with a strong, built-in watchdog civil society organization (CSO) mechanism to ensure transparency and equity in all implementation.

- Continue strengthening the links among land, water, and investment for sustained economic growth in the agricultural, forestry (including restitution¹⁰), and natural resource sectors.

3. WOMEN, YOUTH, AND HIV/AIDS ISSUES

General Recommendations:

- Review resettlement criteria to ensure female headed households (FHH) are not excluded from resettlement schemes. This needs immediate attention and should be considered in the current IDP resettlement program. These issues should be recognized in the dNLP if the GOK decides to continue with the settlement schemes.
- Support public awareness on women’s rights. Training should be provided to rural and urban women and men through effective channels, and to customary leaders and institutions in charge of administration of justice on LTPR (land boards, tribunals, magistrates, lawyers, etc.). Customary leaders may be the most appropriate change agents.
- Harmonize and repeal existing formal laws on succession, matrimonial property, and other related laws to conform to the principles of gender equality. Most importantly, these laws should be simplified to make property rights “automatic,” least costly, and resolved at the district level. Co-ownership of matrimonial property and joint titling/registration (for the couple, that is husband and wife) of land should be pursued.
- Reform the ‘moveable property law’ to enable diversification of non-land forms of collateral,¹¹ and regulate non-land securities.

Recommendations for USAID:

- Educate program beneficiaries on importance of will writing. Support training on preparing wills (includes ‘Statutory Declarations’), and widely promote this practice. This is an immediate need for the TIST carbon credit project given the content of contracts entered into by farmers and tree crop farmers in the KHDP. This is also an urgent necessity for USAID/Kenya’s HIV/AIDS program.
- Promote documentation of overriding interests on title deeds to protect investments by wives and children/youth on family land. This may be applied to all other USAID/Kenya rural, agricultural, natural resource, enterprise, and HIV/AIDS-related programs.
- Encourage joint registration of matrimonial land where possible.
- If the GOK continues with resettlements through the USAID/Kenya humanitarian program, work with the appropriate GOK departments to modify current resettlement criteria that discriminate against female headed households. This can be an immediate action in the current IDP resettlement program.

¹⁰ Restoration of rights in land to previous owners of that land (e.g., return of lands to internally displaced peoples due to conflict or lands acquired by government for public use).

¹¹ Property pledged as a guarantee for repayment of a loan.

I.0 KENYA'S LAND AND PROPERTY RIGHTS ISSUES

I.1 INTRODUCTION

This report presents findings from a two-week field assignment by an ARD, USAID/Kenya and USAID/Washington team.¹² The team focused on the history and issues related to post-election violence, and land and property rights on Kenya's agricultural sector. The team conducted desk research and discussions in Nairobi; reviewed the rural situation in the Central and Rift Valley Provinces with stakeholders from public, private, NGO, community-based organizations, and USAID-funded programs; and presented findings in a national stakeholder forum at the end of the assignment in Kenya.

After the results of the December 2007 national elections, Kenya experienced violent civil disturbances and some insight was gained into possible underlying causes of this violence. Some USAID programs closed by the second quarter of 2009, and field work allowed discussions with the program teams to document findings and consider future programming options with a LTPR lens. This report documents the field findings, draws conclusions, and makes recommendations for future work. Findings were presented at a USAID sponsored workshop relative to an emerging set of lessons learned and best practices for LTPR, resource governance, and enterprise development linked to specific USAID's investments in Kenya.

The agriculture and economic growth assessments highlighted possibilities to strengthen future work in Kenya's agriculture sector using supply chains to strengthen approaches to continued agricultural sector development in the country. Governance raises the importance of fully involving all stakeholders—particularly mobilizing civil society and community-based organizations—to communicate and promote public opinion. The involvement of women and youth, and the impact of health (HIV/AIDS) in relation to both are reviewed. Fully identifying all land and property rights issues was by no means possible within this timeframe. This report is intended to give the reader an insight into the key issues, identify areas to follow up, and prioritize next steps. Field findings are based on limited research. Future opportunities should seek to cross-check information presented here.

I.2 PURPOSE

This assignment was to provide USAID/Kenya with an understanding of how Kenya's dNLP might impact sustainability and growth of the small- and medium-scale farming sector. The goal of the assignment was to assess how inefficiencies in land administration, land-related conflicts, and, in particular, women's inability to access and own land impact on the success of small- and medium-scale agricultural enterprises. The assessment team focused on issues of i) regularization of rights in agricultural land access, ii) opportunities for strengthening and energizing agricultural land markets, iii) diversification of local livelihood, and iv) the promotion of an equitable and efficient land administration system.

The purpose of the assessment was to analyze the viability of specific enterprises, and constraints and opportunities for new enterprise development, including value/supply chains and competitiveness. The assessment was to generate lessons and recommendations for securing agricultural property rights/contract

¹² The team included: Tim Ekin (an agricultural enterprise specialist and ARD consultant), Odenda Lumumba (land tenure and land policy specialist and ARD consultant), Beatrice Wamalwa (USAID/Kenya), and Gregory Myers (USAID/Washington).

agreements to promote equity in access; efficiencies in land administration, markets, and utilization; improved agricultural productivity; increased investments in countering degradation of the land base via investments in more sustainable production systems; and stronger, more diverse agricultural value chains. Important dimensions of the assessment related to land tenure security, land administration, conflict, and women's rights to land and resources. The assessments were completed and, in addition to this report, 'diary notes' (drafts) were provided of all field and discussion visits, and submitted to USAID/Kenya for future use.

The team was guided by USAID's 'LTPR Assessment Tool' as a methodology to appreciate constraints faced. The Tool included the following themes: violent conflicts/post-conflict stability, unsustainable natural resources management/biodiversity loss, insecure tenure and property rights, inequitable access to land and natural resources, and poor land market performance, to then determine possible interventions on the basis of key institutional arrangements, conflict or dispute resolutions, legal regulatory framework, redistribution, land administration, and land use management and conservation.

I.3 METHODOLOGY

USAID/Kenya and USAID/Washington Land Tenure Specialist within the EGAT/NRM prepared the scopes of work (SOW) and facilitated official visits, travel, and security arrangements in consultation with the ARD Team Leader and East African Wildlife Services (see SOW in Annex 1).

Field visits to Central Province and the Rift Valley (Eldoret and Kitale) included group and individual meetings with farmers, traders, the private sector, industry associations, government officials, NGOs, community-based organizations, church groups, donor-funded projects, and donors. The team met a cross-section of organizations and persons in farming and other areas in the agricultural and rural sector, including maize commodity traders, a commercial dairy, banking service providers, the Lands Office (under the Ministry of Lands), the Department of Agriculture (DoA, under the Ministry of Agriculture [MoA]), the Kenya Agricultural Research Institute (KARI), the Agricultural Development Corporation (ADC), private entrepreneurs (vegetables, flowers for export, seed sector), and the forestry sector. Visits were made to churches, schools, and community assistance groups to assist in evaluating issues of women, youth, health (HIV/AIDS), and post-election violence. A list of organizations and persons met during the assignment is provided in Annex 2.

Regular meetings were held with USAID/Kenya during the assignment. A debriefing was held with the Mission on findings affecting the USAID programs, and on the assignment with the ARD project teams in Nairobi. USAID facilitated a two-day workshop (March 27-28, 2008) in Nairobi, with approximately 40 persons working directly or in areas related to LTPR and the agriculture sector to present the team's work and get stakeholder feedback.

I.4 ORGANIZATION OF THE REPORT

This report mainly draws insight from the field, the current country LTPR situation evidenced from discussions, and earlier work by a Land Tenure Policy and Legal Specialist who reviewed the dNLP (a separate document). This agricultural enterprise assessment report is relatively short given the short duration of the field assessment (scene setting and ground truthing). The report uses tables and figures to support text and annexes in order to minimize the length of the main report while providing critical information and data.

A constant theme underpinning the field level findings is that since Kenya's independence in 1962, there has been significant lack of accountability and transparency in land administration, and mismanagement in strategic directions for Kenya's agricultural, natural resource, forestry, water, and investment and related sectors. Kenya retains a top-down political approach, with weak central and provincial institutions. The findings presented here should be considered from that perspective. A positive aspect of the field work was essentially unrestricted access to the project sites—a demonstration of people's willingness to discuss tenure and property rights and associated issues.

The structure of this report is as follows:

- *Executive Summary*: captures the key findings, conclusions, and recommendations for USAID.
- *Section 1*: introduces the assignment, report organization, background, and general information on the assignment's focus.
- *Sections 2 through 6*: present analyses of the field findings and review LTPR issues for strengthening a market-driven and sustainable agricultural sector in Kenya. Given the assignment's purpose, findings are structured based on respondent organization and theme (e.g., water, banking and finance) linked to national considerations, to allow ease of follow-up by USAID/Kenya for strategic orientation and operational implementation. Section 5 in particular discusses the role of governance, civil society, and the impact of post-election violence on the agricultural sector and LTPR. Section 6 presents women and youth's role and access to land, and the impact of HIV/AIDS.
- *Section 7*: provides a list of references.
- *Annexes*: contain supporting information, including the SOW, list of persons interviewed, Tegemeo data referenced above, background information on the USAID/Kenya agriculture programs visited, and LTPR intervention matrices prepared by the assessment team.

2.0 FIELD FINDINGS

The findings presented here are based on the field work in Central Province, principally in and around Nyeri and Nanyuki, and in Western Kenya, in particular the Rift Valley locations of Kitale, Cherangani Hills, Saboti, and Eldoret. Background information (including information on post-election violence and land tenure issues) was gained from introductory and wrap-up workshops in Nairobi, supported by background references, including the dNLP, the Njonjo Commission Report of 2002, and the Ndungu Commission Report of 2004.

The four USAID-funded programs greatly assisted the field mission's effectiveness and at the same time allowed an overview of each program's activities. These programs are as follows (see Annex 4 for a detailed description of these programs):

- Kenya Dairy Development Program (KDDP),
- Kenya Horticultural Development Program (KHDP),
- Kenya Maize Development Program (KMDP), and
- The International Small Group Tree Planting Program (TIST).

Findings relate primarily to international trends in agriculture and economic growth, with a land tenure and property rights lens. They are not exhaustive, and should be amended based on program design, performance, or other insights.

2.1 PARTICIPANTS IN THE LTPR SECTOR

The team met with a cross-section of public, private, NGO, community-based organizations, and farmers. Findings from the private sector are treated as 'commercial in confidence' and are explored under themes or issues; public sector organizations are considered 'public domain' and therefore are more openly discussed.

The grouping of differing organizations involved in the agriculture, forestry, and natural resource sectors is not complete. Significant differences emerged based on geographic location and province, and follow-up should include a systematic review of the key groupings. For example, no discussions were held with ministries or departments in Nairobi, or on irrigation and water supply with the responsible public sector agencies.

2.1.1 Public Sector Agencies Administering Land and Property Rights

There are a range of entities dealing with land administration for rural and urban lands. Visits were made to the Lands Office, Department of Lands (Kitale and Nyeri), to the County Council (administering Community Land and Public Utility Lands) in Nyeri, and the Eldoret Municipal Council (administering and representing urban land).

The differing agencies visited have a good institutional memory, and the overall impression gained was that the County Council, Municipal Council, and Lands Offices have a good awareness of the issues and sufficient capacity to sort out challenges, including redressing earlier incorrect approaches. However, what appears missing is the political will and leadership to tackle the issues and give vision for the rest of the 21st century for Kenya's sustainable future.

The Department of Lands, Nyeri is within the Ministry of Lands (formerly Ministry of Lands and Settlements). Discussions were held with the District Lands Officer and Valuer, who reports to the Permanent Secretary, on behalf of the Minister, and to the Commissioner of Lands as Head of the

Department of Lands. Divisions within the Department of Lands, Nyeri were Valuation, the Land Administration Section, and the Land Registration Section. Each section seemed independent and in competition with each other; there was no computerization evidenced, and all records were manual. In Kitale, there was a “Settlements Officer,” yet while Central Province had settlement schemes and Nyeri is the provincial capital, the Settlements Officer is based in Nanyuki. The organization and management structure of the Ministry of Lands at the national, provincial, district, or other unit needs to be systematically reviewed, with comparison between the existing organizational chart, the human resources plan with filled or vacant positions, together with a later assessment for what is really needed in an organization such as the Ministry of Lands with IT, and skill set (HRD implications). The Lands Department office in Kitale represents issues faced in Trans Nzoia, particularly the former settlement schemes post-independence.

Department of Agriculture, Kitale is a neglected yet valuable institution although, in its current state of seemingly poor budgetary support, is not in a position to assist the agriculture sector it was set up to serve. DoA Kitale covers Trans Nzoia West and Trans Nzoia East Districts (formerly one large district). The “Agricultural Mechanization Service” (AMS) is housed within the DoA compound in Kitale. AMS roles include farm planning, installing contour banks, and building on-farm dams, hence providing a unique and potentially positive link with the “Soil Conservation Service” in a government agency. It also may be better funded than DoA, although this was not verified. **The Department of Agriculture in Nyeri** covers the two districts of Nyeri South and Nyeri North, with key crops including maize, beans, pulses, potato, and bananas.

Kenya Seed Company (KSC) is a parastatal that evolved out of the former Commonwealth Development Corporation (CDC), one of a series of national seed companies set up in East and Central Africa by the colonial administration (e.g., Malawi Seed Company, Tanzania Seed Company, Ugandan Seed Company, etc.). Its largest shareholder is ADC, so, as such, KSC falls under the MoA. There is some lack of shareholder transparency, and the status of all shareholdings is currently subject to a court challenge. Similarly, there have been indications of lack of financial transparency since the withdrawal of the CDC. KSC does have a commending market share in maize seed sales, although it uses old technology and, while it exists, it is effectively a barrier to the genuine private sector.

Agricultural Development Corporation (ADC) was formed in 1965, and can now be seen as a parastatal with diverse agribusiness activities that are remaining from the post-colonial era. ADC’s current activities include dairy; beef genetic maintenance (custodian of stud stock for Kenya, Rwanda, and Uganda); breeding and commercial production of beef, dairy, and semen; maize production of hybrid seed and commercial crops; citrus production; feed and flour milling; and has a 53 percent shareholding (i.e., the GOK shareholding) in Kenya Seed Company. ADC, Kitale manages eight farms totaling 14,000 ha. All of ADC’s income was stated to go to its revolving funds, although audited reports were not examined, so income may finally go to GOK’s central revenue. ADC is not IT-connected within its Kitale office or across the entire organization. Many of ADC’s activities could be privatized as it may be successfully argued that, while ADC (and its subsidiaries such as Kenya Seed Company) exist, they act as a powerful disincentive to the private sector.

The National Cereals and Produce Board (NCPB), Eldoret has geographic responsibility for the North Rift Valley. Its main role is maize procurement and, to a much lesser volume, bean procurement. The GOK has designated NCPB’s role in maintaining Kenya’s Strategic Food Reserve. NCPB is also involved in fertilizer imports. NCPB’s role has significantly altered, from managing around 80 percent of the maize crop volume 10 years ago to its 30 percent current volume. NCPB’s facilities are national and extensive; however, using the Eldoret region as an example, the storage capacity is underutilized, with 14 depots equipped with silos, stores, weighbridges, and handling facilities. NCPB rents space to private sector and rural stores. NCPB gives no supply contracts to farmers; many farmers have not been paid for maize deliveries in January 2006 and, according to some assessments, NCPB is technically bankrupt.

Kenya Forestry Service (KFS) is the GOK parastatal with national responsibility for forest management. There seemed to be a range of inconsistencies in the role of KFS; for example, in relation to the work of organizations such as TIST and the Community Forestry Associations (CFAs), and gaps in KFS’s mandate,

human resource development, organization, and management. Most notably, KFS is promoting Forest Management Plans (FMP) for the CFAs, yet KFS appeared to lack interest in supporting the CFAs in preparing the FMP (technical, financial, LTPR, writing). In general, KFS appears to have the authority without the responsibility or accountability for forest management.

