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**LEARNING LESSONS FROM LAND REFORM IN AFRICA:
1 - EAST AFRICA**

by Robin Palmer, Land Policy Adviser (Africa), Oxfam GB

In a general context in which just about every government in Africa today is engaged in some form of land reform, I presented a paper, in bullet point form, on 'Learning Lessons from Land Reform in Africa' to a workshop on *Land Use and Villagisation in Rwanda* in Kigali in September 1999. ZERO has asked me to expand some of my bullet points; this is my attempt to do so. But first 3 general points.

- It is crucially important for governments to put in place a land policy framework within which laws and debates can be situated; Uganda and Rwanda have to date conspicuously failed to do this.
- The whole range of women's land issues requires particular and sensitive attention. Despite a great deal of lobbying in many places by women's groups, few tangible gains have yet been made.
- NGOs do need to be proactive, in my view, and not wait to be invited to the table by governments. The experience of the Uganda Land Alliance illustrates this well.

Lessons from Uganda

- *That NGOs can succeed in persuading governments (and donors) to change course.*
The Uganda Land Alliance, a coalition of NGOs, was successful in doing precisely that. It forced its way into what had been a closed debate and made the government listen to and take account of its concerns.
- *That timely and strategic support from a donor (in this case British DFID) can help to open up debates and promote consultation.*
DFID came to accept the justice of the Land Alliance's case and put its weight (and funding) behind opening up consultations at both national and local levels.
- *That governments should not pass laws (however good) which they don't have the capacity or resources to implement; that trying to create a whole set of new institutions is problematic; that new land laws need to be costed and budgeted for; that the implementation stage is crucial.*

The Uganda Land Act 1998, while in some respects a model of a 'people-friendly' law, arrived at after a relatively wide degree of consultation, is proving impossible to implement in its present form, partly because it involves the creation of a whole raft of new structures nationwide.

- *That having constitutional deadlines by which to pass land laws can concentrate the mind.*
The Uganda Government was obliged by the 1995 Constitution to pass a new land law by June 1998. This created a sense of urgency. MPs had to work overtime amid heated political debate, but the Act was passed on time.

- *That legislating between landlord and tenant is always difficult and controversial.*
Buganda in particular has a long history of landlord-tenant conflicts. The new Land Act in effect liberated the tenants, but, with the delay in implementation, the landlords are now fighting back.

- *That women's groups need to monitor parliamentary debates closely to avoid 'lost amendments' occurring.*

There are different theories about how the much-fought-for 'co-ownership by spouses' clause in the Bill came to be dropped at the last minute, with duplicity by politicians being the favoured one; the Land Alliance and women's groups are using the opportunity of revisions in the Bill to press strongly for its retention.

Lessons from Tanzania

- *That it can take almost a decade to move from a Presidential enquiry to new legislation.*
This is precisely what happened; the Presidential Land Commission began work in 1991; the Land Act and the Village Land Act were passed in 1999.

- *That it makes sense to have a National Land Policy before moving to legislation.*
Uganda lacked this, which made drafting a law more difficult; in Tanzania a National Land Policy was produced, not without controversy, in 1995. It was not available to the public until much later, but it did provide an important framework for drafters of the law.

- *That it is in their long term interest for governments to consult people widely on a National Land Policy.*

This was an issue which antagonised NGOs which came together in a National Land Forum. The Policy had been drawn up by bureaucrats and discussed only with a select few and that the whole process was cloaked in secrecy. As a result, many NGOs are now unwilling to engage in implementation of the Acts.

- *That NGOs often face a difficult dilemma of whether to engage with governments or to shout from the sidelines.*

NGOs within the National Land Forum have adopted different positions on this. This is in contrast to Uganda, where NGOs have always engaged with the government, however difficult and frustrating they have found it at times.

- *That the implementation stage is crucial; that a Ministry of Lands may find it much easier to draft an implementation strategy than to implement it.*

As in Uganda, implementation of the new laws is stalled, with the government lacking resources. It appears to have decided to pilot the new laws in some districts and to learn from the experience of doing so. This makes sense, but may create further legal difficulty in areas not piloted.

- *That there is a need to integrate government planning on land, rather than have a series of different (and sometimes conflicting) initiatives running concurrently.*

This was the firm conclusion reached by officials in the Ministry of Lands, reflecting back on their experiences in the 1990s.

- *That villagisation can bequeath a tangled, messy legal situation.*

This has particular relevance for Rwanda, where villagisation is government policy. Much of what happened in Tanzania in the 1970s was subsequently found to have been illegal and one of the imperatives for new land legislation was to address a position of huge legal confusion.

- *That there are dubious foreign investors anxious to get hold of land for tourism whose actions can often impact negatively on local communities.*

There is plenty of experience of this, especially with demands for game parks, lodges etc in pastoralist areas, for example among the Maasai.

- *That pastoralists very often get a bad deal.*

This is primarily because they lack political clout, are educationally disadvantaged, and their mobile way of life is poorly understood, or despised. Many have had their land taken by farmers. But they have begun to fight back and some of them at least have become tourist 'assets'.

Lessons from Kenya

- *That a peaceful, donor-funded transfer of land from whites to blacks is possible.*

This took place in Kenya in the years immediately before and after Independence in 1964. Some would argue that the lessons of this were not learned decades later in Zimbabwe and South Africa.

- *That there can be a pronounced tendency for many new black owners to become landlords rather than farmers.*

This has certainly been the Kenyan experience; 'week-end farmers' or 'telephone farmers' are two of the epithets used.

- *That after independence the sons of white farmers do not stay on the land.*

This is a valuable lesson for Zimbabwe and South Africa to learn; it alters many of the sums that politicians sometimes take so seriously.

- *That attempts to abolish 'indigenous' or 'customary' tenure and replace it by law with individual tenure may not succeed because indigenous tenure can be very resilient; that keeping title registers accurate and up to date has generally proved impossible; that registers always fail to reflect the complexity of land use.*

The well documented Kenyan experience has been invaluable in eventually persuading the World Bank and others to move away from prescribing individual title as the only solution to land reform all over Africa; a much more nuanced approach now prevails in official circles.

- *That 'land clashes' can occur when politicians play politics with land; that this can totally undermine the security of tenure which individual title was supposed to provide; that colonial history can come back to haunt you.*

Experiences in the Rift Valley since 1991 have been very sobering. People with title have been driven off land that was legally theirs. Loyalty to the ruling party has paid off for some, with exclusive 'KANU zones' being created. Divisions between 'insiders' and 'outsiders' (who settled in the Rift Valley during the colonial period and afterwards) have been deliberately exacerbated by politicians offering land for votes.

- *That land can play a key element in the politics of corruption.*

No study of Kenyan politics can ignore corruption; the Kenyan Government announced in November the formation of a Land Commission to clean things up; few are optimistic that this will happen.

- *That pastoralists nearly always get a bad deal.*

The same phenomenon is observable as in Tanzania, especially since tourism has been very big business in Kenya for many years.

- *That those who fought for 'land and freedom' from the British went unrewarded.*

This is a well noted feature of Kenyan politics; those loyal to Britain in colonial times ultimately won out. Mau Mau members have recently attempted to sue the British Government for human rights abuses, including 10,000 who had their land confiscated and half a million who were forced into protected villages.