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**RECENT EXPERIENCES OF CIVIL SOCIETY PARTICIPATION  
IN LAND POLICY PLANNING IN RWANDA AND MALAWI**

**by  
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*Background*

Social movements<sup>1</sup> do not exist in Africa. I think that can be stated with reasonable confidence and without recourse to a footnote. The well-known activities of groups such as the MST in Brazil simply have no counterpart in Africa, though struggles over land certainly do exist and indeed are increasing and intensifying as privatisation bites deeper.<sup>2</sup>

Civil society (a phrase much used and abused)<sup>3</sup> is a relatively new and inexperienced player on the land scene in Africa. This paper looks at two very recent examples of its involvement. In October and November I participated in large workshops called by the Ministries of Land in Rwanda and Malawi to discuss their new draft National Land Policies. This is part of a major trend of new land policy and law making sweeping across East and Southern Africa,<sup>4</sup> with the normal (and logical) practice being to lay down a policy framework initially and then follow it up with legislation.<sup>5</sup>

Part of my role, as Oxfam GB's Land Policy Adviser, is to give advice and support to civil society agencies supported by Oxfam which are engaged in lobbying for land policies and practices which favour poor, marginalised or vulnerable people. In simple terms, we try to help people under threat to either keep hold of their land or to gain access to land.

We also try to encourage governments to consult openly and widely on land issues with their own people. This government-civil society dialogue is something which, it must be said,

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<sup>1</sup> I was asked to write this paper at very short notice when one on social movements and agrarian reform in Latin America was withdrawn at the last minute.

<sup>2</sup> Many of these are documented on the Oxfam GB *Land Rights in Africa* website:

<http://www.oxfam.org.uk/resources/learning/landrights> See also my *Contested Lands in Eastern and Southern Africa: A Literature Survey* (Oxford: Oxfam UKI Working Paper, 1997), and 'Land Policy in Africa: Lessons from Recent Policy and Implementation Processes', in Camilla Toulmin and Julian Quan (Eds), *Evolving Land Rights, Policy and Tenure in Africa* (London: DFID, IIED, and NRI, 2000).

<sup>3</sup> Someone introduced himself to a colleague at the workshop in Rwanda: 'Hello, I'm John from civil society.'

<sup>4</sup> Before Rwanda and Malawi drafted their National Land Policies in 2000, this happened in 1999 in Zimbabwe, Namibia, Swaziland and Ghana; in 1998 in South Africa and Zambia; in 1995 in Tanzania and Mozambique. New land laws have been passed in 1999 (in Tanzania and Namibia), in 1998 (in Uganda), in 1997 (in South Africa and Mozambique), and in 1995 (in Zambia). During the 1990s various land commissions of enquiry sat in Kenya, Lesotho, Malawi, Mozambique, Zimbabwe and Tanzania.

<sup>5</sup> Rwanda was initially inclined to go for legislation first, but then changed course, on learning of the difficulties Uganda had got into by drawing up a comprehensive land law without first thinking through a policy.

donors engaged in supporting land reform also now insist on. As a result, a great deal of bogus consultation takes place. One of my main motives for attending the two workshops was to assess whether the two governments in question were serious – and to help civil society to seize an opportunity that might well not recur. This I believe is extremely important in land advocacy work.

Rwanda and Malawi are small, landlocked, very densely populated countries with among the most acute land problems in the whole of Africa. Both are desperately poor, hugely inequalitarian societies, very little urbanised, with few off-farm opportunities, with the escape valve of out-migration long turned off, and with the land itself increasingly degraded – and with land grabbing by the rich and powerful all too regular. Both have scarred histories – Rwanda by genocide and cyclical killings, Malawi by the highly oppressive 40-year dictatorship of Hastings Banda. Rwanda also has a centuries-old highly top-down tradition of governance, regardless of who is in power. Neither country could therefore be considered fertile ground for people to speak their minds openly; and my own first-hand impressions and experiences as both an aid worker and an academic<sup>6</sup> certainly bear this out. In what follows it needs to be stressed that civil society involvement has been somewhat stronger in other countries in Africa, such as Uganda and South Africa.

I was asked to present a paper for the Rwandan workshop on comparable experiences elsewhere;<sup>7</sup> the Ministry of Lands (MINITERE) seems genuinely keen to learn from the experiences of other countries engaged in similar processes. I drew heavily on the Malawian experience, which was one of a long series of enquiries dating back almost a decade, including a Presidential Commission of Inquiry. This was followed by a perceptible lack of enthusiasm from government to address what it knew to be a thorny issue. The history in Rwanda was significantly different and includes the policy of villagisation, hugely controversial everywhere,<sup>8</sup> designed initially as an response to an emergency, then crystallising into a policy which seems not to be open for discussion. Some attribute the widely acknowledged chronic under-production in the country to the uncertainty stemming from this policy. In both cases, the governments felt reasonably self-confident and secure; in Malawi it had just won an election (for a second time).