2.1.2 Overview of Public Sector Agencies in the Agriculture, Forest, and Water Sectors

The Ministry of Agriculture (MoA) prepared the GOK “Strategy for Revitalizing Agriculture” (SRA), 2004-2014. However, the GOK and development partners do not appear yet to fully adopt this visionary document. If it is fully implemented, it could set the Kenyan agricultural sector and economic growth in a positive direction. Indeed, without prompt and full implementation, and a high early priority to restore water and forest resources, the GOK can potentially expect food deficits and movement of productive resources out of wheat, coffee, tea, sugar cane, and possibly intensive livestock to focus more on rainfed-produced crops for basic human nutrition and less on high-value and export-earning crops. This in turn will negatively impact investment in the agricultural sector. A foreseen next step is to support the MoA and, assuming willingness to collaborate, work out a framework to take the vision of the SRA forward, ideally with all concerned in the agricultural sector. Discussions were held with a range of public sector agencies in the agriculture sector (KARI, DoA, Kenya Seed Company, National Cereals and Produce Board of Kenya [NCPB], ADC) and the forest sector (KFS).

2.1.3 NGOs and Community-Based Organizations

Discussions were held with church groups and members of USAID/Kenya field program groups, including KHDP, KMDP, and TIST stakeholders. The team also met with a Community Forestry Association (CFA) in Nanyuki. CFAs are now being promoted by KFS and registered as a ‘society’ with the Registrar of Societies in Nairobi, to provide a legal entity. This in itself is an issue for rural-based and essentially poorer, less mobile communities, as the CFA had to establish a file in the Office of the Registrar of Societies, with the office bearers physically traveling to Nairobi for this to take place. Nyeri is the provincial capital, and it would have been much easier for the CFA to have gone and resolved all requirements there. This raises an issue noted from many respondents and, while there may be exceptions, the GOK has so far failed to effectively decentralize or devolve authority outside Nairobi for what seem to be all public sector and parastatal agencies.

3.0 STATUS OF LTPR IN AGRICULTURAL, FORESTRY, AND WATER SECTORS

3.1 LAND TENURE: PRE- AND POST-COLONIAL ERAS

The section below provides background on LTPR during colonialism and after independence:

- **Land allocations during the colonial period.** Original land allocations in the colonial period were all 2.0 square miles or 1,500 acres (607 ha), all with water frontages. The basic agricultural sustainability and conservation issues seem to have been well considered prior to subdivision and allocation to white settlers.
- **Smallholders under colonial administration.** Smallholders were entitled or engaged to work in the properties of the larger landholders. There were disputes on willingness of communities to adopt this practice, including the “Elgoni Masaai.”
- **Post-independence land tenure.** Post-colonial land tenure resulted in the following tenure regimes: trust land, government (public) land, private land (freehold), and private land (leasehold). Some large-scale farms from the colonial period were kept as such and converted to lease land. Land speculation became a serious concern beginning in the 1970s.
- **Land subdivision/fragmentation.** The basic premise in the post-independence period was that all persons requesting land received 20 acres (8.1 ha). Since then land area has been reduced through subdivision. Average farm sizes are down to 0.25 acre (0.1 ha) in the Kitale area, and this further reduces realistic traditional inheritance expectations with continued successive subdivisions.
- **Settlement schemes.** Settlement schemes were established to settle populations that had been displaced during the colonial period. The settlement programs involved the Settlement Board, and the Settlement Fund Trustees (SFT), which were under the then Ministry of Settlements and then linked to the Lands Office, Ministry of Lands. Some settlement schemes worked well; these include the “Ndala” and “Kimini.” Under the terms of the settlement schemes, title holders were not allowed to subdivide land that was less than 8-10 acres (3-4 ha).
- **Land titles.** A majority of the small-scale farmers do not hold title deeds either because they bought the land through a cooperative and never completed the process of obtaining a title deed, or they do not understand the value of the title and have not followed up through proper channels. Some land titles have been outstanding since the 1980s. Smallholders do recognize the elements of insecurity and lack access to capital, and therefore do not develop the land for long-term purposes. Also, as has been shown in the January 2008 and subsequent post-election violence, holding a land title deed does not provide security against displacement. The only way to resolve this issue is to have a complete amnesty for the genuine and original title holders who, in many cases, were cheated.
- **Private property in the Rift Valley.** Some white Kenyans maintained their properties or purchased leases just after independence (1962 or 1963). These are mainly 999-year leases. With the GOK intent on reducing lease terms to 99 years, however, many people remain concerned about whether their leases will be rolled over; if these long-term leases could be converted to freehold titles; and whether they would be the first ones asked to go into new settlement and subdivision programs. A general deduction now is that the GOK should be encouraged to retain any ‘white’ Kenyan genuinely interested in participating in the

agricultural sector. This will be critical to investment and technology inflows, and send positive messages to third parties considering investing in Kenya.

- A general observation is that GOK discussion on the dNLP is minimal at this stage. There is a perception that it calls for ‘taking back land for the sake of land,’ and it is not taking into consideration higher strategic direction and policy issues for the country’s future.

3.2 PUBLIC SECTOR AGENCIES

3.2.1 LTPR Overview and Issues, Nyeri

In the Nyeri field site, the majority of farmers are small-scale, with 0.5-2.0 acres (0.2 to 0.81 ha) of agricultural land. This land is inadequate for sustainable farming under rainfed conditions. Some agricultural land is no longer divisible and not economically viable. Most farmers have land titles; where communal title exists, it is owned by parents. The land titles are typically held by the male head of households, who are typically not the primary workers on the farm. Most farm work is done by the sons or women in the family, who have little decision-making power, while the income goes to the male head of household. Women are increasingly interested in pursuing options for non-agricultural income, although the opportunities are limited.

- **Land Valuations.** Land is a major source of income for the GOK, and funds go to ‘consolidated revenue.’ There was no indication that funds received come back to the Ministry of Land or to the rural-based Land Offices. The sources of land-based revenues are the government or public land, leasehold land from the GOK or the County Council, and Trust Land. The revenues include Stamp Duty, income from the Public Trustee, and from rates/taxes. Stamp Duty is charged when there is a transfer of land from one owner to another for leasehold and freehold. Valuations are also used when making compulsory purchases (e.g., for public use). Valuations were stated to be at the prevailing market rates. The higher level is four percent of market value (possibly this is for commercial or residential property), and rural land is two percent of market value. This was a flat rate rather than a sliding scale, probably indicating that, on such fundamental issues, Kenya requires a review and modernization for its valuation and other practices (e.g., cost recovery, inflation adjustments).
- **Local Tax on Property.** Rural land is administered by the County Council. Landholders do not pay local taxes on property, although the law does provide for this eventuality if the government wants to exercise this option. Municipal or urban land falls under the jurisdiction of the Municipal Council where landholders pay local property taxes.
- **Land Control Board.** The Land Control Board verifies titles to be settled, and applicants need to be physically present to represent themselves, ideally including the entire family to ensure minimum disputes (confirmed by DoA, Nyeri), although applications to the Land Control Board are sometimes secretive. Basic first procedures include representation to the sub-chief of the village, location, or clan, and then representation to the chief of the village or location.¹³
- **Categories of Rural Land.** Rural lands include leasehold, and freehold land, with the latter having the subcategories of ‘certificate’ or a ‘title.’ In rural areas, leases were originally 999-year leases (e.g., relatively common in Laikipia District), although other cases were noted; for example, a 955-year transfer lease for 42.5 acres and a 927-year sub-lease for 404.9 ha. All these leases were legally registered with the Lands Office, and were between non-Kenyans. Trust Lands are administered by the County Councils. Local

¹³ These procedures need verification, as, for example, these representations and linkages of the chief or sub-chief were not clear (i.e., who has the identification and administration verification role in relation to the village, location, clan, or administrative unit of the GOK).

communities are represented in the County Councils through the councilors. County Councils do not appear to include private sector representatives.

- **Administration of Trust Lands.** Trust Land may include forests, water, parks, and towns. According to the County Council, currently there are 61 villages on Trust Land in Nyeri South and two districts of Nyeri North. The Lands Department has taken aerial photographs to demarcate village and plot locations. According to the County Councils, there are persons residing illegally on Trust Lands. These include people evicted from government forests. There are moves to formally settle these evicted persons. There appears to be lack of coordination between line ministries such as, in this case, moving people out of forests and resettling them elsewhere; and in establishing towns and other planning needs, public utilities (Municipal Council), and transport (roads). County councils have the authority above KFS to convert Forest Land to Urban Land or Community Land. This implies that, if a private firm has a term lease on forest land, it will be a potential victim of changed land categorization during the lease interval.
- **Illegal Allocations of Trust Lands.** According to the County Councils, there has been land grabbing and corruption in relation to allocation and use of land (e.g., changes from designated market places to bus stations, with eventual relocation of the market places to less suited sites). In other cases, officers have been known to alter town plans for personal gain. The County Council has taken cases to court against these irregular allocations. The accuracy of these assertions should be confirmed through further investigations.
- **Foreign ownership.** Foreign investors can lease land, but cannot hold freehold land. This is an anomaly compared to international land markets and effectively could be said to discriminate to contain foreigners to only one land category. Conversely, a foreign investor finds ways to go around this leading to irregular practices. This denies GOK of revenue, and potentially discourages foreign investment in Kenya.

3.2.2 LTPR Overview and Issues, Kitale and Greater Trans Nzoia

The Kitale findings represent the Rift Valley and are different to Nyeri, Central Province. The Lands Office in Kitale covers the new districts of Trans Nzoia West and Trans Nzoia East, and the original greater district was the scene of many earlier settlement schemes post-Independence.

- Land categories administered from the Lands Office, Kitale include 'Lease Land' and 'Freehold Land.' There are no Trust Lands in this area. Lease land originated from agricultural land in the early 1900s, and these were 999-year leases. Maximum duration of leases in urban areas is 99 years. The Lands Office in Kitale administers company farms, cooperative farms, and the Settlement Fund Trustees (SFT) where the Lands Department allocated land to individuals. The Municipal Council administers urban and residential land (e.g., zoning) and levies rates. The Lands Office maintains the land title registry for urban land. All income goes to the Kenya Central Revenue Authority. State or Provincial autonomy and decentralized management structure and help channel some of the revenues to the local levels.
- The average land holding size in greater Trans Nzoia is 1.635 ha, with the range from 0.1 to 0.5 ha. Most farmers do not have titles in this district. Land grabbing has occurred, with the DoA and agricultural research stations stated to have lost at least 167 acres (68 ha).
- Issues remain regarding land companies or 'company farms,' and cooperative farms. Company farms (as with cooperative farms) require a Board of Directors, who have substantial management powers. This has resulted in numerous cases of corruption, as the Board members used funds for personal use, failed to subdivide the land properly, or gave out individual titles. In other cases, the Board members used title as collateral, although they were not entitled to do so. Outstanding payments could include loans and rates/fee to the County Council.

- Numerous problems are also associated with the former settlement schemes. The majority of the current landholders in the region were beneficiaries of these schemes, and have no land titles. Also, lands are subdivided and passed down according to customary practices, and mainly to sons. These subdivisions are usually not registered with the Lands Office, so the sons have no titles. In other cases, sons have inherited debt from parents for unpaid fees (e.g., surveyor fees, local property taxes, accrued interest on unpaid and accumulated charges).
- The impact on rural credit to farmers is that with no land title, it is very difficult to obtain credit from formal service providers (e.g., from AFC or Equity Bank); so farmers borrow at much higher interest rates from micro-finance institutions (MFIs) (e.g., group approaches), private money lenders, and traders (seasonal credit).
- In Kitale, land fragmentation is posing a significant concern as farmers continue to subdivide land holdings. Any rainfed agricultural land under 1.0 ha will not sustain a farm family. It is increasingly difficult to find land of sufficient size with adequate isolation (minimum of 400 meters for Basic Seed, 200 meters for hybrid seed) and favorable production facilities to produce hybrid seed. For example, hybrid maize and other seed sold in Kenya is produced outside of the county, with seed companies importing and selling in Kenya. The exception is Kenya Seed company, relying on ADC farms and some larger private farms that are long-term contract seed producers.
- ADC's original role was to manage land transfers from white settlers during the colonial into the post-Independence period, under the Ministry of Settlements. The company established for this purpose was 'Lands Ltd.,' which continues to exist and resides in, for example, ADC's Kitale office. Lands Ltd. handled all land issues in ADC until 1986, when ADC's mandate changed from land transfers to its current role. This in turn implies Lands Ltd. will be a very useful source of documentation for land transactions from around 1965 to now, and may well be verification of transactions (regular or irregular) in comparison to the Lands Office. All ADC land was gazetted in 1999 and 2000.

3.2.3 LTPR Overview and Issues, the Eldoret

- **Land holdings.** Eldoret is characterized by small farms. Nearly 80 percent of farmers own lands ranging from 1.0–20 acres (0.4–8.10 ha). Large farms are those up to 200 acres, with some up to 1,000 acres (81–405 ha). Around 10-20 percent of the population owns their land, while 80-90 percent of the population is considered landless, living in slums. Municipal land covers plot sizes from one-eighth to 0.25 acres (i.e., up to an average of 0.02 ha). Lease Land within the Municipal Council boundary is for 99 years, whereas Rural Land is up to 999 years.
- **Zoning for Municipal Councils.** The key document guiding the Municipal Council is the Physical Planning Act 1996 (the earlier Land Planning Act was repealed). The Council stated they do have a land use plan, however, this was not physically verified. A follow-up should evaluate the quality, modernity, vision, and technology used to develop such a plan, particularly in light of the wide understanding that Eldoret is the fastest growing city in the Rift Valley.
- **Issues faced by the Municipal Council.** Developers often by-pass the Council when planning housing estates. The developers often first settle land tenure and urban development issues such as subdivisions, and then later harmonize their finalized plans with the Council. There is a Planning Liaisons Committee with standards and statutes, however, implementation is weak. The Town Planning Committee sits with the Lands Office and the District Commissioner's Office, giving a cross-link to rural land, as the District Commissioner chairs the Lands Board.

3.3 AGRICULTURAL AND FORESTRY SECTOR LINE AGENCIES

The public sector agencies are prominent in the agricultural sector. Although Kenya’s agricultural sector is largely private sector-driven, many of the public sector agencies are struggling to modernize (technology, HRD, etc.) and have been involved in differing ways with land tenure issues. A significant issue here also concerns the role and future of the parastatals, as there are many examples where they act as a disincentive to the private sector, or are challenged to deliver their originally intended outputs to improve agricultural productivity.

3.3.1 Ministry of Agriculture—LTPR and Land Use

The MoA detailed publication *Farm Management Handbook of Kenya, Volume II* on ‘Natural Conditions and Farm Management Information’ (Jaetzold et al., 2006) contains a range of climate, soils, and agro-ecological zone (AEZ) information and, although it appears to be a compilation of known information from a geographical perspective, it may be part of the ‘missing link’ of the national land use policy referred to in the dNLP. The same *Farm Management Handbook of Kenya, Volume II* has a separate ‘District Farm Management Guidelines from District Agricultural Offices’ with sections for Western Kenya (Western and Nyanza Provinces), Central Kenya (Central and Rift Valley Provinces), and for Eastern Kenya (Eastern and Coast Provinces). A foreseen challenge is to put a commercial, visionary, realistic, and sustainability orientation on these documents while at the same time implementing it within a framework involving all stakeholders. MoA and DoA have limited resources to drive this process and need to actively involve and facilitate the private sector and rural communities.

3.3.2 NGO and Community-Based Organizations

Some of the issues faced by NGOs and community-based organizations are introduced, using as an example a community forestry association. While forests are seen as a resource (greatly diminished and rapidly diminishing), the issue of conflict arises which is yet to be clarified. In essence, clarification is needed on the institutional responsibilities for management and governance of forests in Kenya. The predicted answer is the KFS; the preferred answer would be inclusive of all concerned with the forestry sector in Kenya.

3.3.3 USAID Programs in the Agricultural, Forestry, and Natural Resources Sectors

The KDDP and KMDP programs (reviewed in Annex 4) do not appear to use LTPR in beneficiary selection criteria, or collect data on LTPR or related issues. Current agriculture programs are being targeted to farmers with less than 4.0 ha of landholdings. However, associated tenure issues are not being taken into account; for instance, whether or not farmers have freehold land titles, or secure and formally recognized long-term leases. Targeting such groups is expected to improve efficiency of all programs.

