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Review of the Centre for Property Rights and Developmet

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Abstract: This report documents the activities and role of the Centre for Property Rights (CPRD) and Development, which has operated as a part of the Norwegian Mapping and Cadastre Authority with financial support from the Norwegian Agency for Development Cooperation. CPRD has been a part of a broader developmental agenda on the formalisation of property rights in marginalised communities.

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Preface

This Review has been carried out for the Norwegian Agency for Development Cooperation (Norad). It documents and evaluates the activities of the Centre for Property Rights and Development (CPRD) at the Norwegian Mapping and Cadastre Authority (NMCA). The data collection and writing up have taken place within the framework of 160 man hours. Document analysis, mainly based on the archives of Norad and NMCA, and interviews with key informants in Norad, NMCA and other relevant organisations, represent the main source of data.

The Norwegian Institute for Urban and Regional Research (NIBR) would like to express gratitude to those who spent their time sharing insights and information with the Consultants. The NIBR Consultants have been met with hospitality by everyone contacted throughout this Review. It would not have been possible to present the different perspectives on the activities of the CPRD without this cooperation and support.

Senior researcher Berit Aasen at NIBR has functioned as an internal peer reviewer on this project. Inger Balberg also deserves thanks for her technical expertise in preparing the final version of the report.

Oslo, December 2008.

Marit Haug
Research Director

Table of Contents

| | |
|---|----|
| Executive Summary | 4 |
| 1 Introduction..... | 7 |
| 2 Methodology and Limitations of the Review | 9 |
| 3 Overview of CPRD | 10 |
| 3.1 Origins and purpose..... | 10 |
| 3.2 Institutional arrangement and budget | 11 |
| 3.3 Summary of CPRD activities..... | 12 |
| 3.3.1 Desk studies | 15 |
| 3.3.2 Publications | 15 |
| 4 Findings..... | 16 |
| 4.1 Co-ordination with Norad | 16 |
| 4.2 Shaping policies on development and poverty reduction | 18 |
| 4.3 Capacity and institutional location of the Centre | 18 |
| 4.4 The CLEP process | 19 |
| 4.5 Visibility and Dissemination | 22 |
| 4.6 Sustainability..... | 24 |
| 4.7 A post-CLEP role for the Centre?..... | 25 |
| 5 Conclusions | 27 |
| 6 Recommendations | 28 |
| Interview list | 29 |
| Appendix: CPRD's location in the NMCA organisation as per 2008..... | 30 |

Tables

| | | |
|-----------|---|----|
| Table 3.1 | CPRD: A funding and staffing overview..... | 12 |
| Table 3.2 | Key expenditure related to Norad support..... | 13 |

Executive Summary

Background

NIBR has been commissioned by Norad to do a review of the Centre for Property Rights and Development (CPRD) at the Norwegian Mapping and Cadastre Authority (NMCA). Norad has funded CPRD's information service, networking activities and conferences on property and development issues, as well as professional support to the Ministry of Foreign Affairs (MFA) – and, in particular, their input to the process around the High Level Commission on Legal Empowerment of the Poor (CLEP). The Terms of Reference wanted the Review to focus on how CPRD has functioned in terms of its goals, and the competence, visibility and sustainability of the Centre's operations.

Key findings

The Review found that CPRD has received less funding from Norad than originally anticipated, and that funding limitations – in combination with a lack of clear coordination of the Centre's activities from Norad's side – are important factors in explaining why CPRD to some extent has fallen short of their ambitions of shaping and implementing Norwegian development policies relating to property rights. The limited number of orders placed by Norad has created a shortage of demand for CPRD's competence. An important reason why Norad's support and coordination of CPRD has been limited can be found in their failure to find a 'meaningful role' for the Centre in relation to their overall strategy on this issue. This, in turn, can in part be explained by the fact that the establishment of the Centre was strongly advocated for on a high political level, while Norad expressed concern around the mandate and institutional location of such a competence centre. Consequently, Norad did not manage to establish a closely coordinated cooperation with CPRD.

In addition, CPRD has suffered from a change in political priorities around the formalisation agenda, and a relatively sceptical attitude towards what was perceived as their technical orientation amongst some of the relevant networking partners in civil society. This has greatly reduced CPRD's ability to influence Norwegian development policy in this area. This being said, CPRD has initiated, and participated in, several networking events and professional activities bringing together domestic and international expertise on issues of property rights and development. These networking activities, and the written documentation that CPRD has produced, have all been of a high quality. The Review does question, however, whether the

substantial contributions of the CPRD overall fulfil the expectations of a professional competence centre, as stated in the Application.

The most substantial input of CPRD, from a professional point of view, has been the contributions to the MFA on the CLEP process. This input has ranged from analytical feedback on text, via networking activities, to technical models and tools, all of which has been highly regarded by the MFA. With the finalisation of the CLEP process, legitimate questions have therefore been raised concerning the sustainability of such a Centre at the NMCA. Although some suggestions of future tasks have been put forward by CPRD staff and other informants, the Review has failed to find a clear mandate for the Centre. This unclear mandate is reflected in terms of limited demand from Norad; an unclear role in MFA's immediate but albeit shifting political strategies; and as also currently put forward in a disparate manner by the Centre itself.

Conclusions

The Review's conclusion must be viewed in light of the fact that CPRD has not had a full three years performance at full capacity, and that there has been limited co-ordination from Norad – both of which have undoubtedly constrained the activities of the CPRD. The Review also found that there is a lack of clarity of specific roles within (and between) the MFA and Norad, especially within the formalisation agenda.

CPRD has had only a very limited role in contributing to the broader Norwegian aid policy on development and poverty reduction. Still, it is recognised by MFA as having played an important supportive role to MFA's involvement in CLEP and the CPRD clearly has found a structured role in those activities.

In terms of its sustainability, there has been insufficient demand from Norad for CPRD expertise in the 2005-2008 period. The MFA – according to the section for Global Initiatives – is seeking to pursue post-CLEP work through country support and with preference to other entities other than CPRD to do this. This may change depending upon the political environment. Beyond disparate project proposals there appears to be little pro-active strategising from the CPRD concerning its future role as a Competence Centre.

Recommendations

In light of these findings we feel that determining any future role for the CPRD -and specifically Norad funding of its activities- should be contingent upon whether the co-ordination and commitment from Norad's side is likely to change. Moreover, this depends upon clarifying Norad's role within formalisation and the different sets of rights they are interested in and competence they desire.

