

East London Guiding Principles on Islamic Land Tools

London 18 May 2007

Adopted at the Expert Group Meeting on ‘Cross Fertilisation of Universal and Islamic Land Approaches’ organised by UN-HABITAT and the University of East London on 17–18 May 2007 (29 Rabi'ath-Thani and 1 Jumada I-Ula A.H. 1428), in pursuance of the *Cairo Initiative on Islamic Land Tools (2005)*

Whereas this expert group meeting, being a representative group of key thinkers, experts and practitioners including policy makers, professionals, academics, Islamic scholars and civil society from different parts of the world, including a majority of Muslims;

Whereas this expert group meeting discussed the dynamic inter-relationship among universal, customary and Islamic land approaches, the demand for Islamic land tools and the challenges facing Islamic tool development, through country studies as well as specific themes such as *waqf*, financing, women’s property rights and land governance in Muslim contexts;

Considering that land, property and housing issues in the Muslim world are generally not dissimilar from those in other parts of the world, and that universal standards, principles, approaches and tools are equally applicable and necessary in the Muslim world;

Noting that there is now general consensus among those working on land, property and housing rights that land tools are necessary to improve land governance, protection of property rights and for pro-poor and gendered empowerment by providing the resource base and details on the who, what and how of implementation;

Accepting that the development of Islamic land tools cannot be undertaken in isolation, or as a substitute for generic and universal tool development, and that international development targets such as the Millennium Development Goals (MDGs) can be better achieved through synergy and cross-fertilisation between universal and Islamic approaches, where appropriate and to the extent possible;

Recommending that the documentation, development and dissemination of universal pro-poor, inclusive, innovative, affordable, gendered and scalable tools for advocacy and implementation would be more effective where they consider Islamic, customary and informal practices as an empowerment, legitimising and implementation-enhancing strategy.

Part 1: Recalling the *Cairo Initiative*

Recalling the *Cairo Initiative on Islamic Land Tools* adopted in Cairo, Egypt, 18 December 2005 at an experts meeting organised by UNESCWA, Arab League and UN-HABITAT and convened by the General Organisation for Physical Planning, Government of Egypt, and recognising the need to elaborate on the *Cairo principles* and consider follow-up measures.

Reiterating the following principles and observations contained in the *Cairo Initiative* as equally applicable to the Muslim world in general:

- A. *Taking* into account the dilemmas and challenges facing the Muslim countries regarding land tenure and access to land ownership;
- B. *Recalling* the rich historical, cultural and Islamic heritage that informs land tenure principles locally and regionally;
- C. *Reaffirming* the need to develop pro-poor and gendered land tools in conformity with local and Islamic traditions, in order they be authenticated and effectively implemented;
- D. *Incorporating* the regional experiences with respect to land as articulated in regional and international forums and conferences;
- E. *Noting* that the UN-HABITAT research on Islam, Land and Property carried out at the University of East London was approved at the Cairo workshop, and by the al-Azhar al-Sharif and the Egyptian Foreign Ministry;
- F. *Noting also* that the recognition of authentic and workable land strategies derived from international and regional principles must form the basis of national land programmes and policies;

Recommending that the *Cairo Initiative on Islamic Land Tools* be further disseminated by all stakeholders disseminate as the mandate and framework for Islamic land tool development.

Part 2: Recognising Islamic Principles

Recognising that Islamic values and concepts such *tawhid* (unity), *ummah* (community), *haq* (truth and rights), *`adalah* (justice) and *fitrah* (innate morality) support the priority given to protection of property rights under *maqasid al-shari`a* (objectives of Islamic law). Land is considered *amana* (trusteeship) on behalf of God and the human role as *khalifa* (stewardship) for equitable resource use is exercised through the duty of *al-amr bil ma`ruf* and *nahiun al-munkir* (to promote good and disavow evil) is well recognised.

Considering that *Ihsan* (best deeds) and *`amal salih* (righteous deeds) are among Islamic values toward achieving *falah* (felicity and equitable success) through *shura* (consultation) with the support of the State through *maslaha al-nas* (the people's interest);

Noting that access to land, security of tenure and equitable land distribution also arise out of key prohibitions under Islamic development principles including the prohibition against *kantz* (hoarding/accumulation) *tabthir* (waste), *bukhl* (miserliness), *mawsir* (speculation), *gharar* (uncertainty) and *rib`a* (usury) as well as usurpation, fraud, corruption, mismanagement, embezzlement of property and forcible evictions, which are seen to contribute to poverty, *zulm* (oppression) and *fasad* (injustice);

Identifying Islamic practices such as solidarity, social capital and poverty alleviation and doctrines such as *waqf* (Islamic endowments), *hiba* (gift), *mahr* (dower), *zakat* (charity obligation), *sadaqah* (voluntary charitable giving), *`ushr* (tithe on a Muslim's property for the purpose of supporting the needy), *qarad hasana* (virtuous

loan or donation), *takaful* (social solidarity), *sukuk* (bonds), savings, *bait ul-mal* (welfare fund), Islamic land tenure concepts such as *mawat* (waste land) and customarily practised *musha`* (collective land) and a range of Islamic finance, planning and development models offer innovative pro-poor tools that need closer study;

Recommending that Islamic land-tool development be based on the core Islamic values of social justice, human rights, equity, sustainability, development, participation and empowerment, which provide detailed formulations promoting universal development goals in relation to land, property and housing rights.