4.0 AGRICULTURAL AND ECONOMIC GROWTH ISSUES RELATED TO LTPR

4.1 AGRICULTURAL CYCLE, FARM ECONOMICS, AND FARM SIZES

Concerning farm economics and farmer gross margins, the team did not obtain current and objective farmer gross margin information, although there were useful responses from farmers—including the fact that many farmers were unaware of their exact costs of production or understood crop gross margins, so findings are only indicative, and more work is needed to verify and attribute full costs (e.g., including apportioning of a farmer’s time and value) and opportunity costs of all farm income. Considering a key food crop is maize, and it fits in the ‘cereal’ cropping pattern with wheat, an illustration of the key crop cycles in the Rift Valley from a Kitale grain traders’ perspective are:

- **Maize:** receivables from September/October to January. Interval of 4-5 months; Uganda: receivables from July to September. Interval of 3 months; and
- **Wheat:** receivables from March to April; Uganda: receivables from March.

While the commodity trade pattern is relatively fixed with at least 10 months of trading possibilities just on these two crops, there were no indications that farmers were able to appreciate a positive cash flow for long durations, or that agricultural planners and implementers were targeting crop and product diversification to allow farmers, in principle, to have an income for as many months of the year as possible. There are other considerations affecting farmer gross margins, including:

- Maize crop duration: varieties planted by most farmers take seven months to mature; and
- KARI indicated maize research and development achievements include 12.0 to 13.0 tonnes/ha yields under research and development conditions; and an average of 7.0 tonnes/ha yields produced by farmers.

This raises serious concerns, including the fact that farmer yields are approximately 50 percent less than research and development yields. How does this affect a farmer’s cash flow? How does a rural household survive on rainfed agriculture alone or by growing mainly maize with a seven-month wait for income if the majority of the farm is planted to this crop? What happens if the rains fail? This is partially discussed below. Indeed, farm size and sustainability contribute to a productive farming sector or encourage families to leave farming for other livelihood options, which in turn impact other areas.

The trend in most developed countries is the growing size of farms (includes accumulation of smaller, less economic land parcels), with a decreasing percentage of the population working on farms, and increasing engagement in non-rural-based income-generating activities. This is contrary to the prevailing situation in Kenya where lands are getting highly fragmented as the farms are subdivided and passed onto sons. Table 4.1 shows the dynamics of farm sizes in Central Province and the Rift Valley (largely rainfed).

TABLE 4.1. MAIZE FARM SIZES, ELDORET (NCPB DATA)

Acres	Acres / Ha	Ha
1,000	2.47	405
200	2.47	81
1	2.47	0.4
0.5	2.47	0.20

Table 4.2 reflects farmer feedback during discussions on tea tree oil production in Nanyuki, Central Province, facilitated by KHDP. For reasons including generating cash flow, the smaller farms of either rainfed cereal or plantation crops are likely challenged to generate income to feed a family of six to eight persons, let alone make profit.

TABLE 4.2. FARM SIZES - TEA TREE FARMERS, NANYUKI

Acres	Acres / Ha	Ha
42	2.47	17.00
20	2.47	8.10
10	2.47	4.05
5.5	2.47	2.23
5.5	2.47	2.23
5	2.47	2.02
4	2.47	1.62
4	2.47	1.62
3	2.47	1.21
3	2.47	1.21
2.5	2.47	1.01
2	2.47	0.81
2	2.47	0.81

Based on this review, the conclusion was for those who do not have land titles, having valid titles will allow farmers to sell land and leave farming as a livelihood, or use the title to take a bank loan, lease, or allow an investor to accumulate a range of leases for land consolidation to more economically viable sizes.

4.2 LAND TITLES AND LAND MARKETS

Findings on land markets between Central Province and the Rift Valley are different. In the Rift Valley, although the basic agricultural production systems are in place, the region is characterized by a lack of agricultural productivity, little use of irrigation, and low farm incomes with minimal private sector investments for value adding.

4.2.1 Central Province Land Value Indications

Table 4.3 provides land values in Nyeri:

- **District Nyeri South:** more productive (i.e., irrigated and better rainfall) land, with land values around KSH1.0 mio/acre (US \$40,000/ha); and
- **District Nyeri North:** more rainfed land, with land values around KSH150,000 – 200,000/acre (US \$6,000 – 8,000/ha).

TABLE 4.3. LAND VALUE INDICATIONS IN CENTRAL PROVINCE FOR NYERI SOUTH AND NORTH (INFORMAL ESTIMATES, DOA, NYERI)

	KSH			USD (US \$1.00 = KSH61.80)		
	Nyeri North		Nyeri South	Nyeri North		Nyeri South
Value/acre	150,000	200,000	1,000,000	2,423	3,231	16,155
Value/ha (2.47 acres in 1.0 ha)	370,500	494,000	2,470,000	5,985 (6,000)	7,981 (8,000)	39,903 (40,000)

In the Central Province, land values are six to eight times more than in the Rift Valley (see Table 4.3 and 4.4). While the reasons for this require more detailed assessment, it may be for reasons including higher agricultural productivity, rainfall, proximity markets. There also may be a LTPR supporting factor as most farmers in the Central Province have valid land title deeds, whereas many in these areas in the Rift Valley do not, combined with the burden of a buyer having to negotiate with a range of families just to accumulate a sizeable portion of farm land.

4.2.2 Rift Valley Land Value Indications

The current land values are indicated in Table 4.4. The figures show that there are locality differences with no difference between rainfed/dry land and irrigated land. This implies that there is little or no value adding taking place (or if there is, it is not clearly identified by the majority). There is no clear separation on the volume of rainfed or irrigated land. Water is not (yet) considered a scarce resource, valued or harvested sustainably. A more detailed evaluation for those that have irrigation is needed in follow-up to this finding.

TABLE 4.4. LAND VALUES IN THE RIFT VALLEY LOCATIONS OF ELDORET, KITALE, AND CHERANGANI HILLS (FROM KDDP, ELDORET)

Location	KSH/Acre	USD/acre (KSH to USD, 61.8)	USD/ha (2.47 acres/ha)
Eldoret	150,000	2,427	(5,995) 6,000
Kitale	120,000	1,942	(4,796) 4,800
Cherangani Hills	80,000	1,294	(3,197) 3,200
No differences indicated between rainfed & irrigated land?			

Table 4.5 gives an indication of small farmer profitability growing rainfed maize and renting land. The net daily income is approximately US \$1.00/ha annualized, and it is unlikely to leave surplus income after feeding a family, let alone in times of drought or other conditions that cause loss of the maize crop. This income is possibly equivalent to daily wages as a laborer, or less, as a laborer may be provided a free meal.

TABLE 4.5. RENTED LAND VALUES AND INCOME FROM MAIZE ON LOCATIONS SURROUNDING ELDORET, RIFT VALLEY (FROM REFORMED CHURCH OF EAST AFRICA, ELDORET)

Location	KSH/Acre	USD/acre (KSH to USD @ 61.80))	USD/ha (acres/ha @ 2.47)
Rental p.a.	4,000	64.72	(159.87) 160
Annual income from rainfed maize	15,000	242.72	(599.51) 600
Difference:			(439.64) 400
Indications of net income if a farmer rents 1.0 ha			
Monthly basis			(36.67) 37.00
Daily basis			(1.22) 1.00 – 1.25

4.3 THE FORESTRY SECTOR

Kenya's forest cover has declined alarmingly from 16 percent to less than two percent (2004 estimates), and there may be less forest cover in 2008. This is likely to have negative implications for rainfall (e.g., frequency and intensity), and watershed management (e.g., water harvesting, soil loss, decreasing biodiversity). Findings from members of TIST and CFAs highlighted the high potential of fully mobilizing such activities, and the high level of involvement from people.

There appears to be high potential for organizations such as CFAs to engage. Tenure insecurity and challenges dealing with KFS or absence of transparent policy and legislation currently make it difficult to encourage community or private sector investment in this sector. A similar observation can be made in relation to the TIST program, with GOK having no carbon trading legislation. Currently there are a range of policy, legislative, technical, and management (the latter two particularly refer to HRD) limitations to making interventions in this work sustainable.

4.4 WATER RESOURCES AND MANAGEMENT

Water management responsibilities lie with the Irrigation Department within the Ministry of Water. Irrigation is mostly from rivers, although borehole use is rapidly increasing, causing water levels to drop or dry up. There are increasing disputes over water resources (e.g., smallholders competing for river water with a flower exporter in the case of KHDP, and with passion fruit growers in Nanyuki). The DoA is responsible for river bank protection. Clarity is needed on where the forestry or other responsible sector fits into a watershed management role, and how all stakeholders should work together for mutual benefit.

According to a multinational subsidiary interviewed, water is harvested from such sources as the Arthi River (catchment originates from the Aberdare Mountains), the Thika River (subcatchment), and on-farm rainfall catchments. Rainfall and harvested water from existing catchments are dammed, and then pumped in for use on the fields. The multinational subsidiary has water meters at all pumping sites. For those who are now paying for water, this adds significantly to costs, and is the largest single cost of production at around 30 percent. The implications of such payments on small- and medium-sized farmers will need to be better understood.

The DoA in Kitale gives some perspectives. The two main watersheds in the Trans Nzoia geographical area are from Mt. Elgon and Cherangani Hills, feeding into Lake Victoria and then into the Nile River. Thus, water management in Kenya will have implications across the international borders. Overall, it appears that use of irrigation systems is limited at present, but there is high potential for expanding irrigation systems.

Most respondents considered issues related to water supply, watershed management, and future availability as important yet neglected. Most farmers now engaged in Kenyan agriculture either exploit ground and running water, or are solely reliant on rainfall and do not have the resources to invest in adequate water harvesting and storage facilities or watershed management. A key to sustained success in the agricultural sector is to add value to water while conserving and adding to the nation's water supply.

4.5 OTHER INFRASTRUCTURE ISSUES

Infrastructure considerations include transport (roads, airports, water ways), electricity, communication (telecommunications, IT), and infrastructure associated with water provision (irrigation systems). There is massive investment shortfall, and the GOK has been unable to establish a strategic direction, support, or implement modern investments in infrastructure. Existing infrastructure appears to be either not well maintained or not at all maintained in rural areas.

Thus, for an agribusiness wishing to export from the proximity of Central Province, a distance of 600 km from the ports, rail does not provide a solution. In addition, roads are poor, and fuel costs are high. Kenyan ports are inadequate and few in number. Mombasa is the only real ocean gateway to Kenya, Uganda,

Rwanda, and Southern Sudan. Mombasa, compared to many Asian ports, is expensive, slow, and only handles smaller or coastal vessels for transshipment in the Gulf or Durban.

Kenya will need to address sustainable infrastructure issues for the long term, such as a modern or upgraded road network, additional ports, energy alternatives (solar, wind, water power sources), and seek investment if it is unable to self-finance through development loans. Alternative approaches to infrastructure modernization should be explored, including approaches of “build, own, operate” (BOO), or “build, operate, transfer” (BOT).

4.6 FOREIGN INVESTMENT

There are mixed findings on foreign investment and further investigation is needed with a specialist legal team to get clarity on this important aspect that drives Kenya’s economy. The current impressions suggest that foreign investors are highly flexible, and not concerned about legislation or the rule of law. Many lease arrangements between individual foreign investors and Kenyan leaseholders remain informal, and often not registered with the Lands Office. All of the large-scale foreign investors interviewed hold either short leasehold titles for 10-25 years, or the more established 999-year leasehold titles. Some multinational investors do have long-term leases registered with the Lands Office, including leases from the GOK or leases with Kenyan landowners (living in and outside Kenya). Some multinational investors stated that they had purchased lands (though it is not clear whether these are freehold or 999-year leases).

The Companies Act (revised, 1978 [1962]), Cap. 486, paragraph 367, allows the registration of foreign companies in Kenya. The reality on the ground seems quite different, as most foreign investors lease and do not own land unless via proxy nominee land title holders who have signed over the land rights to the foreign investor. One major agribusiness investor quoted “At the moment we have no issue because we are a totally foreign owned firm (reflects provisions in ‘The Companies Act (revised, 1978 [1962]), Chapter 486, paragraph 367’, above). The only problem comes when looking at acquiring agricultural land. We think we face problems similar to those being faced by other business in Kenya in relation to the high level of bureaucracy involved in acquiring the needed licenses and approvals. This can be a potential mine field when all the different department inspectors come and visit.”

Foreign investors need to be encouraged to come to Kenya as it will assist in the country’s growth. This message will need to be promoted in the country. Clarity is needed on the current situation, and GOK should be encouraged to create a positive foreign investment climate (including 100 percent foreign ownership). A great example is the success of the Board of Investment of Thailand and, if needed, USAID/Kenya should encourage cross fertilization with the vision earlier set by the Royal Thai government with USAID support in the mid-1970s.

4.7 AGRICULTURAL CREDIT AND RURAL FINANCE

The banking and finance sector providing rural credit was primarily examined through responses from the Agricultural Finance Corporation (AFC) and Equity Bank. It is clear from these interviews that, unless a borrower has a genuine land title deed, it is extremely difficult to borrow from mainstream service providers in rural finance or for large capital finance. At present, the AFC seems to be a prime candidate for provision of loans, possibly together with the Cooperative Bank and/or other banks by a foreign investor. Equity Bank is progressive; however, few, if any, banks are dedicating resources for agribusiness finance.

4.8 CONCLUSIONS ON THE AGRICULTURAL, FORESTRY SECTOR, AND FARMER GROSS MARGINS

The assessment suggests that while gross margin analysis that genuinely attributes all costs and income for all relevant agricultural pursuits should be done and on differing scenarios (e.g., yield, irrigation, etc.), production and trade in the agricultural, horticultural crops, and livestock subsectors are generally not positive. There is a

lack of investment (includes modernization, mechanization, technology, information management, and training) in Kenya's agriculture, which is particularly evident among the smallholders. There is a critical need for addressing water management issues and for moving agricultural research funds into crop diversification programs that take advantage of technology, supply chains, and encourage the private sector to nationally promote information technology.

4.9 THE ENABLING ENVIRONMENT: POLICY AND LEGISLATIVE ISSUES

The existing agriculture sector frameworks are many, and several informants noted that the GOK has some 131 pieces of legislation, including 75 Acts of Parliament, strategy and policy papers, all related to the land sector, agriculture, forestry, water, and investment in differing ways. Review, harmonization, and modernization are overdue, yet significant attention is needed to properly implement these strategies. It is possible that a reason for this lack of effective implementation is the myriad of related and sometimes conflicting policies and legislations.

5.0 GOVERNANCE, CIVIL SOCIETY, AND POST-ELECTION VIOLENCE

This section looks at the earlier issues from the perspective of governance and usefulness of involving civil society to facilitate progress on LTPR issues, including promoting change.

5.1 GOVERNANCE ISSUES

While favoring a move away from communal or group-based and ‘inclusive’ land tenure to an individual and ‘exclusionary’ land tenure system, communities in the Mt. Kenya region practice an ‘inclusive’ land tenure that, for now, guarantees land availability to cater for any community population expansion through rearrangement and reallocation of land access rights. These include lands that are legally under individual ownership although, in practice, is managed according to customary rules¹⁴ as family lands. The team witnessed large families confined to land parcels less than 5 acres (2.0 ha). Land collateralization is not well practiced for fear of foreclosures and a multiplicity of interests concurrently coexisting in the same portion of land, resulting in a constrained land market.

Sections of settlement schemes are excised from the Mt. Kenya forest, and persons who are settled with titles are still subject to review under recommendations of the Presidential Commission of Inquiry into the Illegal/Irregular Allocation of Public Land (‘Ndungu Commission’). There is a predicted impact on the USAID/Kenya program; for example, TIST members practicing agroforestry in Mbiriri, Gathamba, Gakuru, and Muthaiga locations are poor beneficiaries of the 1992 Ndathi Settlement Scheme (Presidential Commission of Inquiry into Illegal/Irregular Allocation of Public Land Report, Annexes Volume II, page 668), and part of the excisions that have been challenged in court and subject to final court ruling stand to be revoked and titles cancelled. Yet the TIST Program is entering into 60-year contracts with some of these land beneficiaries.

While the community may not be aware of implications in implementing key recommendations of the ‘Ndung’u Commission, the unresolved land issues are predicted to create a crisis unless GOK begins to address these issues. The ‘Ndungu Commission’ is considered to be reasonably accurate and considers over 200,000 titles need rectification, validation, and /or revocation. The most acceptable step is to address the illegal and irregular transactions. Assuming GOK implements the ‘Ndung’u Commission’ Report, it will be obliged to strengthen and update the national land registration and land information system, as the third-party rights are to be protected so that legitimate investments are not jeopardized.