We recommend that this document therefore form the basis for a start in a conversation between the key stakeholders, perhaps first internally within NORAD, and then at a round table meeting. One of the main tasks in this process would be to establish clarity concerning the roles in this field of, respectively, Norad, MFA and Ministry of Environment. CPRD and NMCA also need to clarify the role and purpose of the CPRD's work and future direction.

1 Introduction

The Centre for Property Rights and Development (CPRD) was established as an organisational entity under the Norwegian Mapping and Cadastre Authority (NMCA) in 2005, based on a 3-year allocation from Norad. In this Review, we have evaluated the activities of CPRD since its inception. The following 5 objectives were specifically highlighted for review by Norad, as *per* the Terms of Reference¹:

1) How has CPRD functioned in relation to its goals since established in 2005?

We define the goals of CPRD as what has been stated in the original Application² based on the corrections and comments of the Letter of Undertaking³, as other contractual baselines are lacking.

2) How CPRD's competence within property rights and development, together with NMCA's overall capacity, can be used in the best possible way in the shaping and implementation of Norwegian policies on development and poverty reduction?

We interpret our mandate as collecting the viewpoints of different stakeholders on potential future agendas for influencing development policy, based on the experience of CPRD since mid-2005.

3) The NIBR team was also tasked with examining CPRD's role and further possibilities to work on property rights and development: amongst others, the follow-up to the Commission on Legal Empowerment of the Poor (CLEP), ECE, UN-Habitat and private/civil society actors.

We have chosen to focus on CPRD's involvement in CLEP, as this was a political priority at the time and instrumental in legitimising the establishment of the centre. In addition, we have also investigated CPRD's relationship to some civil society organisations and NGOs.

4) How CPRD has been made visible, together with the degree of dissemination of results?

Visibility will here be operationalised as the quality and impact of the written material, workshop activities and networking that has been done by CPRD since its inception.

¹ Terms of Reference: "Gjennomgang av Senter for eiendomsrettigheter og utvikling"; "Invitasjon til levere tilbud". Ref: 0800575-27, Norad, 19.09.2008.

² Application: "Søknad om midler til kompetansesenter for eiendomsrettigheter og utvikling". Ref: 2004/556, Statens Kartverk (K Flåthen; M Danielsen), 06.12.2004.

³ Letter of Undertaking: "Søknad om midler til kompetansesenter for eiendomsrettigheter og utvikling". Ref: 200402612-2, Norad (T Strand; M Svelle), 09.05.2005.

5) Finally, our mandate included an evaluation of CPRD's sustainability and institutional location.

Sustainability will be interpreted as CPRD's ability to establish independent funding arrangements and activities that will make them less reliant on Norad funding, and their ability to broaden their activities beyond their portfolio at NMCA into the realm of legal empowerment of the poor. Institutional location is read as the professional and academic benefits from being located within NMCA, as well as possible effects of this for other actors.

Methodology and Limitations of the Review

The data collection for this review was based on document analysis and semi-structured interviews, and email communication. During an introductory meeting with Norad, relevant informants were identified, and access to Norad's archive system granted to the consultants. Furthermore, a meeting with the personnel at CPRD further assisted the consultants in getting access to relevant documentation and in identifying interviewees. On the basis of this strategic selection, the interviews were conducted either in person or by phone, depending on availability of the informant. In any review delimited by time and resources a decision has to be taken on selecting a sample of interviewees that can be deemed representative. We have considered the sampling based on a number of factors: openness to suggestions; informants whose names tended to emerge repeatedly across different conversations; key actors and stakeholders; and, of course, also guided by the specific objectives of the review. In particular, due to the origins and original objectives of the CPRD, we feel it was important to prioritise a sample of key NORAD and MFA stakeholders and also to include civil society and university-based actors because networking has been an important dimension of their activities. Of course, as in any review, a larger sample would have also contributed to a fuller picture. We feel that, nonetheless, a representative sample has been made and an accurate and even-handed picture has been constructed on the basis of the interviews, communications and also analysis of key documentation reviewed by the NIBR.

Another important limitation has been that, as the main focus was on the relationship between Norad and CPRD, we have only reviewed those CPRD activities that can be directly linked to Norad funding. Another implication of this limitation is that we have not performed an in-depth study of institutional relationships beyond the Norad-CPRD nexus, although we acknowledge the relevance of other relationships (such as the role of the MFA) for the conclusions we have reached in this report.

2 Overview of CPRD

2.1 Origins and purpose

The Norwegian Mapping and Cadastre Authority (NMCA) is a national mapping institution responsible for geographical information in Norway. It has organisational status as a “Forvaltningsbedrift” under the Ministry of the Environment. Its activities on developmental issues in the global South, however, is funded by the Norwegian Agency for Development Cooperation (Norad) under the auspices of a Framework Agreement⁴ between Norad, NMCA and other institutions belonging to “Miljøforvaltningen”. NMCA approached Norad in December 2004 to apply for financial support for a Centre for Property Rights and Development (CPRD). This initiative came as a result of the growing interest around the formalisation agenda, i.e. the ideas of the Peruvian economist Hernando de Soto on formalisation of property rights in informal settlements in the global South. This interest was actively expressed at a high political level within the Ministry for Foreign Affairs (MFA) at the time. On the basis of emerging relations between de Soto, Olav Kjørven (MFA) and Helge Onsrud (NMCA) it was argued that the professional expertise of NMCA could play an important advisory role in policy formation. Onsrud had been in contact with de Soto, and signed an intentional agreement with de Soto’s Institute for Liberty and Development (ILD) in Peru. In the Application submitted to Norad, NMCA suggested that the proposed CPRD would function as a competence centre, collecting ‘best practices’, developing a toolkit for property formalisation in developing countries, and establishing an interdisciplinary network in Norway around these issues. It was also proposed that CPRD would formalise cooperation with ILD. The Application stated that Norad funding of CPRD would form a part of Norad’s Framework Agreement with NMCA, and it was proposed that Norad would fund 2 man years, procurement of external services and travel expenses totalling NOK 3.3 million per year for a three-year period. NMCA would complement the Norad contribution with 2 man years and travel expenses, NOK 2.3 million per year in total.