Trying to build as broad a consensus as possible through serious consultation on an issue that is invariably highly sensitive and politicised, is never easy. In Rwanda there are additional layers of complexity. Nigel Eltringham and Saskia Van Hoyweghen write strikingly: ‘We can safely say that, in Rwanda, there is no single historical event on which there is agreement as to its interpretation.’<sup>9</sup> In a country where history itself is so contested it will clearly not be easy to produce a land policy and a law which is inclusive – but to attempt to do this must be an essential part of the process of reconciliation (itself a problematic term).

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<sup>6</sup> I worked twice as an historian at the University of Malawi, from 1969-71 and again as Visiting Professor in 1983-4.

<sup>7</sup> Robin Palmer, ‘Some Land Policy Experiences from Elsewhere’, Ministère des Terres, de la Réinstallation et de la Protection de l’Environnement, Séminaire sur la Politique Nationale Foncière au Rwanda, Hôtel Windsor Umubano a Kigali, du 2 au 3 Novembre 2000.

<sup>8</sup> Oxfam commissioned a report by Christy Lorgen on *The Experience of Villagisation: Lessons from Ethiopia, Mozambique, and Tanzania* (1999). She encountered very strong reactions from practitioners who had been involved in those processes.

<sup>9</sup> Nigel Eltringham & Saskia Van Hoyweghen, ‘Power & Identity in Post-Genocide Rwanda’, in Rudi Doom (Ed), *The Politics of Identity and Economics of Conflict in the Great Lakes Region* (Brussels: VUB University Press, 1999).

### *Civil society prior to the workshops*

There is an interesting contrast in what preceded the two workshops. In Malawi, the Oxfam office somehow managed to obtain an electronic version of the first draft of the Policy. This proved extremely useful, for I was able to produce a detailed critique and to circulate it rapidly for other acknowledged 'experts' to do the same. I also had time to cut and paste sections of the Policy that I thought civil society groups might find it useful to focus on. I quote a few examples to give a flavour of this:

4.4 Care must be taken to ensure equitable access and distribution of the economic and social benefits to all citizens.

5.2 b) The objectives of this policy are to ensure accountability and transparency in the administration of land matters, and to ensure that existing rights in land, especially customary rights of the small holders are recognised, clarified, and ultimately secured in law.

7.2.6 Improve the quality of title in customary land tenure [and] place its administrative integrity on a firm, transparent and equitable foundation.

9.6.1 A discussion of what balance is needed between efficiency and equity in the functioning of a land market is desirable.

I was told that the various documents we produced were circulated widely in Malawi. This meant that those NGO and church leaders who came to the workshop were well prepared and forearmed to raise issues of concern. It also enabled a rather grandly named Civil Society Land Reform Task Force<sup>10</sup> to meet immediately before the workshop and to draft some *Initial Comments* which were distributed to workshop participants on the first morning.

These stressed the crucial importance of popularisation, civic education and keeping the public informed through translation, radio and theatre - and the key role civil society could play in this. The issue of lack of gender awareness was raised, as was that of possible distress sales in the wake of encouraging an open market in land. Was it compatible to proclaim as objectives both granting secure tenure and equitable access to land to all Malawian citizens *and* encouraging foreign investment in land? Civil society rejected the approach in the Policy of 'letting the sleeping dogs lie' - the dogs being the 'essentially fraudulent' concessions made by chiefs to British colonialists at the end of the 19<sup>th</sup> century.<sup>11</sup> It was also felt (with echoes of Zimbabwe) that 'as the ex-colonial power, Britain has a specific role in assisting Malawi in this process and this should be explicit in the Policy.'

In Rwanda, by contrast, nothing remotely like this occurred, partly because the drafting was less complete. The dates for the workshop, which had kept slipping, were finally fixed, and a preliminary draft of the Policy (in French) was given a very limited circulation in Kigali, the

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<sup>10</sup> Comprising the Catholic Commission for Justice and Peace (CCJP), The Co-ordination Unit for the Rehabilitation of the Environment (CURE), Malawi Institute of Democratic and Economic Affairs (MIDEA), Catholic Development Commission in Malawi (CADECOM), Oxfam GB, Malawi CARER, Christian Services Committee (CSC), Wildlife Society of Malawi (WSM), CONGOMA, Churches Action for Relief and Development (CARD) and the Adventist Development and Relief Agency (ADRA).

<sup>11</sup> 'As Civil Society we feel that the dogs should not necessarily be left asleep, but that each case should be taken on its merits and an social, economic and environmental analysis made on the issue of redistribution.'

capital. But I had not seen it prior to my arrival and - for the vast majority of workshop participants - their first sighting of the Policy was when they registered on the day. Even then, English speakers were given just a 7-page *Main Outstanding Points* document, with only French speakers receiving the full Policy. This was a clear case of linguistic discrimination! So there was obviously no opportunity for civil society to articulate its position in advance.