5.2 CIVIL SOCIETY’S ROLE

A repeated finding in the field was that secondary land rights holders were caught up in the middle of land rights disputes that require a regulatory framework to protect them. This manifested itself in the TIST agroforestry enterprises prospecting on selling carbon credits from farmers’ trees. A similar scenario was seen

¹⁴ That is, past and present indigenous laws, rules, and customs that regulate how a society functions.

in agroforestry efforts being implemented by CFAs around the Mt. Kenya forest area. These CFAs are currently pursuing ventures in unclear co-management arrangements with the Kenya Forest Service.

Small- and larger-scale farmers, the wider community, and public sector officials require public awareness on the dNLP and need to be engaged as stakeholders in ongoing discussions on possible land reforms. Setting up a successful national framework for land reforms still needs extensive consultations, consensus building, and negotiations with landowners, potential beneficiaries, and other stakeholders.

The GOK has numerous land policy initiatives that have and still run concurrently ranging from recommendations of the ‘Njonjo Commission’ of Inquiry into Land Law System of Kenya (1999-2002); the Constitution of Kenya Review Commission (2000-2005); the ‘Ndung’u Commission’ on Illegal/Irregular Allocation of Public Land (2003-2004); the dNLP Formulation Process spearheaded by Ministry of Lands (2004-2007); the ongoing establishment of a LRTU in the Ministry of Lands to anchor a Land Reform Support Program; and a broad land reform agenda out of the Anan Mediation Talks Accord.

- GOK has a responsibility to provide a positive direction and secure LTPR. To do this, a greatly strengthened, modern, and transparent land registration and information system is needed. This will help in the resolution of land disputes and in easing political tension.
- Civil society’s advocacy role is embedded in the dNLP initiatives, presenting a very cost-effective means for public communication, government accountability, and moving forward land reform efforts. Table 5.1 indicates some of the civil society organizations working on land issues in Kenya; there may be others including regional, national, and international NGOs.

TABLE 5.1. CIVIL SOCIETY ORGANIZATIONS (CSOs) WORKING ON LAND ISSUES IN KENYA (MARCH 2008, PRESENTED IN ALPHABETICAL ORDER)

Organization	Program focus
FIDA-Kenya	Women’s land and property rights
Hakijamii	Public land tenure and management
Institution of Surveyors of Kenya	Land institutional frameworks
Kenya Human Rights Commission	Redressing historical land injustices
Kenya Land Alliance	CSOs network advocating on land laws and policy reforms
RECONCILE	Community land tenure & property rights /common property resources
Shelter Forum & Pamoja Trust	Urban land use administration and slum upgrading

5.3 POST-ELECTION VIOLENCE

The effects of the post-election violence were particularly noticed in the Rift Valley (destruction of property in Eldoret and in Soy on the Eldoret to Moi’s Bridge road). KMDP staff lost property. Some stakeholder discussions were held with IDPs in Kitale, Eldoret, and Nyeri (the latter Kikuyu leaving the violence and reluctant to return); economic losses appear to have been high. Some examples include:

- A large-scale dairy producer losing 5,000 liters of milk/day for three weeks, valued at KSH15.0/litre, a total of around US \$26,000 total loss. The same farmer hosted displaced families and their herds for some three weeks at his cost.
- Over 10,000 cattle were rustled from smallholder farms in the Kitale, Cherangani area by young males with mobile phones and weapons.
- An agribusiness entrepreneur had his farm residence, fencing, and agricultural and crop-processing machinery and equipment burned, with a value totaling around US \$4.0 million.
- The Reformed Church of East Africa, Eldoret, had church property burned; it was hosting 40 IDPs when a mob damaged the buildings.

Many persons interviewed in the field felt the recent post-election violence was due to land issues (historical injustices), and serious clashes earlier occurred in 1982 (post attempted coup), 1992 (stated to be due to ethnic issues), and 1997 (i.e., eight to ten-year intervals). Kenya cannot afford to have a repeat of such situations and, if land and underlying poverty issues are root causes, they need to be high on the agenda of resolutions.

6.0 WOMEN, YOUTH, AND HIV/AIDS ISSUES

This section reviews the impact of LTPR with a lens on women, youth, and health (HIV/AIDS) issues, and is based on detailed field discussions with rural women. These findings are based on the sample of persons met during the field study, and individual statements could only be verified by triangulation.

6.1 WOMEN'S ACCESS TO LAND

The most common means of acquiring land and property in Central Province and Rift Valley Province is through purchase, leasing, inheritance, and distribution/resettlement. While none of the statutory laws regulating property and land markets prevent women from owning land, poverty and high costs limit women's land acquisition through purchase or leasehold. Additionally, in both provinces there was acute incompatibility and predominance of customary practices over statutory laws which, when put together, exclude women from inheritance and government distribution including resettlement schemes.

Inheritance and control over land and property is vested in men, while women access land and property through marriage; this was a general customary principle in all ethnic groups in the provinces visited. The husband controls matrimonial land and property, including that acquired by his wife before and during marriage. A husband decides the mode and extent of access his wife and children have over family land and property. This is contrary to the statutory *Married Women's Property Act*¹⁵ (MWPA), which gives women equal rights over matrimonial property to a certain extent.¹⁶ These customary principles influence distribution of Trust Lands under resettlement schemes, where lands were typically allocated to male heads of households.

Although the *Law of Succession Act 1981*¹⁷ gives women inheritance rights, customary law prevails over formal law, with variations across ethnic groups. For instance, the team found that among the Kikuyu in both Central and Rift Valley that a woman can hold¹⁸ land and matrimonial property in trust of her sons when her husband dies. While unmarried and divorced women can inherit land from their parents, the portions are often smaller than what is given to their brothers. Among the Luhya, however, succession is strictly through the male lineage. Luhya women rarely inherit land and property, and a widow's matrimonial property is held by her husband's brother or other male relative until her sons are old enough to inherit.

The assessment could not clearly establish the fate of women's land rights on dissolution of marriage under customary practices. However, in various parts of the Rift Valley—among Luhya, Sabao, and Kisi (in Cherenganyi, Saboti, and Eldoret), women lost their land access rights upon dissolution of the marriage. It was stressed that “clan” land cannot be divided outside the clan. This treatment seems to differ with private land, which can be challenged by an aggrieved spouse through existing formal administrative structures.

¹⁵ MWPA Section 1(1) and (2) – the Act applies to all forms of marriages including customary marriages.

¹⁶ MWPA Section 17 – requires proof of contribution in acquisition of matrimonial property which discriminates against 'indirect' contribution as in the case of most women.

¹⁷ Cap 160, Laws of Kenya.

¹⁸ Some respondents believe this to have been a form of inheritance.

These provisions are relatively similar to the statutory *Succession Act*, where a widow's interests in matrimonial property terminates when she remarries.

Women's access to titled land is mostly through marriage. While under the Registered Land Act (RLA) up to five people can be registered as owners of a piece of land, none of the Male Heads of Households (MHH) had a record of their wives or their children's interests in land. Women in these households acknowledged this is a concern as they could lose their user rights if their husbands chose to dispose of their land. Women whose marriages were unregistered considered themselves most vulnerable in case of disposal or their husband's death. Most women were unaware of how one goes about seeking redress on such cases with the formal administration; some thought courts are too expensive while others felt that challenging a husband over the possible sale of 'his' land would strain their marriages.

Women who owned land with titles were all single, and the majority owned the land through self-purchase. Central Province has more farmers with titles at 47 percent compared to Rift Valley at 16 percent, and there were no joint title holders encountered (see Table 6.1).

TABLE 6.1. LAND TENURE BY HEAD OF HOUSEHOLD

Location	Owned with title		Owned without title		Owned by Spouse		Owned by parent	
	MHH	FHH	MHH	FHH	MHH	FHH	M	F
Central								
Mbiriri	9	1	0	0	0	11	0	0
Thungari	4	1	1	0	0	3	4	0
Gakawa CFA	3	0	0	0	0	1	5	0
Nkando	7	2	4	0	0	12	5	0
KOOFA	8	4	0	0	0	3	0	1
Mt. K CFA	6	0	0	0	0	0	1	0
Total	37	8	5	0	0	30	15	1
	39%	8%	5%	0%	0%	31%	16%	1%
Rift Valley								
Maize trader	1	0	0	0	0	0	0	0
Kiboroa / Saboti	0	0	24	0	0	6	0	1
Moi's Bridge Dairy	1	0	0	0	0	0	0	0
Mito Mbili	6	0	5	0	0	7	0	0
Youth Group	2	0	0	0	0	0	9	0
Total	10	0	29	0	0	13	9	1
	16%	0%	47%	0%	0%	21%	15%	1%

Source: Field information

Officials in the Ministry of Lands and County Councils expressed a lack of confidence in District Land Dispute Tribunals to handle matrimonial land disposal. The laws do not require a spouse's consent when disposing of property. The concept of recording multiple interests on titles seemed alien to most, but supported by 100 percent of women and about 80 percent of men. Men who were not fully supportive of the concept felt it served to dilute the rights of the primary title holder. Women noted it protected their access rights and could reduce the frequency of breakdowns of marriage and tame extensive polygamy.

The AFC Kitale branch has a clientele base of 75 percent small-scale farmers. Women make up only 25 percent of this clientele. Because land title deeds are used as collateral, and since few women have land titles

and fewer married women have matrimonial joint titles, they are unable to access this facility. AFC's core target crop is maize, so this can be seen as an opportunity cost to otherwise increase household capital for agricultural improvement. On the other hand, the Equity Bank, Kitale branch, attracts a 60 percent female client base. This is attributed to diversification of collateral to non-land assets and a UNDP Women's Fund initiative providing credit to women through group schemes. While the two banking institutions do not accept lease documents as collateral, women and youth are engaged in the short-term leasehold land market for earning their livelihoods.

Most women and youth appear to be investing in other opportunities that afford them more control and better returns to their labor beyond the family land and away from land titling issues. These include maize trading, poultry, dairy, and leasing farms for horticulture production. For instance, NCPB clientele is 10 percent women who are largely characterized as traders and women farming on leased lands. Other private maize traders do not keep records, although the estimated female clientele base is 20-30 percent, largely small-scale traders.

6.2 YOUTH ISSUES

Most young men ('youth' defined as persons having reached legal maturity) lack tenure security and young women are excluded (see findings in Table 6.2). Young men expect to inherit land. Many feel that they have to wait too long to obtain land titles from their parents, although it was not clear how long the inheritance usually takes to be effected. In Nyeri (Central Province) and Cherenganyi (Rift Valley), most men waiting to inherit land were from 30 to 40 years. These young men had access to land and were farming although land titles were yet to be transferred to their names. Parents (fathers and mothers) are reluctant to have titles transferred to their sons out of fear that they would sell the land. The majority of young men rely on inheritance to access and own land while, with very few exceptions, young women are excluded by customary practices. Even in the Kikuyu culture, the unmarried/divorced women who have inheritance rights tend to be older, their farm sizes are smaller and usually are untitled. Young women have the weakest land access and ownership rights—a concern limiting their involvement in agricultural enterprises.

TABLE 6.2. SAMPLES OF THE YOUTH LAND TENURE PATTERNS (FIELD INFORMANTS)

Area	Owned with title	Owned by parent	Leasehold
Central Province	0	16	1
Rift Valley	2	10	5
Total	2	26	6
	6%	76%	18%

In areas such as Kiboroo - Saboti, severe land pressure and population growth has broken down the inheritance system. There is an average 2.5¹⁹ (to 1.623²⁰) acres (0.66 - 1.0 ha) per family of five children, and most families find it impossible to pass land as inheritance to their sons. Some youth in Nyeri have turned to farming using leased land (often this is seasonal or limited to less than five years). In Kaisagat, Trans Nzoia District, while members of the St. John Youth Club lease land to grow higher-value horticultural crops with assistance from USAID's KHDP, the lease arrangements are too short for the youth to get a return on their investments, and there is no incentive for long-term value-adding investments (e.g., dams to allow irrigation). The leases are not documented, and double leasing is common. This poses a risk to longer-term investments such as planting of passion fruit trees (Nyeri). Youth are also unable to use these 'informal' short leases for collateral to acquire credit. Although some members incur losses from damage caused by grazing animals,

¹⁹ Kiboroo, Saboti estimate.

²⁰ MOA average for Trans Nzoia District.

they are unable to make long-term investments, such as fencing, as the owners prohibit this or because they lack long-term security of tenure with these leases.

Similarly, women and youth are unsure of their rights over long-term investments on family land, such as tree planting. This issue is of great concern in the USAID-funded TIST carbon credit project in Nyeri. TIST project clients are nearly 75 percent women with insecure land tenure rights. Large-scale horticulture companies (Homegrown, Del Monte, and TimauFlor) only work with out-growers who have title deeds, and these growers must be prepared to make long-term investments such as in irrigation piping. Most women and youth are excluded from entering such potentially high-revenue generation enterprise, or are unable to make the needed investments due to lack of titles and hence inability to access credit. This is a vicious cycle and a lost agricultural investment opportunity.

A lack of land title deeds restrains land buying and selling to facilitate land transfers from less to more efficient users. Sons waiting to inherit titles from their fathers are unable to lease to sell these lands (presumed inheritance), thus constraining land markets and reducing land value. Collateralization of land is also reduced in the absence of title deeds.

6.3 HIV/AIDS

In Eldoret, interviews with HIV/AIDS support groups revealed that HIV/AIDS widows lose their property rights more often than their male counterparts, and young HIV/AIDS widows are the most vulnerable. Due to weak customary rights and the AIDS stigma, young widows are often evicted from their property by their husband's relatives. Older widows with adult children are less likely to be evicted from their houses, although they may lose rights to other forms of property such as land. As a result, such women either seek support through self-help support groups or become largely dependent on social services and donor programs. Extreme poverty has resulted in family breakdowns to the extent that HIV/AIDS men lose property to their relatives before they die.

Discussions with health workers in Eldoret revealed that due to the high costs of HIV/AIDS medicine and nutrition in addition to caring for family members, HIV/AIDS-infected widows and girls are forced into prostitution to make ends meet. This high increase of such practices in land-scarce poor rural areas and urban slums then escalates the spread of HIV.

Incidences of such practices were most common among groups with very small land parcels without titles and that are relatively poor. For example, in the Kiboroa - Saboti area near Mt. Elgon, where the inhabitants have longstanding, unresolved land grievances since the 1970s, the smallest land size is 25 by 100 feet while the largest is 5 acres (1.0 ha). This was a settlement scheme with the original purchases through land-buying companies and societies such as "Gituamba" and "Mukukha," and, to date, title deeds have not been received. Women in this area decried the increasing incidences of prostitution among girls, and incidences of young men marrying older, more well-off women putting them at risk of contracting HIV/AIDS. The overall problems are attributed to neglect by the GOK in addressing the area's historical land issues, breakdown of inheritance systems as land parcels are too small to be divided and there are no titles, limited educational and health services, lack of employment opportunities for youth.

7.0 REFERENCES

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- Jaetzold, R., et al. 2006. Farm Management Handbook of Kenya, Volume II: Natural Conditions and Farm Management Information. 2nd edition. Ministry of Agriculture, Kenya.

ANNEX I: SCOPE OF WORK

Statement of Work (SOW):

An LTPR Assessment of Agricultural Enterprises in Kenya

March 1- March 31, 2008

1.0 Purpose

Provide USAID/Kenya with an assessment and analysis of land tenure and property rights (LTPR) related to small- and medium-sized agricultural enterprises with respect to: i) the dNLP; ii) addressing historical grievances in the access to agricultural land; and iii) USAID's focal areas for agricultural development, as noted. Present findings at a USAID/Kenya-sponsored workshop relative to an emerging set of lessons learned and best practices for LTPR, resource governance and enterprise development linked to specific USAID/Kenya agricultural investments in the country.

2.0 Background

Despite the social, economic and political importance attached to land in Kenya, the country has lacked a clearly defined and codified national land policy since independence. The absence of such a policy has resulted in a haphazard land administration and management system. To resolve the myriad land administration and management problems afflicting Kenya, the Government of Kenya (GOK) committed itself to developing a national land policy through a consultative process, with the objective that it should provide a platform for: i) ensuring all citizens with opportunities to access, beneficially occupy and use land; ii) systematic land use planning; iii) efficient and transparent land dispute resolution mechanisms; iv) effective and transparent operation of land markets; v) socially acceptable and environmentally sustainable allocation and use of land; and vi) reforming outdated legal and institutional frameworks in the administration of land and property rights.