In Norad’s Letter of Undertaking, NOK 1.5 million was allocated to NMCA for the establishment of CPRD, with the intention of extending this amount on an annual basis for three years (2005-2007) subject to annual reviews. The Letter of Undertaking expressed reservations regarding the link between the competence centre and ILD, as this would jeopardise the autonomy and independence of such an institution. Furthermore, the Letter of Undertaking characterised NMCA’s core

⁴ Framework Agreement: ”Rammeavtale mellom Norad og Miljøforvaltningen”. Ref: 1993/1557-60, Statens Kartverk, 30.09.2005.

competence as land titling and cadastre expertise, as well as their record of institution-building in partner countries. It was emphasised that NMCA's technical expertise on property formalisation *did not represent a sufficient competence basis* in order to tackle the immense developmental challenges of the informal sector in developing countries. Norad therefore wanted to *coordinate CPRD's activities in relation to their own competencies* on rights-based issues, and in relation to developing a wider network of Norad partners and expertise. We believe that the caution expressed by Norad – identifying the risk involved in establishing CPRD – together with high level political pressure to create it, has played an extremely significant role in shaping CPRD's activities. Furthermore, the formalisation agenda was riven by political polarisation. The NMCA søknad itself, however, did not acknowledge various risks associated with the proposed funding programme. These are important contextual factors within which the creation of the centre should be understood, and are issues returned to in the section on 'findings'.

2.2 Institutional arrangement and budget

CPRD was established 1 July 2005 as an organisational entity under the Property Division of NMCA⁵, with its own budget line. The transitional phase took longer than anticipated, which meant that only selected activities were carried out in 2005. The CPRD did not function at full capacity until 2006. In addition to the Director, who has worked full-time for CPRD since its establishment, a senior advisor was appointed 16 January 2006 to assist the CPRD with professional activities, as well as technical and administrative tasks. In addition to their core staff, a part-time administrative assistant and some other professional staff members at NMCA were affiliated to the CPRD. These work on projects (mainly in Eastern Europe) which are relevant to the scope of CPRD. By December 2006, CPRD had a staff complement of 4 people.

Over the course of the last three years, CPRD's expenditure of Norad funds amounts to NOK 3.1 million, considerably less than budgeted and indicated in the Letter of Undertaking.

⁵ Due to restructuring of the NMCA organisation, CPRD was in 2008 temporarily placed under "Kartverksstaben".

⁶ See NMCA organogramme, Appendix 1.

Table 2.1 CPRD: A funding and staffing overview

| Year | Man hours | Budget | Expenditure | Difference |
|--------------|---------------------------|------------------|------------------|-----------------|
| 2005 | 660 | 500 000 | 441 000 | -59 000 |
| 2006 | 1798 | 1 527 920 | 1 226 358 | -301 562 |
| 2007 | 1157 | 1 500 450 | 1 051 894 | -448 556 |
| 2008 | 1240 (<i>estimated</i>) | 386 000* | 386 000 | -711 000 |
| TOTAL | 4855 | 3 914 370 | 3 105 252 | -809 118 |

**As no budget information was available this amount refers to Norad's 2008 allocations.⁷*

As indicated above, Norad's financial support to CPRD was drastically reduced in 2008. CPRD had requested NOK 1.097 million from Norad, based on five proposed projects. Norad deemed three of these projects ineligible for funding, as they entailed that CPRD would themselves identify and prioritise the need for their own services and competencies on behalf of Norad – in conflict with the principle of competition in Norad's guidelines on procurement.⁸ As a result, support to CPRD was limited to specific orders from Norad following the completion of the Commission on Legal Empowerment of the Poor and their final report on June 2008. These tasks then accounted for less than NOK 400 000 for the 2008 budget year.

The financial contribution from Norad accounts for a small amount of CPRD's total turnover, as an organisational entity in NMCA. While comparable statistics for the 2005-2008 period cannot be provided by NMCA, the budget year 2007 serves as an apt illustration: While CPRD expenditure of Norad resources amounted to NOK 1.051 million, CPRD's total budget stood at NOK 32 million, mainly from MFA-commissioned projects, of which only NOK 22 million were spent due to insufficient capacity at NMCA. According to its Director, the annual net income to CPRD for works and related expenditures has been about NOK 3.5 million per year since 2006. Importantly, these funds are used to provide administrative and professional support to Norwegian-funded projects in Eastern Europe, mainly related to cadastre and land register in these countries. These activities preceded Norad support to the formalisation agenda, and is likely to continue as a part of the NMCA portfolio regardless of CPRD's involvement in the global South.

2.3 Summary of CPRD activities

The funds provided by Norad have been instrumental in financing workshops, publications and networking activities, as well as the information service that CPRD

⁷ "Fagsenteravtalen med Statens Kartverk. Oppdrag til Kartverket's Senter for Eiendomsrettigheter og utvikling i 2008". Ref: 08/02331-1, Statens Kartverk (H Onsrud), 06.05.2008.

⁸ Source: "Notat: Norads samarbeid med Statens kartverk's senter for eiendomsrettigheter og utvikling (Eiendomssenteret)", Ref: 0800575-7, Arkivkode: 842.0, Norad (L-U Hersvik), 15.05.2008.

has provided since 2006. The key expenditure per year is summarised in the table below:

Table 2.2 Key expenditure related to Norad support

| | Budget in NOK | Expenditure in NOK |
|---|--------------------------|-------------------------------|
| 2005⁹: | | |
| Tanzania Evaluation | N/A | 136 000 |
| CLEP Support | N/A | 95 000 |
| Planning Establishing costs | N/A | 210 000 |
| 2006¹⁰: | | |
| Activities relating to CLEP and GLTN | 701 400 | 674 608 |
| Information service | 325 700 | 280 143 |
| Project related assistance Norad | 209 800 | 48 800 |
| 2007¹¹: | | |
| Professional support to MFA on CLEP | 510 000 | 196 294 |
| May Seminar: 'Norwegian Land Tools' | 315 000 | 569 400 |
| Information service | 330 000 | 273 375 |
| Project related assistance Norad | 115 000 | 12 825 |
| 2008¹²: | | |
| Report 'Norwegian Land Tools relevant for Africa' | 168 000 | 80 000 |
| Follow-up on CLEP report | 128 000 | 108 000 |
| Workshop on 'Social and economic impacts of land titling' | 171 000 | 171 000 |

The main project in 2005 was CPRD's involvement in the review of the diagnosis phase of project titled 'Property and Business Formalisation in Tanzania', funded by the Government of Norway and engineered by the Government of Tanzania with Institute of Liberty and Development (ILD) and Norwegian Register Development as institutional partners. CPRD's Director acted as a senior advisor in this consultancy team, which was led by Jens Claussen and Nordic Consulting Group (NCG). His participation in this project involved a fieldwork mission to Tanzania from 12-20 September 2005.