Part 3: Documenting and Developing Islamic Land Tools

Considering that Islamic land tools are generally under researched, there is a need to further document and develop Islamic land tools which supplement the 23 priority areas identified through Global Land Tool Network (GLTN) and other consultations;

Noting that tools are particularly needed in the areas of access to land, security of tenure, alternatives to forced eviction, Islamic continuum of property tenures and rights, land use and sustainability, land governance, land management particularly in land pooling and readjustment, fragmentation, regularisation, upgrading and financing;

Recognising the need to support best practices research in the Muslim world and *ijtihad* (independent reasoning) under *usul al-fiqh* (Islamic methodology) which address the rights of the landless and the disadvantaged, women's equal property rights, rights of older persons, rights of children, disabled, rights of displaced, migrants and refugees and the rights of non-citizens and minorities;

Recommending that the processes of consultations for Islamic tool documentation and development be non-ideological, inclusive, objective, systematic and transparent involving all stakeholders including scholars, policymakers, experts, land professionals and civil society through a robust and professional methodology as with all other tools.

Part 4: Follow-up on the Cairo Initiative Recommendations

Considering that the progress on the recommendations below from the *Cairo Initiative* needs to be regularly monitored and followed up for the benefit of improved land governance and rights in the Muslim world, the expert group reviews and proposes as follows:

Cairo Initiative Recommendation 1:

The Islamic land principles with regard to land ownership, tenure and access to land which provide innovative, pro-poor and inclusive land tools, in accordance with women's and general human rights must be fully considered.

Progress on recommendation 1:

Various stakeholders are in the process of identifying a range of Islamic land principles, concepts and doctrines, but this has to be better coordinated and systematically undertaken, with enhanced information exchange and dissemination.

Cairo Initiative recommendation 2:

The UN-HABITAT research on Islamic land provides a basis of further study on Islamic principles in land ownership, and the importance of the participation of all relevant authorities and experts at the national, regional and Islamic levels.

Progress on recommendation 2:

UN-HABITAT has disseminated this research through website (in both English and Arabic). It has been part of several regional and global consultations, and is now published as a book *Land, Law & Islam: Human and Property Rights in the Muslim World* (London: Zed Books, 2006). However, further research in areas identified above needs to be undertaken by various stakeholders and disseminated among scholars, policy makers, civil society, professionals and tool developers at all levels.

Cairo Initiative recommendation 3:

Further research must be based on case studies and country experiences, in order [that] they inform international interventions and regional programmes.

Progress on recommendation 3:

The meeting discussed case studies from various countries, including Afghanistan, Bahrain, India, Indonesia, Lebanon, Nigeria and Pakistan. The documentation of good and best practices should be made into a readily available and easily accessible resource that could be used by various stakeholders, in order to inform international interventions and regional programmes.

Cairo Initiative on recommendation 4:

Further discussions are necessary for strategies in future meetings, conferences and to be presented at WUF in Vancouver, Canada, June 2006.

Progress on recommendation 4:

The GLTN Secretariat (at UN-HABITAT) and partners presented, discussed and disseminated Islamic land research and tools at the GLTN Launch at the WUF, in Vancouver, Canada, in June 2006. Progress on the Islamic land research and tools could be reviewed at the next WUF in Nanjing, China, in 2008, and other appropriate national, regional and global forums.

Cairo Initiative on recommendation 5:

To create a special network for Islamic Land Tools as part of the international global land tools network, which UN-HABITAT is requested to facilitate.

Progress on recommendation 5:

The GLTN has included the Islamic Land Tools Initiative (ILTI) as one of the focus areas in its present work programme. Initiatives toward creating the network include this EGM and the GLTN website, but other initiatives will be necessary to make the network more representative and inclusive.

Cairo Initiative on recommendation 6:

The international community, the Islamic countries and all stakeholders [need] to provide the necessary resources and expertise in order to support and sponsor the initiatives in the fields of research and implementation.

Progress on recommendation 6:

UN-HABITAT has received some funding to carry out specific activities, including this EGM, dissemination and promotion of Islamic land tools and some provision of technical support and advisory services. In order to expand and operationalise Islamic land tools, the international community, the Islamic countries, Muslim institutions such as the Organisation of Islamic Conference and all stakeholders are encouraged to provide further the necessary resources and expertise.

Cairo Initiative on recommendation 7:

UN-HABITAT as focal point, at this stage, to coordinate and organize a forum on land ownership in Islamic law that eventually is to be run by Arab partners.

Progress on recommendation 7:

UN-HABITAT has organised this EGM on Islamic land tools with various partners, and the Global Land Tool Network (GLTN) website can coordinate for the present. This EGM envisages that GLTN undertake negotiations as soon as possible to enable this initiative to be run by Islamic institutions.

These Guiding Principles are envisaged as the proposed framework and process for further discussion and the initial steps in developing Islamic land tools in the context of achieving universal development and human rights standards

Adopted this day, the Eighteenth day of May 2007 (First of Jumada l Ula A.H. 1428) at the Expert Group Meeting on “Cross Fertilisation of Universal and Islamic Land Approaches” organised by UN-HABITAT and the University of East London.