The Ministry of Lands (MoL) prepared a 'final' dNLP in May 2007, and submitted it to Cabinet. Prior to preparing a Sessional Paper and tabling the dNLP in Parliament, Cabinet referred it to the Ministry of Finance (MoF) with the request that it include i) a cost schedule for its implementation that was linked to GOK's medium-term expenditure framework (MTEF) and ii) an indication of funding sources. MoF had not undertaken these tasks by the time Parliament dissolved in October 2007 prior to Presidential and Parliamentary elections in December 2007.

It should be noted that although MoL is satisfied the dNLP reflects broad consensus among Kenyans on issues of land reform and administration, there are other entities that have raised questions about provisions in the May 2007 draft; *e.g.*, i) wording relating to restitution, repossession and sanctity of title; and ii) the effect of the policy on economic growth and private property rights. Several development partners preferred additional analyses of the dNLP prior committing to support activities in the land reform program. In particular, USAID desired a review of the policy's potential impact on and support for: i) sustainability/growth of the non-subsistence, small and medium-sized agricultural enterprises, ii) opportunities for improving community and corporate livelihoods with agriculture or natural resources, iii) diversification of livelihood in customary pastoralist economies, iv) a sound land administration system accessible to all, v) the regularization/formalization of community-based resource tenure, and vi) community/government natural resource management and conservation enterprise related partnerships. USAID planned to undertake further policy review in January - March 2008. In addition, development

partners were quite frustrated by MoL/GOK's apparent lack of commitment to addressing the recommendations of the "*Commission of Inquiry into the Illegal/Irregular Allocation of Public Land*" (Ndung'u Commission, 2004). It is generally believed that GOK's inertia on the Ndungu report is because it implicates powerful interests in the previous and current government in the illegal and irregular acquisition of land. Finally, there are concerns that the reforms in land administration, use and management proposed in the dNLP are not anchored in Kenya's current Constitution. While this is no fault of the dNLP, some believe the policy's adoption and certainly its implementation would require constitutional amendments to be properly legally grounded.

Though these concerns formed a backdrop to the advancement of the draft policy, the MoL and development partners prepared an 'Implementation Project Document' (September 2007) to guide and budget the land reform process over a two-year period - October 2007 to September 2009. Even though the project document has been accepted by MoL, enthusiasm has waned among development partners for rapid implementation of the land reform program.

January 2008 marked the beginning of a political crisis that rocked the nation – the result of a bitterly disputed outcome of the Presidential election process. It intensified Kenya's polarization along ethnic and political lines. Post-election violence resulted in over 1,000 deaths, over 350,000 internally displaced people (IDPs), the establishment of over 300 camps to accommodate IDPs and a massive humanitarian relief effort. Virtually all Kenya's development partners have adopted a 'No Business As Usual' approach to program implementation. Development activities have ground to a halt in most disturbance-affected areas, and partners have minimized their contacts with GOK entities. In many instances development partners have slowed program implementation. All are hopeful the political crisis will pass, but it is accepted that any program for its long-term resolution must address land reform in the areas of: i) distribution and access, ii) utilization and planning, iii) understanding the basis for conflicts in land and property and in iv) administrative procedures and institutions. Certainly in USAID's geographic focal areas for agricultural development, natural resource management and biodiversity conservation it is apparent these four critical issues of LTPR affect nearly all program interventions.

Once relations among GOK entities and development partners become more 'normalized', it's obvious that approval of the dNLP and the workings of the land reform 'Implementation Project' will move at a 'certain' pace. USAID believes it might be able to address the four critical issues noted above at its project sites to complement the dNLP adoption process and the land reform 'Implementation Project'. To do so will require that USAID and its partners understand these land-related influences and use this knowledge to shape project activities to address constraints where practicable and to scale-up results. To that end, USAID/Kenya will support a 'LTPR Assessment of Agricultural Enterprises' and two other studies/activities that are linked to it as described below. Further, it is hoped that relevant findings and recommendations from these and other assessments may be used to enrich the dNLP, the Land Reform Support Program and the 'Implementation Project'.

1. 'LTPR Assessment of Agricultural Enterprises'. USAID/Kenya's agricultural program has supported the development and strengthening of a number of agricultural value chains with a primary purpose of raising incomes of small and medium scale, non-subsistence farmers. Interventions focus on policy reform in specific commodity sectors, increasing farm productivity and energizing commodity markets through access to credit and business development services (BDS). Primarily, the programs have targeted the horticulture, maize and dairy value chains with secondary emphasis on pastoral livestock and fisheries in Lake Victoria. They assist micro and small entrepreneurs in these sectors and provide support to farmer groups, linking them to private sector markets, input suppliers and other private sector BDS providers.

USAID desires clearer understanding of how the dNLP impacts sustainability and growth of the small and medium-scale farming sector. USAID will assess how inefficiencies in land administration, land-related conflicts and, in particular, women's inability to access land impact on the success of small and medium scale agricultural enterprises. Other areas of analysis will include: i) the regularization of rights in

agricultural land including access to land held by absentee owners and ‘owners’ of irregularly and/or illegally acquired titles; ii) opportunities for strengthening and energizing agricultural land markets; iii) diversification of livelihood in customary pastoralist economies; and iv) the promotion of an equitable and efficient land administration system.

An agricultural enterprise field assessment will examine the following issues from a small/medium scale, commercial agricultural perspective at discrete sites and determine how they constrain performance across value chains in maize, farm-forestry and bio-carbon (on-farm sequestration of carbon):

- a. Ineffective institutions/corruption relating to the land sector;
- b. Excessive and prohibitive transaction costs that constrain investments in land and in agriculture;
- c. Insecure tenure and inefficient land markets’ creation of ‘overlapping’ rights by individuals/communities;
- d. Disinheritance (women and other vulnerable groups);
- e. Rapid urbanization (coupled with poor land use planning);
- f. Gross disparities in landownership across socio-economic groups;
- g. Uncontrolled development - squatting and slum development;
- h. Ineffective enforcement of legal frameworks/by-laws;
- i. Conflicts over land and land-based resources;
- j. Fragmentation of land parcels and proliferation of non-economic units;
- k. Environmental degradation/low productivity of land;
- l. Destruction of forests, riparian areas and desertification;
- m. Irregular and illegal allocation of public land to individuals/”Land grabbing”;
- n. The findings/recommendations from any key Commissions (*e.g.*, Njonjo and Ndungu) or other assessments/evaluations of LTPR that cover the particular agricultural production zone of the sites.

The assessment will generate ‘lessons’ and recommendations for securing agricultural property rights/contract agreements so as to promote: equity in access; efficiencies in land administration, markets and utilization; improved agricultural productivity; increased investments in countering degradation of the land base via investments in more sustainable production systems; and stronger, more diverse agricultural value chains. The findings and recommendations of this study will help constitute an agenda for engaging with MoL/GOK in a review of the dNLP.

This assessment will require collaboration with a team conducting a parallel field assessment of ‘LTPR and Conservation Enterprises’ (described in a separate SOW) and with the team reviewing the dNLP (under component 2 noted below). **Important dimensions of the agricultural and conservation enterprise assessments and the of ‘programming roundtable’ (below) will be issues related to land tenure security, land administration, conflict, and women’s rights to land and resources.**

2. The second activity is a Desk Study and ‘Programming Roundtable’ of the dNLP. This component will involve a review and analysis of the dNLP, comments of donors and of a ‘Peer Review Committee’, and consultancies linked to the Policy in the context of USAID/Kenya programming. This analysis will pay specific attention to how the dNLP could impact the investments of USAID/Kenya in its portfolio of programs in economic growth, natural resource management and biodiversity conservation, conflict management and mitigation, governance and institutional development, and HIV/AIDs. Thus, it is a broader review than the site-specific focus of the ‘LTPR Assessments of Agricultural and Conservation Enterprises’. This assignment will take place in two phases – a desk-study off-site in January/February 2008, and a two-week assignment in Kenya in March.
3. Kenya ‘Lessons Learned’ Workshop. USAID/Kenya will sponsor a lessons learned workshop bringing together the findings and recommendations of the ‘LTPR Assessments of Agricultural and Conservation Enterprises’ and of the Desk Study/Programming Roundtable to discuss results and findings with GOK counterparts and key stakeholders. The results of these discussions will be summarized in a ‘Land Policy Investment Options Paper’ that USAID/Kenya can use to guide its future investments, programming and strategic partnerships.

3.0 Scope of Work

The 'LTPR Assessment of Agricultural Enterprises' team will undertake the following tasks:

- Conduct preparatory work involving: i) Consultation with USAID/Kenya, the 'LTPR and Conservation Enterprises' team and the locally-procured logistical coordinator (the East Africa Wildlife Society-EAWLS) to finalize logistics for field visits, including arrangements for all necessary meetings and interviews; ii) Review literature relevant to the case studies, including documents provided by USAID/Kenya and also sourced independently; iii) Finalize roles and responsibilities within the team, a methodology for conducting the field assessments, and procedures for communicating with the 'LTPR Assessment of Conservation Enterprise' team, USAID/Washington and USAID/Kenya as needed;
- Travel to specific agricultural enterprise sites within Kenya as identified by USAID/Kenya and assist in conducting an assessment of the specific cases based on an agreed upon methodology guided by the issues noted in Component 1, above;
- Develop an analytical framework for the findings and 'lessons' of Component 1, as related to property rights negotiation, establishment, governance, and transaction and the impacts on investors, managers, communities, benefit sharing and equity, land and resource use. Work closely with the 'LTPR Assessment of Conservation Enterprise' team and the 'Desk Study and Programming Roundtable' team in these efforts;
- Inform the land policy review, and identify important legal and policy changes that are needed to support the success of the agricultural enterprises;
- Work with the 'LTPR Assessment of Conservation Enterprise' and the 'Desk Study and Programming Roundtable' teams to develop a preliminary set of lessons learned that can be used to contribute to a USAID/Kenya-hosted workshop noted in Component 3, above;
- Work with the 'LTPR Assessment of Conservation Enterprise' and the 'Desk Study and Programming Roundtable' teams to present lessons learned at the USAID/Kenya-sponsored workshop; and
- Finalize a report based on comments received from USAID/Kenya, USAID/Washington and participants in workshop. The report may be finalized upon return to the US.

5.0 Deliverables

1. A final report (not more than single spaced 30 pages) including an executive summary, introduction and background for the overall evaluation, detailed findings, conclusions, and recommendations. The report will incorporate comments from USAID/Washington and USAID/Kenya.
2. Presentation and participation at the Kenya lessons learned workshop.

The 'overall project team leader' will submit electronic copies of final report to USAID/Washington and USAID/Kenya. A final report will be submitted no later than April 30, 2008.

6.0 Schedule

This assignment will begin with preparatory work in the US on or about 1 March 2008 with arrival in Nairobi o/a 3 March 2008 and end o/a 30 March 2008. The consultants will work six-day work weeks.

7.0 Costs

The costs for this component of the assessment are subject to the cost-plus-fixed fee rates applicable to the USAID PLACE IQC and the PRRG Task Order.

ANNEX 2: LIST OF PERSONS INTERVIEWED

ANNEX 2: LIST OF PERSONS MET

This summarizes the key list of organizations and persons met during the assignment. This list may be useful for the USAID/Kenya who could consider:

- Progressively adding to this listing, and maintaining the separation of organizations within the agriculture, forestry, or supporting sectors, for organizations in and outside Kenya.
- Maintaining this listing in a database for reporting, follow-up, and as a tool for monitoring and evaluation to demonstrate progress on LTPR issues.
- Identifying other organizations active in or supporting the agriculture, horticulture, livestock, and forestry sectors, including a range of GOK Ministries, Departments, private sector associations, donor-funded development projects, and NGOs.
- This list should be further refined by area of interest, recognizing there will be overlap where there are common service providers.

NO.	ORGANIZATION	CONTACT PERSON	TITLE	TEL / FAX	E-MAIL/WEB SITE	ADDRESS
PUBLIC SECTOR – INCLUDING PARASTATALS						
ELDORET						
1	Eldoret Municipal Council	Councillor Samuel K. Ruto	Mayor, Chairs Municipal Council	Tel: 254-722 529 790		PO Box 40-30100, Eldoret
2			Deputy Mayor (♀, elected)			
3		Stanislas N. Ondimu	Town Clerk	Tel: 0721-953 333; 0733-953 333	Ondimu@wanachi.com stanondium@yahoo.com	PO Box 40, Eldoret
4		Jennifer Cherotich Koske	Chairperson, Town Planning & Works Committee (elected)	Tel: 0722-930 592	jencherotich@yahoo.com	
5			Physical Planner, Eldoret			Sits in the Lands Office
6	National Cereals & Produce Board (NCPB)	Jonah K. Marindich	Area Manager, Northern Region	Tel: 0722-639 526	cerealsmsa@africaonline.co.ke	Eldoret

NO.	ORGANIZATION	CONTACT PERSON	TITLE	TEL / FAX	E-MAIL/WEB SITE	ADDRESS
KITALE						
1	District Officer, Trans Nzoia West	Simon O. Osumba				District Office, on way to Saboti, Mt. Elgon
2	Department of Agriculture	Stella Kimutai	District Extension Research Liaison and Training Office. District Trans Nzoia	Tel: 054-303 57 Mob. 0722-436 986.		Box 1433, Kitale
2		George Mabonga	District Environment and Land Development Officer (soil conservation)			
3	Kenya Agricultural Research Institute (KARI), Kitale	Dr. Omari Mumani Odongo	Centre Director	Mob: +072 265 2536	omariodongo@yahoo.com	Kitale Centre. P.O. Box 450-30200, Kitale
4		Dr. George Donbakhho	Chief Research Officer		maizekitale@gmail.com	
5	Agricultural Finance Corporation	Augustine K. Psinen	Branch Manager			
6	Agricultural Development Corporation	Nixon K. Sigei	Regional Manager	Tel: 0722-765 417	adc@ktl.co.ke info@adc.co.ke	Kitale Region Office, Kitale Head office: Development House, Nairobi
7	Kenya Dairy Board	George Wanjala	Officer in Charge	Tel: 020-3569 358		Dept. of Agriculture compound, Kitale. PO Box 4665, Kitale
8	District Lands Department	Andrew Aseri Kirungu	District Lands Officer	Tel: 0727-171 562		Land's Office, P.O. Box Kitale:
9		A. H. Mohamed	District Settlement Officer			
10		Wambua Stephen Nouti	District Valuer	Tel: 0725 – 835 326		
NAIROBI						
1	Ministry of Agriculture	Charles O. Mwanda	Deputy Director of Agriculture, Land Development & Management Division	Tel: +254-722-851 919	cmwanda@kilimo.go.ke	Hill Plaza Road, 6 th Floor, P.O. Box 30028-00100, Nairobi

NO.	ORGANIZATION	CONTACT PERSON	TITLE	TEL / FAX	E-MAIL/WEB SITE	ADDRESS
2	Egerton University, Tegemeo Institute of Agricultural Policy & Development	Dr. James K. Nyoro	Executive Director	Tel: +254-733-601 094	jnyoro@tegemeo.org	Kindaruma Land, off Ngong Road, Nairobi
3		Betty Kibaara	Research Fellow	Tel: +254-733-426 458	bkibaara@tegemeo.org	
4		Simon C. Kimenju	Research Fellow	Tel: 254-020- 2717 818	skimenju@tegemeo.org	
5	Ministry of Lands	Rebeun Murugu & LRTU Team	Land Reform Transformation Unit	Tel: 0722-664646	rmuruguu@yahoo.com	Nairobi
6	Nature Kenya, Mt. Kenya Eco-Resource Center	Gitonga Mbutu		+254-723-511147	mbubosa@yahoo.com	Mt. Kenya Eco-Resource Center
7	University of Nairobi, Institute of Development Studies	Karuti Kanyinga		0733-615826	Karuti@south.co.ke	University of Nairobi
NYERI						
1	County Council, Nyeri	James G. Muchira	County Council, Nyeri Administrative Officer.			County Council, Nyeri
2	Department of Agriculture, District Agricultural Office, Nyeri	Mrs. Alice Thenya	Deputy Agricultural Extension Officer, Nyeri			
3		Ms. Beatrice Theuri	District Agribusiness Officer, Nyeri South			
4		Mr. Joseph Kering	District Crops Development Officer, Nyeri South			
5		Mrs. Lucy Mwenbwa	District Home Economics Officer, Nyeri South			
6		Mrs. Jane Kirimi	District Home Economics Officer, Nyeri North			
7	Department of Lands, Nyeri	Mr. Cyrus Karibe	District Lands Officer and Valuer	Tel: 0722-569 656		Department of Lands, Nyeri. Report to Ministry of Lands, Nairobi (former Ministry of Lands and Settlements).
8	Kenya Forests Service	Mr. James M. Mburu	District Forestry Officer			