In early 2006, CPRD was involved in organising a joint workshop on the launch of the Global Land Tools Network (GLTN) and the High Level Commission on the Legal Empowerment of the Poor (CLEP). This event took place on 23-24 March 2006 in Vetre, Asker. The workshops attracted 65 and 85 participants, respectively, from all over the world (Kenya, the Philippines, Bolivia, the US). CPRD was the coordinator of these workshops, which were organised by UN-HABITAT, Norad,

⁹ Source: "Avregning fagsenteroppgaver Norad 2005". Ref: 1993/001557, Statens Kartverk (K E Aadnevik; T Andresen), 05.12.2005.

¹⁰ Source: "Avregning fagsenteroppgaver Norad 2006". Ref: 06/00036, Statens Kartverk (K Strande), 07.12.2006.

¹¹ Source: "Avregning fagsenteroppgaver Norad 2007". Ref: 93/1557, Statens Kartverk (K Strande), 05.12.2007.

¹² Source: "Bestilling av oppdrag Rammeavtale". Ref: 0800575, Norad (L-U Hersvik; M Brøther), 09.04.2008/ 13.06.2008/27.06.2008

MFA and SIDA. Proceedings were documented and reported by NCG's Michael Fergus in two brief reports.

On 26 April 2006, the CPRD launched a professional network given the title 'Norwegian Competence Network' (NCN). CPRD hosted a half-day seminar on the Norwegian Mapping and Cadastre Authority's (NMCA) premises in Oslo. 20-25 participants from academia, research institutes and professional institutions took part in this event. NCN were used as a competence network for CPRD.

In the autumn of 2006, Geoffrey Payne was invited to CPRD to present his preliminary findings from Phase One (desk study) of his research on the Socio-Economic Impacts of Land Titling. Selected people from NCN were invited to this meeting.

In January 2007, the Centre initiated an informational service coordinated by CPRD's Senior Advisor. The key activity in this service was the distribution of an electronic newsletter. Since January 2007, 18-20 newsletters have been sent out on a monthly basis to a list of more than 400 recipients in the academic and professional community.

On 3-4 May 2007, a workshop on Norwegian Land Tools Relevant to Africa was organised in Oslo. Organised by CPRD, this workshop was supported by Norwegian civil society organisations, most notably the Forum for Environment and Development (ForUM). The workshop attracted 45 participants who were organised into four topical working groups. Based on four pre-planned articles by experts in the field (incl. dr. Hans Sevattal, UMB and dr. Okoth Ogenjo) and the feedback generated during this event, the workshop led up to the publication of an outcome report.

On 9 April 2008, CPRD hosted a seminar on Geoffrey Payne's project on his project: 'Social and Economic Impacts of Land Titling Programmes in Urban and Peri-urban Areas'. The seminar was held in Oslo, with 50-60 participations from across Europe, the US and Africa. SIDA, UN-HABITAT and MFA organised the event. These institutions also funded the publication of a report presenting the findings of this project.

CPRD provided organisational and financial support to participants of a workshop in Bergen on 10-11 April 2008 on 'Legal Empowerment of the Poor in the UN/ECE Region'. 120 participants from Europe and Central Asia and Africa attended this workshop, which was hosted by NMCA, in association with the United Nations Economic Commission for Europe's (UN ECE) Working Party on Land Administration (WPLA).

In March-April 2007, the Centre has jointly with an expert at the Swedish Land Survey prepared a report to the secretariat of the CLEP. According to the Centre this paper has been compiled, within a short period, from various sources and contributions connected with the Commission on Legal Empowerment of the Poor., which 'includes certain parts that have been lifted more or less directly from papers that have been distributed', including one on 'Financial Sector Development and Working Paper 2008:122

Expanded Access to Credit' by R. Michael Barth and Cesare Calari.¹³ The main intention has been to make a contribution to the compilation of the Commission's narrative report, but also to give an input to the work of Working Group 2 on property rights. It does not aim at being a formal report, but tries to identify issues that should be important elements of the outcome of the Commission.

2.3.1 Desk studies

CPRD has also functioned as an independent competence centre for the Government of Norway by conducted several desk studies commissioned by Norad and others:

- Evaluation of G Payne proposal (March-April 2006; commissioned by MFA)
- Review of Land Administration System in Uganda (July-August 2006; commissioned by Norad)
- Evaluation of Econ proposal Norwegian-funded projects on Balkan (January 2007; commissioned by Norad)
- Literature review Property evaluation Taxation purposes (August 2007; commissioned by Norad (on behalf of Norwegian Embassy in Mozambique))

2.3.2 Publications

The activities of the CPRD have also generated some printed and published output. By drawing on their Norwegian Competence Network (NCN), the CPRD has supplied 1-2 articles in each of the five editions of Legal Empowerment Quarterly, published by MFA (2006-). Moreover, the above-mentioned workshop on Norwegian Land Tools Relevant to Africa produced an Outcome Report, edited by CPRD staff. This report was published in January 2008. CPRD/NMCA has funded the fieldwork of a master student, which has led to the following publication:

Fuentes, Daniela O. (2008) *Closing the Gender Gap? Women's Land Rights in Peru and the Effects of the Rural Land Titling Project*. Master Thesis, Department of Economic and Resource Management, Norwegian University of Life Sciences

¹³Ref. 0800575 Report from NMCA to NORAD: 'Support to the Commission on Legal Empowerment of the Poor- Follow up of the Commission's Final Report '.

3 Findings

3.1 Co-ordination with Norad

In order to evaluate CPRD's results and its contributions specifically to Norad, it is important to clarify to what extent there was a sufficient institutional framework and mandate. In other words, the extent to which there has been proper communication, institutional support and clear guidelines – which allowed, or otherwise, CPRD to play the role identified in the Letter of Undertaking – is a very important consideration for this review. In terms of human resources, the director of CPRD estimates that Norad's support has funded 1 man year per year during 2006 and 2007, and only about 3 man months in 2008. It seems clear that a number of factors circumscribed CPRD's potential as a competence centre, both in terms of their proposed activities and the ability to engage constructively with Norad around these issues. But in spite of these circumstances, CPRD has made several positive and constructive contributions to the formulation of national and international policy around the formalisation agenda. Both the circumscribing factors and the achievements of the CPRD will be discussed below.

Importantly, the circumstances under which Norad gave their initial support to CPRD was less than ideal. Norad had expressed clear reservations around the formalisation agenda in general. However, there was strong advocacy at a high political level for the establishment of a competence centre on property rights with Norad support. This was confirmed by several people involved in this process in Norad at the time, and it has also been acknowledged by MFA and CPRD representatives.