### *In the workshops*

Both workshops were well attended and to a degree representative. There were about 250 in Malawi (ensconced in the last of many hideous palaces the late dictator Banda bequeathed to his people), about 150 in a more modest hotel in Rwanda. In both cases national and local government, MPs, the private sector, academics, NGOs, churches and the media were well represented; donors were perhaps under-represented. Women were certainly chronically under-represented in both cases, while the Malawian audience was notably more elderly than the Rwandan one.

In Malawi, everyone was given a copy of the Policy and we divided into 4 groups (land tenure and administration; demarcation, titling and registration; land use planning and environmental management; acquisition, disposition and resettlement) and went through different sections of the Policy clause by clause. In Rwanda, we discussed only the brief *Outstanding Points/Principaux Points Saillants* distributed by the Ministry. These were useful and helpful, but not a real substitute for the full Policy (which few had read).

It is not really appropriate or relevant to go into more detail here; these can be found elsewhere.<sup>12</sup>

### *Civil society after the workshops*

There was an interesting contrast between the two countries after the workshop, as well as before it. In Malawi, where NGOs hoped there would be more opportunity to debate the Policy further – the Permanent Secretary had even alluded to the possibility of another workshop – this is almost certainly not going to happen. My Oxfam colleagues met with a key official in the Ministry a month after the workshop. He was adamant that there was no time for further discussion, and that what people wanted was action and a solution. He said he hoped to finalise the document by the end of November, at which point it would go to a Cabinet committee. After that it would become a policy and could then go for legal drafting. The Government's aim remained to put a new land law in place by the end of 2001. He said there might be some scope for civil society input during this drafting period, otherwise he saw it as being principally involved in civic education and dissemination, in some of the pilot implementation projects, and in the formation of committees at the community level. He was quite open in saying that very few changes have been made to the document following the workshop.

Rwanda was different. Civil society had approached the workshop with some trepidation, not least because of a very difficult workshop the previous year, which Oxfam and the local NGO RISD (Rwanda Initiative for Sustainable Development) had organised on *Land Use and Villagisation*. The earlier workshop had been characterised by a good deal of mistrust and

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<sup>12</sup> On the Oxfam GB *Land Rights in Africa* website: <http://www.oxfam.org.uk/resources/learning/landrights>

suspicion, especially on the government side, and a reluctance to confront issues openly. But part of its function – and we were very clear about that - had been precisely to try to create some space in which land issues, always highly sensitive but especially so in the Rwandan case, could be discussed. As an Oxfam colleague observed, the very notably greater openness of the *National Land Policy* workshop represented in itself a very positive evaluation of the earlier one. MINITERE was clearly now serious about the whole land question and very open about consulting and listening to what people had to say. In response, participants opened up to a quite remarkable degree in the context and a number of highly sensitive issues, such as land grabbing by the rich and the land rights of the 1959 refugees, were discussed. For Rwanda this workshop might well have marked, I felt, an important turning point.

I met with MINITERE officials after the workshop. They did appear to be genuinely committed to listening and learning, and it will obviously be very important for civil society to encourage this. They are also hoping to take this workshop closer to the grassroots. They want to run similar consultative workshops in all the préfectures in the country because (they say) they recognised – as Kigali-based ‘outsiders’ largely ignorant of rural realities - that they needed to learn more from the préfectures, which better reflect people’s views. (There is also a possibility that MINITERE might make use of consultation processes already planned within the PRSP process over the next year). In this context it would also be appropriate to make full use of the resources of the newly formed pressure group LandNet Rwanda. This is a group comprising a mix of local, but predominantly international NGOS (which have played a key role after the genocide), and with some representation from MINITERE. It is currently reviewing its strategy. It may, just possibly and somewhat surprisingly, have more cause for optimism than the Malawian Civil Society Land Reform Task Force.

#### *The role of the International NGOs*

A concluding brief word about the role of the International NGOs (INGOs) in such processes. Are they being too interventionist? I am aware that many people here may well consider the events described above as very small beer indeed – certainly in comparison to people taking to the streets in Manila or Harare! But we are talking of very new, very fragile and vulnerable local NGOs, inexperienced in advocacy work. In such contexts, INGOs can – and in my judgement should – play a critical series of roles – lobbying governments to listen to civil society and to learn from other experiences, lobbying donors to do likewise, bringing relevant and useful experience from elsewhere to bear, making information (a key issue everywhere) as freely available as possible, making critical interventions to support and strengthen the work of local NGOs, and – with appropriate sensitivity and humility – bringing their influence and reputation to bear in what are all too often defensive battles in support of poor people’s land rights. It is very important to seize and seek to exploit critical moments; the luxury of waiting is too expensive. I believe South African may now be learning this lesson, painfully.