NO.	ORGANIZATION	CONTACT PERSON	TITLE	TEL / FAX	E-MAIL/WEB SITE	ADDRESS
PRIVATE SECTOR ENTERPRISES & SERVICE PROVIDERS						
ELDORET						
1	Moi's Bridge Dairy	Mr. KJ. K. Chelagat	Managing Director	Tel: 0722-570 527	mbridgedairy@yahoo.com	PO Box 291, Moi's Bridge
KITALE						
1	Bubayi Farm	Jonathan Mayer	Proprietor	Tel: 0735-488 001	bubayi@access350.co.ke	Kitale District
2	Equity Bank	Amos Kariuki	Assistant Manager			Equity Bank, Kitale
3		Stanley W. Ng'anga	Business Growth & Development Manager	Tel: 054-31 609	info@equitybank.co.ke	Kitale Branch, Kenyatta Avenue, PO Box 801-30200, Kitale
4	Commercial Grain Services	Nathaniel K. Tum	Managing Director	Tel: 0720-838 767		PO Box 2275, Kitale
5		David Tum	Deputy Managing Director			
6	Kenya Seed Company Ltd.	Meuledi M. Iseme	Deputy Managing Director	Tel: 0722-205 144; 0733-623 668	info@kenyaseed.co.ke	PO Box 553, Kitale 30200
7	Western Seed Co. Ltd.	Saleem Esmail	Chief Executive Officer	Tel: 0722-514 236	Saleeme@gmail.com	Kitale
8		Syed Osman Bokhari	Director	Tel: 0724-268 181	osmanb@gmail.com	
NAIROBI						
1	AMES Consultants Ltd	Shem E Migot-Adhola	Managing Director	Tel +254-20-2049872	smadholla@netathome.co.ke	Nairobi
2	Kenya Highland Seed	Ian Allen	Managing Director	Tel: 0733-638 600	ian@khs.co.ke	Road C, off Enterprise Road, Sanam Building, Godown no. 2. PO Box 63879 – 00619, Nairobi
3	Law Society of Kenya	Addraya Dena	Programme Director	Tel: 0720-904 983	adena@lsk.or.ke	Lavington, Opp. Valley Arcade, Gitanga Road. PO Box 72219 – 00200, Nairobi

NO.	ORGANIZATION	CONTACT PERSON	TITLE	TEL / FAX	E-MAIL/WEB SITE	ADDRESS
4	Ndungu Njorge & Kwach Advocates	Paul N. Ndungu, EBS	Partner	Tel: 0722-209 699	pdungu@nnkadvocates.co.ke	12 th Floor, International House, Mama Ngina Street, PO Box 41456-00100, Nairobi
5	Pannar Seed (Kenya) Ltd	Craig Neilson	Managing Director	Tel: 254-(0) 72 – 220 2051	craig.neilson@pannar.co.ke www.pannar.com	PO Bo x 10383, 00100 Nairobi GPO, Kenya
6	Tilley Group of Companies (fish exporter including to Australia; sources from Lake Victoria)	Firoz Jessa	Chairman	Tel: 0733-633 327	firoz.jessa@tilleygroup.com	PO Box 11880 – 00400, Nairobi
7	Tyre Rod Communication	Brenda Majanja	Head of Communications	Tel: 0722-824 824	info@tyrerodcommunications.9f.com	PO Box 6439 - 00100, Nairobi
8	Wamukoya & Associates	Dr. George M. Wamukoya	Managing Partner	Tel: 254-20-273 1299	gmulama@yahoo.com	Argwings Kodhek road, Fatima Court, Flat 4. PO Box 45801-00100, Nairobi
9	Consultant	Dr. Liz Alden Wiley	Land Tenure Specialist	Tel: 0724 – 317 836	lizaldenwily@wananchi.com	Box 440-00621, Village Market Post Office, Nairobi
THIKA						
1	Del Monte Kenya Limited	Edward Littleton	Managing Director	Tel: +254-020-214 1600	elittleton@delmonte.co.ke	Oloitiptip Road, PO Box 147, Thika, 0100
INTERNATIONAL						
1	Flora Holland (The Netherlands flower auctions)	Ruben Basdew	Quality Consultant Import		rubenbasdew@floraholland.nl www.floraholland.nl	Postbus 220, 2670 AE Naaldwijk, Middel Broekweg 29, The Netherlands

NO.	ORGANIZATION	CONTACT PERSON	TITLE	TEL / FAX	E-MAIL/WEB SITE	ADDRESS
NON GOVERNMENT ORGANISATIONS (NGOs)						
ELDORET						
1	Reformed Church of East Africa	Rev. Geoffrey K. Songok,	Moderator	Tel. 0722-648 898		Box 99, Eldoret
2		Rev. Samson E. Akoru	General Secretary	Tel. 0729-293 803	samakoru@yahoo.com	
NAIROBI						
1	East African Wildlife Service (EAWLS)	Mr. Ali Kakar	Executive Director	Mob: 0722 – 202 473	director@eawildlife.org www.eawildlife.org	Riara Road, Kilimani, Nairobi
2	EAWLS	Mr. Richard Rono	Administration Manager		rono@eawildlife.org	Nairobi
3	Kibodo Trust	Mr. Rupert Watson	Director	Tel:891 239 Mob: 0722 237 138		Nairobi
4	Kipini Wildlife & Botanical Conservancy Trust	Dr. Omar Sherman Farouk	Chairman	Mob: 0722 – 643 658	info@kipiniconservancy.org www.kipiniconservancy.org	PO Box 76030-00508, Nairobi

NO.	ORGANIZATION	CONTACT PERSON	TITLE	TEL / FAX	E-MAIL/WEB SITE	ADDRESS
DEVELOPMENT PROJECTS						
ELDORET						
1	Kenya Horticultural Development Program	Geoffrey Nyameta	Regional Officer		gnyamota@fintrac.com	Eldoret
2	Smallholder Horticulture Empowerment Project (SHEP)	Dr. Jiro Aikawa	Team Leader	Tel: 0734-755 804	Aikawa.jiro@shepkenya.com	3 rd floor, right wing, Uasin-Gishu District Headquarters, Oloo Street off Uganda road. PO Box 2345-30100, Eldoret
NAIROBI						
1	ACDI/VOCA	Lydia Nderitu	North Rift Representative	Tel: 020-444 3254	lmbevi@acdivoca-kenya.or.ke	209 Muthangari Drive, off Wayaki Way, Westlands. PO Box 1308, 00606, Sarit Centre, Nairobi
2		Desmond Boi	Monitoring & Evaluation Specialist	Tel: +254 -072- 722 359 612; 0722 – 205 513	dboi@acdivoca-kenya.or.ke www.acdivoca.org	
3	ABS TCM Ltd	Dr. Nathaniel Makoni	Director	Mob: 0722 – 700 355 Off: 020 – 3871 692-3 Off – Direct: 020 – 3877 182	abstcm@iconnect.co.ke nmakoni@yahoo.com	
4	Agmark, Kenya	Dr. Caleb Wangia	Senior Technical Advisor	Mob: 0722-476 633	cwangia@cnfakenya.org	PO Box 14184, 00800, Nairobi Ojijo Plaza, suite C2, C3, Plums Lane, Parklands
5	Financial Sector Deepening	Mr. James Kashangaki	Head, Growth Finance	Mob: 254 (20) 2712 627	growthfin@fsdkenya.org	Kenya Re Towers, 4 th Floor, Off Ragati Road, Upper Hill. PO Box 11353, 00100, Nairobi
6	GTZ	Antti C. Seelaff	Junior Professional Officer. Sustainable land use - agriculture, fisheries & food	Mob: +49 (0) 179 1427 738	antti.seelaff@gtz.de	GTZ GmbH, Dag-Hammarskjold Weg 1-5, 65760, Eschborn, FR Germany

NO.	ORGANIZATION	CONTACT PERSON	TITLE	TEL / FAX	E-MAIL/WEB SITE	ADDRESS
7	Land O'Lakes	Joe Cavalo	Regional Director			
8		Mulinge Mukumbu	Country Director	Tel: 020-374 8526	Mulinge@landolakes.co.ke <idd.landolakes.com>	Westlands, off Peponi road, Peponi Plaza, Block A, 2 nd floor. PO Box 45006, 00100, Nairobi
9		Egesa M. Mangeni	Deputy of Program	Tel: 0721 – 469 745 0722 – 736 730		
10		Mr. Boniface Mburu	Consultant	Mobile: +254-722 310 239 +254-733 223 558	bonifacemburu@gmail.com bonifacemburu@yahoo.com	
11	ABS (African Breeding Services)	John Kibor		Tel: 0733 – 808 489	kiborjohn@gmail.com www.abstcm.com	PO Box 8190, Eldoret
12	Kenya Horticultural Development Program	Dr. Stephen New	Chief of Party Contractor: Fintrac	Tel: 0735 – 777 771	snew@fintrac.com	MPPS building, Mombassa Road, 2 nd floor, near Nyayo Stadium, Nairobi
13		Mr. Ben Kageche Kiragu	Deputy Director, Business Development	Tel: 0724-255 746	bkiragu@fintrac.com	
14		Mr. Mbele		Tel: 0727 – 531 107		Nanyuki, Mt. Kenya
NYERI						
1	TIST	Mr. Joshua	Project Manager	Tel: +	www.tist.org	Meru City
2		Ms. Doracynthia Muthani Mundison	Finance & Administrative Officer	Mob: +0724 – 255 368; 0733 – 965 091	doracynthiamuthoni@tist.org doracynth@yahoo.com	P.O. Box 1508, Nanyuki. Based in Meru City.
3		Andrew Dinsmore	Field staff, East Africa & India	Mob: + (0) 7111 158 194	andrewdinsmore@tist.org	

NO.	ORGANIZATION	CONTACT PERSON	TITLE	TEL / FAX	E-MAIL/WEB SITE	ADDRESS
DONORS						
NAIROBI						
1	Australian Govt. AusAID	Lucy Kirimi	Program Manager, Nairobi	+254-20-4445034/39 Ext.127	Lucy.kirimi@ausaid.gov.au	Australian High Commission, Nairobi
2	Department for International Development (DFID)	Daniel Silvey	Conflict Adviser, Africa Conflict & Humanitarian Unit		d-slivey@dfid.gov.uk www.dfid.gov.uk	1 Palace Street, London, SW1E 5HE
3	Department for International Development (DFID)	Ms. Leigh Stubblefield	Livelihoods Advisor, Kenya & Somalia	Mob: 0733 – 607 584	lk-stubblefield@dfid.gov.uk	DFID Kenya & Somalia, British High Commission, Upper Hill Road. PO Box 30465 – 00100, Nairobi
4	FAO	Calum McLean	Project Manager, Support to Emergency Preparedness & Response in Kenya	Mob: 0733 – 760 000 Tel: 020-227 223	calum.mclean@fao.org calum@iconnect.co.ke	K.I.C.C., 17 th floor, P.O. Box 30470-00100, Nairobi
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ANNEX 3: ANALYSIS ON LAND ISSUES FROM TEGEMEO DATABASE

I. TEGEMEO HOUSEHOLD PANEL DATABASE

This analysis uses the Tegemeo Agricultural Policy Research Analysis (TAPRA) household database collected in 2007. This is part of the Tegemeo household panel database, which has now been collected in four waves in the years 1997, 2000, 2004, and 2007. The panel data is obtained through rural household surveys covering about 1,500 households.

Being panel data, the same households were interviewed over the four years. The questionnaire used to elicit information has remained relatively stable over the period. Standard proportional sampling using census data for rural divisions of the country formed the basis of extraction of the sample households. Administratively, the households span 24 districts, 39 divisions, and 120 villages. Due to the variation in agro-ecological patterns within the administrative units, the analysis stratifies households by agro-ecological zones (AEZ). The stratification of households by agro-ecological zones provides results based on relative homogeneity of agricultural activities within the zones. The analysis is based on AEZ with districts defined in Table 1.1. Out of the 1997 TAPRA (Tegemeo Agricultural Monitoring and Policy Analysis) survey sample of 1,540 households, there are 1,342 households that were interviewed in the year 2007.

Table 1.1: Districts and Number of Households Interviewed, 2007

Agro-regional Zone	Districts	Agro-ecological Zone	Number of households
Coastal Lowlands	Kilifi, Kwale	CL	75
Eastern Lowlands	Taita Taveta, Kitui, Machakos, Makueni, Mwingi	CL, LM 3-6, UM 2-6	150
Western Lowlands	Kisumu, Siaya	LM 3-6	161
Western Transitional	Bungoma, Kakamega	LM 1-2	150
High Potential Maize	Bungoma, Kakamega, Bomet, Nakuru, Narok, Trans Nzoia, Uasin Gishu	UM 2-6, LH, UH	365
Western Highlands	Kisii, Vihiga	UM 0-1	145
Central Highlands	Meru, Muranga, Nyeri	UM 0-1, UM 2-6, LH	248
Marginal Rain Shadow	Laikipia	L	48
Total			1,342

L-Lowland, CL-Coastal lowland, LM-Lower midland, UM-Upper midland, LH-Lower highland, UH-Upper highland

2. HOUSEHOLD CHARACTERISTICS

The average age of the household head is 58.7 years with 24 percent of the households being female headed (Table 2.1). Western lowlands have the highest proportion of female headed households (42.5 percent), while the Coastal Lowlands have the least (14.7 percent). On average, 47.8 percent of the household heads have business income while about 45.7 percent engage in salaried employment and wage activities.

Table 2.1: Characteristics of Household Heads

Agro-regional zone	Age of head (years)	Female headed households	% household heads having	
			Business income	Salaried employment or wage activities
Coastal Lowlands	58.5	14.7	61.3	30.7
Eastern Lowlands	56.1	25.5	49.0	64.4
Western Lowlands	61.1	42.5	52.5	60.0
Western Transitional	58.4	23.3	58.0	36.0
High Potential Maize Zone	58.2	19.6	47.7	36.6
Western Highlands	55.9	22.2	48.6	47.2
Central Highlands	61.4	21.1	36.2	47.6
Marginal Rain Shadow	57.2	21.3	31.9	48.9
Overall	58.7	23.8	47.8	45.7

3. CROPPING AND LIVESTOCK ACTIVITIES

Households can be categorized according to the crop mixes they cultivate as well as the livestock systems. The cropping activities are grouped into four broad categories, namely: Cereals, Tubers and Pulses (e.g., maize, Irish potatoes, beans); Fruits and Vegetables (e.g., passion fruits, sukuma wiki/kales, indigenous vegetables); Industrial Crops (e.g., tea, coffee, and sugarcane); and Pasture (e.g., nappier, oats).

Table 3.1: Crop Mixes by AEZ

Agro-regional zone	Cereals and Tubers/Pulses	Fruits and Vegetables	Industrial	Pasture
Coastal Lowlands	50.00	50.00	-	-
Eastern Lowlands	37.09	37.59	5.51	19.80
Western Lowlands	44.41	42.74	10.61	2.23
Western Transitional	30.86	30.86	25.10	13.17
High Potential Maize Zone	39.26	36.77	6.72	17.25
Western Highlands	26.92	26.92	21.12	25.05
Central Highlands	26.38	26.38	22.66	24.57
Marginal Rain Shadow	38.40	35.20	0.80	25.60
Overall	34.05	33.26	14.61	18.09

Overall, Cereals and Tubers/Pulses, Fruit and Vegetables equally dominate production at 34 percent and 33 percent, respectively (Table 3.1). Pastures follow with 18 percent, while only 14.6 percent of the crops grown are industrial crops.

3.1 Proportion of Farmers Growing Maize

Maize is a common crop in all AEZ being grown by 98.2 percent of all households (Table 3.2). At 90 percent, Coastal Lowlands has the lowest proportion of households growing maize. On average, households cultivated 1.92 acres of maize in the main crop season of 2007—highest in the High Potential Maize Zone (3.51 acres) and lowest in the Central Highlands (0.59 acres). Consequently, maize took 42 percent of all cropped land in the main crop season; again, highest in the High Potential Maize Zone (63 percent) and lowest in the Central Highlands (24 percent).