This posed a challenge for Norad: on the one hand, they were concerned about the neglect of gender and minority rights and broader development issues in relation to formalisation of property rights. On the other hand, however, Norad had been tasked with giving CPRD a 'meaningful role' to play in this process. According to Norad informants, Norad struggled to find a meaningful role for the CPRD. As a result, Norad ended up giving less attention to the 'coordinating role' that they had reserved for themselves in the Letter of Undertaking. In turn, this left CPRD to stake out a role for itself. Paradoxically, their attempts to do so in 2008, by identifying possible institutional partnerships and international projects, were deemed ineligible for Norad funding, as it was in conflict with the principle of 'habiletet'. Therefore, the lack of a clear role defined by Norad, but without the mandate to define a role on their own, CPRD's activities became – almost inevitably – peripheral to the more general policy direction of property rights and development. An important exception

is that a role was created for CPRD in relation to the MFA objectives centred upon a range of activities feeding into the Commission on Legal Empowerment of the Poor (CLEP) (see later section).

In sum, the overall contribution by Norad has been almost NOK 1.5 million less than anticipated. The reasons for this discrepancy are as follows:

1. CPRD did not have the capacity to make use of the full allocation of 2005 due to the slow process of establishing the centre. Moreover, they have used less than budgeted in 2006 and 2007, even though the CPRD was at full capacity during this period.
2. The volume of orders from Norad has arguably been less than anticipated. Of particular importance in this regard, is Norad's reluctance to fund self-initiated projects for the 2008 budget year.

An important factor in explaining the second point, according to Norad, has received very few orders from MFA in the 2005-2008 period. Rather, Norad is of the perception that MFA has chosen to administer these orders without a role for Norad. As a result, the potential portfolio of orders from Norad to CPRD has been reduced to a minimum.

The poor coordination between CPRD and Norad appears to be a particularly important issue. As mentioned, the need for close cooperation has been raised on several occasions by Norad. For example, one Note¹⁴ places emphasis on CPRD as creating a broad network within which it is possible that Norad can make use of, by concerted efforts to establish links in Norad's partner countries, as well as the work of the High Level Commission (CLEP). To achieve this, emphasis is placed upon the need for tight dialogue between Norad and SK, to ensure that *CPRD's work is visibly useful to Norad*. It is logical to therefore suggest that it is through this close dialogue that the activities undertaken by CPRD could become an arena for discussion that would become useful to Norad priorities.

However, there has been *an absence of 'close cooperation' between CPRD and Norad*. Between 2006-2007, for example, CPRD's Director suggests there was little contact with Norad, a relation described, in fact, as existing in a 'vacuum'. Several respondents identified a lack of trust between the various actors. An additional issue is that several employees within Norad changed positions and those interested in the formalisation agenda moved in and out of Norad. Consequently, momentum was lost regarding relations with CPRD.

As a result, activities have been largely restricted to MFA/CLEP-related work and networking-type activities to which the discussion now turns.

¹⁴ Note: "Referat fra planmøte mellom Norad og Statens kartverk 2. mars 2005". Ref: 200502396, Norad (K Strande), 16.03.2005.

3.2 Shaping policies on development and poverty reduction

In 2005, with the change in government, the political prioritisation of the formalisation agenda shifted significantly. Also, there were growing reservations about promoting formalisation of private property rights narrowly as a ‘quick fix’ in the development community. The polarised context constrained the potential for a competence centre which specialised in the technical dimensions of property formalisation. Several respondents from different sectors, especially, NGO and University-based, have raised issues concerning the ability of the CPRD to go beyond what is perceived by some to be a rather narrow technical focus on the issues.

Furthermore, the apparent lack of interest from the Norad side, as mentioned, constrained CPRD from developing a broader role in shaping and implementation of Norwegian policies on development and poverty reduction. According to the original Application (p5 under ‘Leveranser’), CPRD proposed less the objective of having a direct impact on Norsk bistand and rather to focus to build capacity which was identified as missing within Norway. The emphasis given to creating capacity is therefore something of a limitation in terms of fulfilling CPRD’s wider ambition to make for effective and improve Norwegian aid within this field. These apparent limitations –both imposed and perhaps self-imposed- have greatly restricted CPRD ability to engagement fully with concrete activities and target groups within development aid recipient countries. This limitation is returned to below in the context of the institutional location of CPRD (and is also linked to the discussion in the section on ‘visibility’ and dissemination).

3.3 Capacity and institutional location of the Centre

- Has the Centre benefited from being located in NMCA?

It is evident that the CPRD possesses years of experienced and dedicated professional expertise relevant to property rights. Upon closer scrutiny of the CVs of the core staff, this expertise is therefore both technical and professional. But in the case of CPRD’s core staff it is also oriented to the European geographic context. Both these issues: technical outlook and geographic expertise limit the capacity of the CPRD to engage in the broader field of formalisation and development. But added to this is the open support of the Director of the de Soto agenda. Given that there was a high level of politicisation of formalisation and the lack of co-ordination from Norad, and with evidence of strong suspicion from other civil society actors about the agenda and CPRD’s role in it and technical focus, the question must be raised about whether NMCA was best placed to host the creation of CPRD.

One civil society respondent clearly recognised how the networking arena CPRD created was important in shifting perspectives on all sides, including her own. However, the same respondent also points out how she and others felt that CPRD – through no fault of their own – took a marginal view of property rights as mainly a technical issue. In her view, it was in fact a major error to place CPRD within

NMCA because this exacerbated the polarisation of the issue and even ‘killed the initiative’ because of this. Furthermore, some NGOs suggest that the technical expertise is often not relevant for their in country partner organisations. Rather, she claims, other institutions might have made the issue less polarised and more nuanced from the start. It is important again to reiterate how EE regards these limitations as not due to CPRD *per se* but rather the consequences of the political decision to have it created there. Reciprocally, CPRD’s Director claims that the NGOs were themselves heavily politicised and this overshadowed the need to also –in his view– focus on the professional and technical skills required for formalisation. In addition the CPRD also contest the views expressed here that their focus is somehow narrowly ‘technical’. The CPRD points to a range of diverse activities they have facilitated (see under 5, ‘Visibility and Dissemination’) that they claim illustrates their broad level of engagement with the issues pertaining to formalisation and development. The reviewers will come back to this point in section ‘5’.