Table 3.2: Percentage Households Growing Maize

Agro-regional zone	% growing maize	Mean maize acreage, main season	% maize area, main season
Coastal Lowlands	90.4	2.46	49
Eastern Lowlands	98.7	2.89	43
Western Lowlands	100.0	1.00	38
Western Transitional	98.7	1.38	32
High Potential Maize Zone	99.2	3.51	63
Western Highlands	99.3	0.81	28
Central Highlands	99.6	0.59	24
Marginal Rain Shadow	100.0	1.18	39
Overall	98.2	1.92	42

3.2 Labor Use on Maize

Out of the total labor in man hours that is used on maize, 72 percent constitutes family labor while 28 percent is hired (Table 3.3). High Potential Maize Zone and the Central Highlands have the highest proportion of total maize labor that is hired (34 percent each). In the Western Transitional, however, only 9 percent of labor on maize is hired.

Table 3.3: Source of Labor on Maize by AEZ

Agro-regional zones	Proportion of labor (man hours) that is	
	Family labor	Hired
Coastal Lowlands	83	17
Eastern Lowlands	76	24
Western Lowlands	72	28
Western Transitional	91	9
High Potential Maize Zone	66	34
Western Highlands	69	31
Central Highlands	66	34
Marginal Rain Shadow	72	28
Overall	72	28

3.3 Livestock Holdings

The mean number of cattle owned is 4.8, highest in the Coastal Lowlands (21.6) (Table 3.4). Marginal Rain Shadow has the highest mean number of shoats (goats and sheep) (18), while the average household holding of poultry is 6.5.

Table 3.4: Livestock Holdings by AEZ

Agro-regional zone	Cattle	Shoats	Poultry
Coastal Lowlands	21.6	14.1	10.4
Eastern Lowlands	2.5	5.9	12.4
Western Lowlands	4.5	6.5	11.3
Western Transitional	3.7	3.1	9.6
High Potential Maize Zone	7.8	8.0	16.8
Western Highlands	2.5	2.1	8.8
Central Highlands	2.3	3.1	8.1
Marginal Rain Shadow	5.0	18.3	15.3
Overall	4.8	6.5	12.0

4. HOUSEHOLD MAIZE STOCKS AND COPING MECHANISMS

The average household had 1.3 bags of maize (90kg) before the main crop season harvest, with the High Potential Maize Zone having the highest (2.7 bags) (Table 4.1). On average, households relied entirely on maize from own production for 9.8 months, and on purchased staples for 1.8 months. Households in the arid and semi-arid areas such as Coastal, Eastern, and Western Lowlands relied entirely on purchased staples for the longer periods (2.5 to 4.8 months).

Table 4.1: Household Maize Stocks and Main Staple Sources

Agro-regional zone	Quantity of maize in stock from own production before 2006/07 main season harvest (90 kg bags)	Months households relied entirely on		
		Staples from own production	Purchased staples	Relief food
Coastal Lowlands	0.9	6.3	4.8	0.0
Eastern Lowlands	0.6	8.2	2.7	0.1
Western Lowlands	0.6	9.2	2.5	0.2
Western Transitional	1.1	10.6	1.3	0.1
High Potential Maize Zone	2.7	10.6	1.2	0.0
Western Highlands	0.9	9.8	2.0	0.1
Central Highlands	0.8	10.3	1.0	0.0
Marginal Rain Shadow	0.6	11.0	0.9	0.0
Overall	1.3	9.8	1.8	0.1

Table 4.2 shows the coping mechanisms households engage in during famine or food scarcity. Whereas 42 percent of the households did not engage in any coping mechanism (signifying no food scarcity or famine), 17.4 percent resulted to purchasing food on credit, 16.8 percent to taking reduced meals, and 15.5 percent to

eating less preferred meals. Central and Western Highlands have more than half of the households not engaging in any coping mechanism (56.9 percent and 53.8 percent, respectively).

Table 4.2: Coping Mechanism during Famine or Food Scarcity

Coping mechanism	Agro-regional zone								Overall
	CL	EL	WL	WT	HPM	WH	CH	MRS	
never	22.7	39.3	44.7	18.7	44.1	53.8	56.9	20.8	42.2
purchase food on credit	38.7	26.0	17.4	13.3	11.2	14.5	20.2	10.4	17.4
take reduced meals	12.0	2.7	19.9	39.3	18.6	19.3	7.7	14.6	16.8
eat meals that are less preferred	21.3	6.7	3.1	56.7	19.2	6.2	4.8	2.1	15.5
rely on relatives/friends	17.3	9.3	8.1	28.0	13.4	2.8	16.5	16.7	13.7
sell livestock	5.3	24.0	0.6	9.3	15.3	1.4	4.4	33.3	10.4
skip some meals in a day	18.7	1.3	15.5	7.3	5.5	7.6	4.8	12.5	7.5
beg or engage in degrading jobs			14.3	2.0	4.1	6.9	4.4	8.3	4.9
food relief	2.7	8.0	3.1	0.7	1.1	2.1	5.2	50.0	4.8
skip meals for entire day	8.0	0.7		10.7	3.3	0.7	0.8	8.3	3.1
consume immature crops			8.7		0.5	12.4		2.1	2.6
consume seed stocks		2.7	4.3		0.3	6.2	1.2		1.8
dispose assets			0.6	0.7	1.4	0.7	0.8		0.7
consume wild food		0.7			0.3		0.4		0.2
allow children to eat more than adults				1.3	0.3				0.2

5. ACCESS TO CREDIT

About 27.5 percent of the households had a member seeking cash credit (Table 5.1). Central Highlands had the highest proportion of members seeking cash credit (42.7 percent) followed by Eastern Lowlands (40 percent). However, only 9.3 percent of the households in the Western Transitional had a member seeking cash credit. Out of those who sought cash credit, 93 percent got the credit sought.

Table 5.1: Proportion Seeking and Obtaining Cash Credit

Agro-regional zone	Had a member seeking cash credit	Received cash credit sought
Coastal Lowlands	26.7	100
Eastern Lowlands	40.0	96.7
Western Lowlands	23.6	97.4
Western Transitional	9.3	92.9
High Potential Maize Zone	21.4	84.6
Western Highlands	26.2	87.2
Central Highlands	42.7	98.1
Marginal Rain Shadow	31.3	86.7
Total	27.5	93.2

6. SOIL AND WATER CONSERVATION TECHNOLOGIES

Terraces and gabions are used as a soil and water conservation technology by a high proportion of households (73.5 percent) (Table 6.1). This proportion is highest in Coastal Lowlands at 83.6 percent.

Afforestation and mulching/cover crops are used by 15.8 percent and 7.1 percent of households, respectively. Western Transitional has the highest proportion of households engaging in afforestation (26.5 percent).

Table 6.1: Soil and Water Conservation Technologies by AEZ

Agro-regional zones	Terracing/gabions	Afforestation	Minimum tillage	Crop rotation	Mulching /cover crops
Coastal Lowlands	83.6	4.9		4.9	6.6
Eastern Lowlands	83.4	14.1		1.8	0.7
Western Lowlands	77.0	4.3		1.6	17.1
Western Transitional	57.5	26.5	0.3	7.2	8.6
High Potential Maize Zone	66.1	24.3	1.4	4.2	4.0
Western Highlands	81.8	8.8			9.4
Central Highlands	80.1	10.1	0.4	2.3	7.1
Marginal Rain Shadow	78.9	3.5		1.8	15.8
Total	73.5	15.8	0.5	3.2	7.1

7. EXTENSION AND GROUP PARTICIPATION

About 58 percent of households sought extension advice on crop or livestock (Table 7.1). This proportion is highest in the Western Transitional (81 percent), followed by Central Highlands (76 percent) and High Potential Maize Zone (53 percent). At the same time, 80 percent are willing to pay for extension if this service were to be availed at a fee. Eastern Lowlands has the highest proportion of households that are willing to pay for extension (87 percent). About 75 percent of all the households have at least one member belonging to a cooperative or out-grower group. This proportion ranges from 95 percent in the Central Highlands to 49 percent in the Coastal Lowlands.

Table 7.1: Extension and Group Participation

Agro-regional zone	Households that		
	Actively sought extension advice on crop or livestock	Are willing to pay for extension	Have a member belonging to a cooperative or out-grower group
Coastal Lowlands	37	80	49
Eastern Lowlands	50	87	83
Western Lowlands	52	75	80
Western Transitional	81	71	69
High Potential Maize Zone	53	82	57
Western Highlands	43	82	88
Central Highlands	76	77	95
Marginal Rain Shadow	42	85	94
Overall	58	80	75

8. LAND USE AND TENURE SYSTEM

The average household owns 6.1 acres of land (Table 8.1), highest in the High Potential Maize Zone (11.3 acres) and lowest in the Western Highlands (2.4 acres). Land leased out and rented out is the same (0.3 acres

each), while an average of 0.2 acres is kept fallow or abandoned. Coastal Lowlands and the High Potential Maize Zone have the highest amount of land left fallow (0.5 acres each). However, Central and Western Highlands, which generally have smaller land holdings per household, do not have any land left fallow or abandoned.

Table 8.1: Land Use by Agro-regional Zones

Agro-regional zone	Land owned	Acreage under trees	Land leased out	Land rented-in	Land kept fallow or abandoned
Coastal Lowlands	5.3	0.0	0.3	0.1	0.5
Eastern Lowlands	6.3	0.2	0.1	0.1	0.4
Western Lowlands	3.0	0.0	0.1	0.2	0.1
Western Transitional	5.7	0.1	0.4	0.4	0.2
High Potential Maize Zone	11.3	0.3	0.8	0.7	0.5
Western Highlands	2.4	0.1	0.0	0.2	0.0
Central Highlands	3.0	0.1	0.1	0.1	0.0
Marginal Rain Shadow	4.9	0.3	0.1	0.3	0.3
Overall	6.1	0.1	0.3	0.3	0.2

Only three percent of the households have had their land forcefully taken away in the last 10 years. This is highest in the High Potential Maize Zone (5.5 percent) and Eastern Lowlands (5.3 percent), while there were no reported cases in the Western Highlands and Marginal Rain Shadow.

Mean cultivated land is 4.5 acres (Table 8.2). Mean acreage of cultivated land that is owned with title is highest in High Potential Maize Zone (6.2 acres) followed by Eastern Transitional (5.8 acres).

Table 8.2: Mean Acreage under Different Land Tenure System

Agro-regional zone	Owned with title deed	Owned without title deed	Rented	Owned by parent	Total cultivated
Coastal Lowlands	3.0	5.0	3.0	2.6	5.0
Eastern Lowlands	5.8	6.0	3.3		6.6
Western Lowlands	2.8	2.6	1.2	1.7	3.0
Western Transitional	5.1	3.3	1.8	2.3	4.9
High Potential Maize Zone	6.2	3.4	2.9	1.7	6.3
Western Highlands	2.5	2.2	1.3	3.0	2.9
Central Highlands	2.7	1.5	0.8	0.6	2.7
Marginal Rain Shadow	2.7	1.5	1.6	1.5	3.1
Overall	4.3	3.5	1.9	1.6	4.5

The main system of watering crops is rainfed (93 percent) with piped irrigation accounting for six percent (Table 8.3). Gravity and bucket irrigation account for only 0.5 percent and 0.7 percent of cropped fields, respectively. However, Marginal Rain Shadow (23 percent), Central Highlands (17 percent), and Eastern Lowlands have considerable portions of cropped fields depending on piped irrigation.

Table 8.3: Main System of Watering Crops by AEZ

Agro-regional zone	Rain-fed	Irrigated (piped)	Irrigated (gravity)	Can/bucket irrigation
Coastal Lowlands	97.8			2.2
Eastern Lowlands	86.2	11.2	0.3	2.2
Western Lowlands	97.9	0.3	1.3	0.5
Western Transitional	99.8	0.2		
High Potential Maize Zone	97.0	1.7	0.9	0.4
Western Highlands	99.9	0.1		
Central Highlands	82.2	16.8	0.1	0.8
Marginal Rain Shadow	72.1	22.9	2.3	2.7
Overall	92.6	6.2	0.5	0.7

8.1 LINKING TENURE SYSTEM AND OTHER FACTORS

Table 8.4 shows the number and percentage of households whose total cropped land is under one tenure system or a combination in the whole sample. About 43 percent have cropped land owned with title only, while 29.5 percent have land without title only. A total of 26 percent have their cropped land under different combinations of land tenure systems. For all tenure systems, female headed households constitute a smaller proportion. The proportion is 28.3 percent for those whose total cropped land is owned with title and 24.6 percent for those whose total cropped land is owned without title.

Table 8.4: Proportion of Households with Specific Tenure System

Tenure system	Number	Percent
owned with title	579	43.4
owned without title	394	29.5
rented	2	0.1
owned by parent	10	0.7
owned with/without title	57	4.3
owned with title/owned by parent	115	8.6
owned with title/rented	8	0.6
owned with title/government land	1	0.1
owned without title/rented	128	9.6
owned without title/owned by parent	8	0.6
rented/owned by parent	5	0.4
more than 2 combinations	28	2.1
Total	1,335	100.0

Considering households whose cropped land is wholly in one form of tenure system, form of tenure only, Central Highlands has the highest proportion of households with all their cropped land being owned with title (56.5 percent) followed by High Potential Maize Zone (53.2 percent) (Table 8.5). The highest proportions of households in the Coastal Lowlands (75.3 percent) and Eastern Lowlands (60 percent) have all untitled cropped land.

Table 8.5: Proportion with One Tenure System by AEZ

Agro-regional zone	Owned with title deed	Owned without title deed	Rented	Owned by parent
Coastal Lowlands	13.7	75.3		
Eastern Lowlands	25.3	60.0		
Western Lowlands	44.0	30.8		0.6
Western Transitional	38.0	27.3		4.0
High Potential Maize Zone	53.2	19.0	0.3	0.3
Western Highlands	31.3	33.3		0.7
Central Highlands	56.5	15.3		0.4
Marginal Rain Shadow	54.2	8.3	2.1	
Overall	43.4	29.5	0.1	0.7

8.2 LAND TENURE AND CREDIT

Table 8.6 shows the proportions of households that sought and received credit by tenure system. Only 26.6 percent and 38 percent of the households whose total cultivated land was owned with title sought cash credit and credit in kind, respectively. The percentages are almost similar to those whose total cultivated land is owned without title. For those who received credit in kind, a higher proportion received it as agricultural inputs (64.3 percent) for those whose cultivated land is purely owned with title as compared to those whose total cultivated land was owned without title (39.6 percent). This may be an indication that households with total cropped land wholly owned with title may have sought more credit in kind in terms of agricultural inputs as compared to those with other tenure systems.

Table 8.6: Tenure and Credit by AEZ

Tenure	% seeking		Form in which credit in kind was received		
	cash credit	credit in kind	Agricultural inputs	household consumption	both
with title deed	26.6	38.3	64.3	24.4	11.3
without title deed	26.9	39.3	39.6	42.2	18.2
Rented	0.0	0.0	0.0	0.0	0.0
owned by parent	10.0	40.0	50.0	50.0	0.0
Overall	27.6	41.0	56.6	30.0	13.4

8.3 LAND TENURE AND GENDER

Within the category of households with all their cultivated land being owned with title, 28.3 percent are female headed. The percentage of female headed households is slightly lower in the category that has all its cultivated land being owned without title (24.6 percent).

Person chi-square figures on whether tenure system is wholly owned with title and gender of the household reveal some influence of gender on having titled land. The person chi-square is 12.259, falling above the critical value of 5.99 at the 95 percent level of confidence (Table 8.7). This implies that there is a higher likelihood of male headed households having titled land than female headed households.