Which ever view is correct concerning NGOs and CPRD is beside the point. What is important is that, overall, this lack of institutional trust and, arguably, institutional location has limited CPRD’s potential, in terms of the ability to meet its goals since 2005.

An important area in which CPRD, however, has created a role for itself concerns in particular the CLEP process and MFA requests.

3.4 The CLEP process

The original funding proposal to Norad from SK (dated 6th December, 2004) envisaged a supporting role such a competence centre could play in international activities within the formalisation agenda. Such activities concerning formalisation were – with good justification – highlighted as being in a growth phase internationally. Key objectives in proposing the creation of CPRD, as mentioned earlier, were to increase Norwegian capacity and competence to participate in these international activities and, in relation, to act as a resource centre for both MFA and Norad: CPRD was to provide analytical services upon request, and the establishment of a national network was identified as a key activity to support those objectives.

The Commission on Legal Empowerment of the Poor (CLEP) has been one particularly significant international initiative. Since 2006, CLEP has sought to address formalisation within the overall context of ‘legal empowerment’ and poverty issues. CLEP was organised into 4 working groups looking at the following themes: access to justice; property rights; labour rights; and business rights. CLEP was originally a Norwegian initiative – with active Nordic support – and comprised 20 world leaders, with Hilde F. Johnson representing Norway. CLEP has been co-chaired by both Professor Hernando de Soto and Madeleine Albright.¹⁵ The Commission steering group was led by Norway. There was also an undertaking that

¹⁵ See www.norway-un.org: ‘Empowering the People’, Norwegian Mission to the United Nations (nd). Accessed 15.11.2008.

Norway bear 30 per cent of the costs of the Commission's work. According to Norwegian Mission to the UN, the input into CLEP from Norway was intended from the start to emphasis not only private property rights but also collective user rights and rights of vulnerable groups such as women and indigenous groups, as well as civil society involvement. In addition, amongst other tasks for the Commission, one of the main tasks was to draw up an overview of and to systemise lessons learnt and tools used regarding formalisation.¹⁶ For a number of reasons, CLEP was highly relevant in defining a role for CPRD:

First, according to CPRD's Director, de Soto had been introduced to MFA, and the then Secretary of State for Development, Olav Kjørven in 2004. The Secretary of State Development then encouraged de Soto to make links with relevant partners in Norway. In 2004, CPRD's Director was invited to spend time with de Soto in Peru. At the same time the State Secretary approached Norad to fund de Soto's organisation, ILD. At the same time he also began to discuss the possibility for an international initiative on formalisation. Indeed the concept for CLEP is attributed to the office of the State Secretary. He was therefore a key player in the formalisation agenda both in terms of international initiatives, through CLEP and de Soto, and also with his desire that Norad to fund some kind of Norwegian centre of competence on these issues. The relevance of this brief background to CLEP for the review of CPRD is apparent: CPRD was conceived as providing an institutional linkage between building domestic capacity on formalisation, and the use of this to support Norwegian diplomatic involvement internationally.

Second, and in relation to this background, CPRD has therefore played a role in the CLEP initiative. According to interviews and CPRD's annual (and biannual) reports (2006 and 2007), the CLEP-oriented activities provided by CPRD were:

- Technical models and tools dealing with property rights; experts and contacts within the field
- Specific national network activities, including large workshop/seminars that facilitated arenas for discussion and debate; also, including forums specifically directed towards CLEP (Vetvre and Bergen workshops)
- One technical article per issue of MFA 'legal empowerment' publications series
- Other analytical feedback and clarification on text used, and on Norwegian priorities and mandates, other analytical inputs to the Norwegian Commissioner and MFA.

In addition to the funding earmarked specifically as CLEP-oriented, CPRD's other activities mentioned therefore also fed into the CLEP process. In other words, a lot of the overall activities of CPRD were utilised for Norwegian support to CLEP. In 2006 and 2007, assistance to CLEP, the Vetvre seminar and other international seminars, professional network and homepage and newsletter comprise by far the

¹⁶ And with UNECE and UNDP developing the framework of the Commission and providing a role as interim secretariats.

See www.norway-un.org/News/Archive+2006/20060322_legalempowerment_background.htm

Working Paper 2008:122

majority of activities funded by Norad. It can be suggested that the bulk of Norad funded activities 2006-2008 have been directed towards building capacity to support CLEP and, in relation, national network competence on formalisation. In 2008, indeed, the only CPRD activities approved by Norad were all MFA-related, either ordered (commissioned by MFA: 'Follow-up to CLEP'; 'Technical workshop on land registration'), or, related to ongoing MFA-related activities (via the Norwegian Land Tools Relevant for Africa).

In terms of reviewing the qualitative role of these support functions for CLEP, from the MFA side, one indication is the feedback of key MFA people directly involved in CLEP. One key figure in MFA suggests that CPRD played a central role in MFA's work on CLEP. The work was described as very satisfactory and integral to creating a political agenda addressing formalisation. Without it, Norway would have played a weaker role in building up this initiative, according to an MFA respondent. The input of CPRD was most effective, it was stated, in providing forums for dialogue and a partnership networking on a range of issues relatively unknown to diplomats. In particular, the Centre is therefore regarded as providing a very useful function in integrating two specific work lines at MFA, namely, working with NGOs and academics. Importantly, the network around the CPRD was regarded as a complement to, not a substitute for, MFA's existing networks around these issues. The specific input into working groups of the Commission concerning the thematic group on property rights, with input described as important, yet as also indirect because CPRD's Director was not himself invited to act as a working group member. Over time the scope of CLEP broadened. This was in part in the wake of civil society criticism about the representativeness of the Commission with a high level of politicisation of the formalisation agenda, and particularly vociferous opposition from civil society organisations. In relation, there were demands that the debate be broadened from property rights alone instead to embrace different forms of ownership and access to justice and women and indigenous rights more generally.¹⁷ Furthermore, the Commission itself did broaden its scope of debate as evident in its final report in June 2008. In the report it sets out a broad range of recommendations. The CPRD's potential role with regards to post-CLEP recommendations is therefore discussed in the context of post-CLEP possibilities for CPRD. CLEP is also relevant in terms of the visibility of CPRD's activities and dissemination of results, which is also discussed.

We find that CPRD's practical input into MFA activities to do with CLEP has been highly regarded by MFA. Significantly, however, in order to get this work done, CPRD's Director stated that the CPRD was interacting directly with MFA rather than Norad, although we also understand from the MFA that there was some discussion also between the latter and Norad. It is important to reiterate that the overall relationship between Norad and CPRD, and, by implication MFA and Norad, provides an important contextual factor in assessing the performance of CPRD.

¹⁷ See, for example, 'Norwegian NGO Statement on the High level Commission on Legal Empowerment of the Poor', (2006), downloaded from www.landrightswatch.net. Working Paper 2008:122

3.5 Visibility and Dissemination

In this review, as stated, we operationalise visibility as the quality and impact of the written material, workshop activities and networking that has been done by CPRD. These activities have been undertaken as the main bunch of activities of the CPRD centred upon the objectives to create capacity and competence centred upon building a network.

The most visible resource is the website (www.propertycentre.no). It is a nicely laid out website which acts as an information service on news, events and literature related to land rights and legal empowerment. And a large amount of literature can be downloaded. However, it is difficult to say anything about impact: there is no 'hits' counter or 'hits' counted in relation to different geographic areas.

The information E-newsletter is provided monthly by the CPRD. Since 2007 it has provided information on events, publications and news and developments related to formalisation and legal empowerment. Its coverage is placed at 400 by the CPRD. Again, the impact is heard to gauge for reasons that will become apparent but it is emailed directly to recipients. For example, although the number is relatively large in terms of its circulation, we do not know with any certainty what recipients do with the newsletter, nor whether they are mainly concentrated in Norway or different geographical regions.¹⁸ Some respondents told us that they quickly glance through it, suggesting impact is not great.

In terms of the literature produced, this review only allows for a provisional oversight of the material produced through the CPRD activities. On this basis one can indeed suggest that good quality, interesting and broad ranging material has been assembled either directly as a result of CPRD activities, or, through their contribution to other publications, such as the MFA 'Legal Empowerment' series. In both cases, the CPRD has been found to have collated material that certainly appears to have added nuance – at times critical in nature – to the formalisation debate. However, the main CPRD contribution, *The Norwegian Land Tools relevant to Africa* outcome report published within NMCA, and edited by CPRD's staff, is the mainstay of materials. The collection shows signs of editing although it would have benefited from having an introduction and conclusion. There is also no mention of any peer review process whereby the papers would have been scrutinised by anonymous reviewers prior to publication to tighten editing. However, again, a diverse range of opinions are accommodated. The CPRD, however, appears as mainly a facilitator in assembling papers presented by others rather than contributing 'faglig' publications itself. Indeed, even in the Norwegian Land Tools publication, there is no 'faglig' contribution of an authored piece from the CPRD, nor, NMCA. We have not found specific published materials written by CPRD staff themselves that have been Norad funded. One or two desk studies have been written, one involving a literature review, but the scope remains limited and as minor tasks done by the CPRD. The CPRD feel this is not relevant criticism because this, they say, was never the mandate from

¹⁸Some respondents told us that they only quickly glance through it but had a broad sample been undertaken different opinions of the value of newsletter may have been ascertained.

Norad. And certainly in the absence of a survey, the issue of impact of these materials – whether the literature, website or E-newsletter – is difficult to assess.

However, the reviewers maintain that a series of issues nonetheless still emerge about the scope and nature of the CPRD as a competence centre. The question of impact is returned to below.

In terms of ‘other’ written materials, such as newspaper contributions to debates on these issues – it appears that the CPRD has not been visible beyond facilitation of events. This suggests that the public profile of the CPRD appears limited outside of a limited number of arenas. It also reflects limited CPRD contribution to and engagement in public debate in more popular channels. While there may be a number of reasons for this, it does suggest that the role of the CPRD itself as a driver in more directly shaping broader debates is somewhat limited.

The workshop activities appear to represent the core activities of the CPRD. These do appear from various reports and feedback from interviewees to have been professionally organised and very well attended. A very wide variety of actors has participated. However, some respondents suggest that the CPRD has struggled to actively engage participants from outside of its mainly European based contact network. To some extent, other partners, such as the Norwegian Peoples Aid, assisted in rectifying this by identifying more participants from the less developed areas. Hence the benefits of networking become apparent. Some of the feedback of participants (as reflected in the ‘Tools relevant for Africa’ publication) welcomed these events. But this leads to an overall issue, namely, how to gauge the impact of all these activities and materials in more substantive terms.

Certainly, on the one hand, an impressive range of participants has been assembled and contributed to materials. On the other hand, CPRD itself has again, only a limited presence in materials, presentations and discussions in these Norad funded activities.¹⁹ But it is also difficult to look at this material and these activities only on their own terms because it is not apparent what this knowledge generation and exchange has actually achieved in concrete terms.

What can be gauged from several respondents who attended these events and some reports summarising the events, is how the events themselves did enable, over time, a broad cross section of opinion and competing views to be presented. Because of the contested nature of formalisation, and the initial heavy political polarisation, this diversity of opinion is very important. Some respondents have expressed how their initial perspectives may even have been altered due to their exposure to different opinions at these events. Such views do suggest that ‘impact’ can be considered significant in terms of shifting peoples often rigid positions. And some participants involved with policy making, particularly some of those from MFA, were particularly enthusiastic about gaining ‘faglig’ knowledge at such events.

¹⁹ See, for example, summary reports on Oslo Workshops on CLEP and Global Land Tools Network (Michael Ferguson, NCG).

However, when we take these materials and events altogether, the question still remains, what was the objective beyond exchanging information and knowledge through presentations and debate? Certainly, learning and exchange of views is valuable in itself, but if, as according to the 'Hovedmål' of the 'søknad', the main objective is the creation of a competence centre to improve Norwegian aid in this area, then this is very difficult to demonstrate. In part, we have identified some institutional constraints. These have meant that the CPRD has only had a limited role in being called upon as a resource centre, to deal with specific requests, from Norad in particular. Certainly, there has been some participation at seminars and workshops, and distribution of materials. But beyond this there is little evidence of direct connections between any of these activities and more tangible concrete work with Norwegian aid partner countries.

As stated, the CPRD appears to have a limited role in facilitating information. In that context, the one main area of specific impact appears CPRD's role in contributing to MFA objectives in CLEP. The broader contribution is therefore found to be limited because it is not connected to specific programming objectives- such as follow-up on and specific actions related to activities and client groups. This raises issues concerning how the CPRD sees its role as a competence centre. For example, it mainly provides information services and facilitates network events. But beyond this, it is less clear how it sees its role in driving and developing policy and development agendas or co-operation, position papers, in this field, in other words, something beyond an information exchange service.

3.6 Sustainability

- What is the future role of the CPRD?