Table 8.7: Chi-square Test on Gender and Tenure System

Tenure system	Female headed (%)	Male headed (%)	Person Chi-square	Significance
owned with title	28.3	71.7	12.259	0.000
owned without title	24.6	75.4	0.279	.598

ANNEX 4: USAID PROGRAMS

I. KENYA DAIRY DEVELOPMENT PROGRAM (KDDP)

The KDDP is implemented by Land O'Lakes, partnering with African Breeding Systems (ABS), World Wide Sires (WWS) who are also involved in agro-chemicals, and International Livestock Research Institute (ILRI). KDDP works with 34 dairy factories, of which three are large factories receiving some 200–250, 000 litres / day. The dairy sector is important to Kenya, with around four percent of its dairy products exported to mainly regional markets. KDDP's work is primarily under the Ministry of Livestock and Fisheries (MLF) with links to other Ministries. Key findings are listed below:

- Communal Land is used by pastoralists including the Maasai, and the former Trust Land is now termed Public Land.
- Most former 'settlement land' is officially titled and owners have the documentary proof. Further, neighbors know each other and their respective land boundaries.
- Traditional land rights issues exist (particularly succession in families) and are continually challenged. For example, in the Rift Valley, larger land holdings are up to 5,000 acres (2,000 ha) and the smaller are 0.5 to 20 acres (0.2 to 8.0 ha). Farms in Kenya are experiencing a high level of fragmentation as plots get subdivided and passed on to the next generation. However, even very small farms can be highly productive if managed well, as for instance through stall feeding of livestock in place of open grazing. This in turn relies on a very productive supply source, which in turn implies intensive farming, irrigation for fodder production, and high-quality farm management.
- Government farms are ostensibly 'owned by GOK,' although some or all of this land may be 999-year leases in the name of GOK, or in the name of the parastatal or other agency occupying this land. Titling of this land is not clear (e.g., was or has the land been allocated to individuals and titles issued?). Examples included ADC's lost potato land and the Agricultural Research Stations' status is not clear.
- There are genuine concerns with Public Land and issues include corruption (e.g., urban areas, parks, bus stations) and 'land grabbing' by stealth.
- Land O'Lakes made no mention of farmer field schools (FFS) with business management, management, or technical support in value adding; innovation (introducing new or additional product ranges); conscious targeting of females (who manage and milk the dairy cows); promoting occupational health and safety (OH&S); accreditation; standardization; or labor issues. While each of these activities may be essential components in the program, KDDP did not draw it out in the discussions.
- Field work did not demonstrate any work by KDDP on building sustainable supply chains in the dairy sector across the 34 dairy factories (i.e., the potential and most likely supply chain initiators).

2. KENYA HORTICULTURE DEVELOPMENT PROGRAM (KHDP)

KHDP is implemented by Fintrac, from October 2003 to March 2009. In Nyeri, beneficiaries include passion fruit and tea tree oil producers. Horticulture exports generate over USD1.0 billion in revenues to GOK, of which more than 50 percent is from floriculture (mainly roses). Kenya is a signatory to UPOV (international convention on plant variety rights), and there have been successful prosecutions on breaches of Plant Breeder's Rights legislation in Kenya. KEPHIS (Kenya Plant Health Inspection Service) certifies the quality assurance of all exports, and Kenya is one of the market leaders (dominant in some horticultural crops) to Europe. Participants in the domestic production have made significant investments in post-harvest facilities and mainly use contract growers (locally termed 'out-growers'). Many foreign investors are well established and sizeable. Firms include:

- Home Grown, the largest horticultural group in Africa, now owned via Findlay's, itself a subsidiary of the Swire Group, Hong Kong.
- Findlay's, in tea and flower production, processing (less with flowers) and export.
- Sher Karuturi Agencies (an Indian firm, though formerly Dutch-owned).
- Del Monte, a U.S. subsidiary, in pineapple production, processing, and exports.
- Kakuzi, South African investors, opposite and linked to Del Monte (lease facilities), concentrating on timber and avocado.
- Unilever, involved in tea production, processing, and export.

The peak horticulture industry grouping is 'FPEAK' (Fresh Produce Export Association of Kenya). All foreign investment in Kenya is under the responsibility of the Investment Promotion Authority (IPA), Ministry of Trade and Industry. Export promotions, including horticulture, are within the responsibility of the Horticultural Crops Development Authority (HCDA).

The KHDP does not have beneficiary selection criteria screening for LTPR issues. KHDP works with growers, investors, or other groupings and individuals, as long as they demonstrate a secure freehold title or long-term lease document. This is important, as many grower groups have very small land holdings and attempt to grow crops in situations where they cannot afford to invest yet are regularly challenged to, for example, have sufficient and sustainable water supplies for irrigation or post-harvest processing of crops (which creates another grower selection criteria—willingness to invest, if necessary borrow, to do this investment).

KHDP field officers seemed to not fully appreciate the conceptual strengths of establishing sustainable supply chains, and now allocate considerable time to forming and nurturing grower groups. KHDP could consider updating staff knowledge on supply chains and, once the supply chain initiator is identified, facilitate the process. Now, KHDP is the facilitator and this has the risk that, once program funding ends, the work is challenged to be sustainable.

KHDP's Eldoret program was affected by the post-election violence. While some growers had freehold land titles since the 1950s, they were chased away and are now among the displaced populations.

3. KENYA MAIZE DEVELOPMENT PROGRAM (KMDP)

The KMDP program is executed by ACDI-VOCA (2002–2009) in partnership with the Kenya Agricultural Commodities Exchange (the latter were not met). KMDP focuses on strengthening the maize value chain in the Rift Valley with field work based around the key maize-producing areas of Eldoret and Kitale. KMDP targets farmers with land up to 4.0 ha, and works with traders and other participants in maize production and marketing activities. A maize value chain study was completed in the end of 2007.

The KMDP stated they 'strengthen the value chain,' although as evidenced, on-the-ground conceptual work seems unclear. Examples included:

- There was not a clear understanding of supply chain concepts (the 'value chain' is simply the value added at each step in the supply chain) or how to facilitate building supply chain (i.e., now, KMDP "makes" individual links with separate individuals and farmer groups) so that when KMDP exits, the differing supply chains are clearly identifiable and have a higher level of sustainability compared to existing situations where KMDP has not been supporting. For example, developing the supply chains of 'Commercial Grain Services'; 'Solomon Wanyoike'; 'Nakuru silo operator' [can be several of the latter as there were stated to be many large silo operators]. Adopting this approach will require more strict beneficiary selection criteria based on supply chain principles.
- There seemed to be a lack of integrated contact with all the players. A desired outcome would be crop production agreements between farmers and traders within the supply chain, and KMDP strengthens its

top-down approach to reach decision makers while continuing its 'bottom-up' work with strengthened groups based on selection criteria including land tenure.

- Price information seemed to be managed by KMDP staff on a confidential basis, compared to developing a MMIS and database and information exchange on participants in the maize sector linking sellers and buyers. The 'commercial role' of KMDP staff needs to be repositioned so there is more facilitation role where the supply chain initiators lead this process, in turn assisting sustainability.
- There was not a clear impression of a structured approach to human resource development, completion of a comprehensive training needs assessment across participants in the value chain, existence of a training master plan, or a farmer field school approach that included technical and enterprise elements of maize production.

4. THE INTERNATIONAL SMALL GROUP TREE PLANTING PROGRAM (TIST)

Members of TIST and a Community Forestry Association demonstrated the high potential of fully mobilizing activities and potential involvement of people.

- TIST serves some 3,800 groups with group sizes ranging from 6 to 8 (average) to 10 persons, giving an impact of 22,800–30,400–38,000 persons, and essentially these are 'farm families' or 'rural households.' Assuming a farm / rural family size of 6–8 persons (with spouses and children), TIST impacts on around 136,000–380,000 persons. This program has been partially supported by USAID until February 2008. TIST currently works mainly with exotic tree species. It was indicated this is because GOK legislation reserves investment in native species to KFS, although this clause in the GOK policy or other documents was not verified.
- Two Community-Based Organizations in Nanyuki linked to form a CFA have a membership of 84 groups, with mainly female active members. Assuming a similar 'farm or rural household' size as TIST, this potentially impacts on 10,800 to 14,400 persons. The CFA seemed well organized and managed for its basic rural and lack of infrastructure situation (e.g., visit was to a community building location with no running water or electricity).

ANNEX 5: LTPR INTERVENTIONS MATRICES

Table 5.1. Land Tenure and Property Rights Issues & Interventions - Agricultural Sector and Agro-Forestry Perspectives

	Violent Conflicts/Post-Conflict Instability	Unsustainable Natural Resources Management/Biodiversity Loss	Insecure Tenure & Property Rights	Inequitable Access to Land & Natural Resources	Poor Land Market Performance
Key Institutional Arrangements	<ul style="list-style-type: none"> • Support establishment of effective institutional mechanisms to address post-election problems of conflict and property loss • Restore safety and security for displaced populations 	<ul style="list-style-type: none"> • Establish mechanisms for coordination between institutions responsible for agriculture and NRM 	<ul style="list-style-type: none"> • Promote rights regularization and, where desired, titling, in pilot contexts to resolve tenure security • Support land reform administration and coordination in terms of land records, land management information systems, land management institutions • Decentralize GOK services 	<ul style="list-style-type: none"> • Promote policy reform and monitoring for sustainable land, water, forest management • Address issues of cost recovery for water services, accounting for inflation, and administrative costs • Where land titles are absent, consider groups title 	<ul style="list-style-type: none"> • Examine options for enabling and facilitating the land market through easing access to land registry, and securing land rental and sharecropping contracts • Consider assisting the GOK to privatize parastatals where they compete with the private sector
Conflict or Dispute Resolution	<ul style="list-style-type: none"> • Establish effective mechanisms for mediation of conflicts 	<ul style="list-style-type: none"> • Promote co-management of critical natural resources (forests, water) between local communities, local authorities and other user groups 	<ul style="list-style-type: none"> • Harmonize customary and formal dispute resolution mechanisms 	<ul style="list-style-type: none"> • Provide legal aid and support local arbitration systems 	
Legal & Regulatory Framework	<ul style="list-style-type: none"> • Address unresolved historical LTPR issues, combined with earlier resettlement of differing ethnic groups through LRTU and/or special commission 	<ul style="list-style-type: none"> • Harmonize legislation and policy impacting agricultural and natural resource sectors 	<ul style="list-style-type: none"> • Provide legal protection of rights of leaseholders 	<ul style="list-style-type: none"> • Strengthen access to land and water of pastoralists 	<ul style="list-style-type: none"> • Provide legal framework to facilitate foreign investment including ability to own land in Kenya for justified reasons • Provide legal framework to allow use of land title to borrow from bank for farm investments

	Violent Conflicts/Post-Conflict Instability	Unsustainable Natural Resources Management/Biodiversity Loss	Insecure Tenure & Property Rights	Inequitable Access to Land & Natural Resources	Poor Land Market Performance
Redistribution	<ul style="list-style-type: none"> • Limit and/or bring transparency to resettlement schemes to prevent further conflict • Provide means for restituting land for those displaced 	<ul style="list-style-type: none"> • Engage communities in land and resource use planning 	<ul style="list-style-type: none"> • Promote group titles where land titles are absent • Facilitate preparation of wills for all persons 	<ul style="list-style-type: none"> • Halt improper redistribution/eviction • Establish transparent mechanisms for resettlement • Work with the Ministry of Lands and urban planners to create public housing in towns for those leaving farming as an occupation 	<ul style="list-style-type: none"> • Consider market-assisted land reforms as appropriate
Land Administration	<ul style="list-style-type: none"> • Provide for reconstruction of property and records 	<ul style="list-style-type: none"> • Consider concessions/community license of common resources to third-party users 	<ul style="list-style-type: none"> • Develop transparent, accessible, and effective means for rights adjudication, registration • Strengthen and train accredited private sector service providers • Arrange for an independent agency to spot check and audit performance in office and field 	<ul style="list-style-type: none"> • Consider collecting land tax from absentee landholders 	<ul style="list-style-type: none"> • Promote private sector market information and valuation systems • Establish mechanisms for enabling public access to land information systems
Land Use Management & Conservation	<ul style="list-style-type: none"> • Promote collaborative/co-management of land and resources through transparent and participatory systems 	<ul style="list-style-type: none"> • Promote participatory land use planning and zoning • Promote participatory land and resource use monitoring • Develop and promote conservation incentives • Promote integrated land/water resources management 	<ul style="list-style-type: none"> • Promote co-management of land and resources including community land trusts and conservancies 		<ul style="list-style-type: none"> • Promote appropriate zoning, taxation/tax incentives, public-private partnerships

Table 5.2. Land Tenure and Property Rights Issues & Interventions From Governance and Civil Society Perspectives

	Violent Conflicts/Post-Conflict Instability	Unsustainable Natural Resources Management/ Biodiversity Loss	Insecure Tenure & Property Rights	Inequitable Access to Land & Natural Resources	Poor Land Market Performance
Key Institutional Arrangements		Strengthen Civil Society Institutions operating in protected areas and capacity build the skills on co-management systems; promote decentralized ownership, use, and control	Community governance structures need enhancement; Decentralized services and systems required; National Laws must be enforced and support institutional change in direction of devolution	Devolve water management institutions to local areas	Designated service delivery systems need to be placed; Registration system streamlined and credit institutions should be enhanced
Conflict or Dispute Resolution		Identify mechanisms for wildlife conflict resolution mechanism	Create customary dispute mechanisms complete with compensation mechanisms	Put in place dispute resolution mechanisms to adjudicate natural resources access	Create record of transactions and create predicable dispute resolution systems
Legal & Regulatory Framework		Popularize natural resources laws and policies on forest, pasture, water, and environment	Registration system should be supportive to rentals, leaseholds, user rights, and re-think land tenure forms to accommodate plurality	Strengthen regulations to guide access and use of natural resources, e.g., water and forestry resources	Develop regulations to guide transactions, lease contracts, and strengthen notary systems
Redistribution	Resettle IDPs including those displaced from forest shamba systems	Conduct ecosystem assessments before allowing all manner of forest user rights seekers and capacity building of the community in development of co-management plans	Redistribute land rights and issuance of titles to common property		Promote market-assisted land re-settlement to ease population pressure
Land Administration		Promote concessions/ community licences of common resources to third party users	Land registry should be improved to have immovable property register as a means of regularizing certification and registration procedures		Reduce cost of transferring titles; facilitate land transactions, streamline land valuation; improve land information system; build capacity of actors in the land sector
Land Use Management & Conservation		Initiate participatory land use planning and zoning; integrate land and water resources management	Develop land use policy over public trust lands; promote benefit sharing of common property resources; protect women's land use rights; promote public information and awareness on tenure and property rights		

Table 5.3. Land Tenure and Property Rights Issues and Interventions - Gender, Youth and HIV/AIDS

	Violent Conflicts/Post-Conflict Instability	Unsustainable Natural Resources Management/Biodiversity Loss	Insecure Tenure & Property Rights	Inequitable Access to Land & Natural Resources	Poor Land Market Performance
Key Institutional Arrangement	Uphold rule of law where legal tenure is concerned in land-related conflict		<p>Train customary tenure land administration elders/institutions on women's rights and the importance of upholding these in the face of HIV/AIDS pandemic</p> <p>Extend training to Judicial, courts, lawyers, and magisterial systems</p> <p>Decentralize land resource/services bodies to lowest unit of administration</p>	Develop procedures for allocating settlement land and ensure gender equity in allocation of these lands	<p>Decentralize notaries</p> <p>Promote registration of intra-family land transfers (e.g., inheritance), hence improving performance of land markets, by enabling those who wish to sell land to do so</p>
Conflict or Dispute Resolution			Establish/identify more transparent dispute resolution bodies to deal with family property disputes. Such bodies must be educated on spousal and children's rights		
Legal & Regulatory Framework		Enact a national land use policy	<p>Enact a more equitable Matrimonial law that provides for co-ownership and that ensures fairness in division of property on dissolution of marriage. Matrimonial law must recognize realities such as polygamy</p> <p>Repeal Succession Act to protect women's inheritance rights</p> <p>Repeal Children's Act to protect children born out of wedlock</p>	Strengthen regulations to ensure gender equity in access and use of natural resources such as water and forestry resources	Simplify transfer procedures and regulate short-term lease contracts with creditworthy documents and strengthen notary systems

	Violent Conflicts/Post-Conflict Instability	Unsustainable Natural Resources Management/Biodiversity Loss	Insecure Tenure & Property Rights	Inequitable Access to Land & Natural Resources	Poor Land Market Performance
Redistribution	Review resettlement criteria to recognize and include Female Heads of Households	Enact and enforce policy that prohibits division beyond a certain economic unit based on the agro-ecological conditions of the area		Recognize Female Heads of Households in distribution	
Land Administration			Land registry should require registration of women's and children's rights (customary and formal) as overriding interests on title deeds		implementation of land information system
Land Use Management & Conservation		Enforce water policy and promote sustainable catchment rehabilitation and management, using funds collected through water rents charged by the Water Boards	Protect women's rights under Trust lands/group ranches governed by customary laws Registration of group ranch members should recognize all individual members of the family	Fast-track	Repeal the current flat-rate taxation system that does not take cognizance of land area and production value

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