The sustainability of the CPRD hinges on both institutional/financial arrangements well as professional relevance. On the one hand, it refers to whether appropriate funding arrangements can be secured (with or without Norad); on the other hand, it is related to CPRD's ability to make their professional expertise relevant and useful to those networks and institutions who are shaping Norwegian policies on issues of development cooperation and property rights.

Regarding the former point, it seems clear that if CPRD is to be funded by Norad on an order-by-order basis, the demand for the services of CPRD has been insufficient to justify sustaining the level of support stated in the Application and Letter of Undertaking. Similarly, CPRD's portfolio on formalisation of property rights in developing countries (excluding Norad-commissioned work and NMCA's projects in ECE countries) has so far been extremely limited, and cannot sustain the operations of the Centre.

The second point, namely is whether CPRD has managed to create a role for themselves as a competence centre in a wider formalisation network. One avenue that seems logical to look at concern the follow-up on CLEP and the ability of CPRD to build on the recommendations of the CLEP report.

3.7 A post-CLEP role for the Centre?

The CPRD sees its future role particularly in terms of the importance of providing information and also assistance in the evaluation, design and implementation of projects. It also sees a need for re-establishing the network. However, they suggest also a need for professional competence within this field. Some ideas also include the provision of a help-desk concerning the Global Land Tools network. Another is possible co-operation with Slum Dwellers International.

The final CLEP report, as mentioned, broadened its initial scope to include not only property rights but also access to justice and other sets of rights. Arguably, the final recommendations added complexity, context and importance of local participation.²⁰ Ironically, because the recommendations go far beyond property rights, perhaps this complicates a future role for CPRD. Another complication is the changing political environment. While this is of course in flux and not static, there are some signals that some of the CLEP recommendations are apparently being followed-up within MFA. These may conform to the broader political support for women's rights, minorities and collective user rights. Formalisation, as such, has been suggested by some to have not fallen off the political agenda. Beyond formalisation per se, on the contrary most respondents considered land and associated rights as remaining highly, if not even more so, significant. One respondent suggested, however, that formalisation itself may no longer a political priority and that it was felt that the present government is a bit reluctant to pursue this. This may change of course with shifts in the political environment. But it has been indicated that post-CLEP recommendations are being mainstreamed within the various MFA budget lines dealing with actors such as UN-habitat, UNDP etc. The section within MFA handling post-CLEP recommendations – Global Initiatives – say there are no plans for the MFA to use CPRD. Furthermore, support from MFA to another network, the Academic Network on Legal Empowerment of the Poor, seems, again according to Global Initiatives, to be the preference regarding MFA funding on land rights.

During the interviews, other stakeholders have raised various alternative uses for a centre such as CPRD. Other avenues include redirecting its focus away from the 'de Soto-agenda', towards the formalisation of small-scale business property. Another is to build on their work on Global Land Tools to develop a toolkit for property formalisation that is easy to use for policy makers in developing countries. A third suggestion relates to Norad's initial interest in collective property rights, which also raises questions of formalisation and land titling.

However, if any of these avenues are to be pursued under the present institutional framework, Norad has to play a proactive role in bringing together different actors and define a constructive role and working relationship with CPRD. Alternatively, these strategies can be formulated without Norad support or coordination, possibly linking up directly with MFA or the Ministry of the Environment. In terms of

²⁰ See CLEP, 2006, 'Overview paper' and CLEP 2008, final report, June, UNDP.

specific suggestions from CPRD, they see a broad role for themselves in supporting Norwegian foreign aid in the domain of property rights, such as co-operation with UNEP and Slum Dwellers International, as mentioned. Furthermore, they also feel they have an important role in providing information services and other activities. Beyond these disparate ideas, however, the reviewers find that a specific future role, has not been strategically defined or presented by CPRD.

4 Conclusions

In conclusion, it is important to ask what added-value CPRD contributed to the field of property rights and development. In beginning to answer this question, based on the consultants' findings, we summarise some important contextual factors:

- CPRD has not had a full three years performance at full capacity: Norad has funded less than one man year for 2006 and 2007 and only 3 man months for 2008
- There has been limited co-ordination from Norad which has undoubtedly constrained the activities of the CPRD
- An important contributory factor in explaining this limited co-ordination may be a lack of clarity of specific roles – between CPRD and Norad, *as well as* between Norad and MFA – especially within the field of formalisation and rights associated with it
- CPRD has had only a very limited role in contributing to the broader Norwegian aid policy on development and poverty reduction
- CPRD is recognised by MFA as having played an important supportive role to MFA's involvement in CLEP and the CPRD clearly found a structured role in these activities.
- MFA –according to the section for Global Initiatives- is seeking to pursue post-CLEP work through country support and with preference to other entities other than CPRD to do this. This may change depending upon the political environment.
- Beyond disparate project proposals there appears to be little pro-active strategising from the CPRD concerning its future role as a Competence Centre

5 Recommendations

In light of these findings we feel that determining any future role for the CPRD should be contingent upon the following:

- Whether the co-ordination and commitment from Norad's side is likely to change.
- That this also depends upon clarifying Norad's role within formalisation and the different sets of rights they are interested in and competence they desire.
- Clarity required concerning the roles in this field of both Norad, MFA and Ministry of Environment.
- CPRD and NMCA also need to clarify the role and purpose of the CPRD's work and future direction.
- That this document form the basis for a start in a conversation between the key stakeholders, perhaps first internally within Norad, and then at a round table meeting.

Appendix 1:

List of interviewees

Helge Onsrud, Director; Elena Busch, Senior Advisor; Brede Gundersen, Chief Engineer. Norwegian Mapping and Cadastre Authority (NMCA), Oslo office, 29 October 2008.

Kari Strande, International Director, NMCA, 4 November 2008.

Morten Svelle, MFA (previously Norad), 7 November 2008.

Malcolm Langford, Norwegian Centre for Human Rights, University of Oslo, 9 November 2008.

Ørnulf Strøm, Norwegian Embassy in Tanzania, Dar-es-Salaam (previously Norad), 11 November 2008.

Mona Brøther, Ambassador, Caracas, Venezuela, 20 November 2008.

Eline Enge, ForUM (and previously Norwegian People's Aid), 25 November 2008.

Lajla Jakhelln, MFA, Section for Global Initiatives, 26 November 2008.

Marie Winsvold, Skanska (previously Norad), 28 November 2008.

Additional Respondent

Tor Arve Benjaminsen, NORAGRIC, email correspondance, 1 December, 2008.

Appendix 2:

CPRD's location in the NMCA organisation as per 2008

