

**REPORT ON DFID WORKSHOP ON LAND TENURE,
POVERTY AND SUSTAINABLE DEVELOPMENT
IN SUB-SAHARAN AFRICA**

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Part I: INTRODUCTION

As many who will read this report may know, I have been involved in the planning of this DFID-sponsored workshop on land tenure etc. from the outset. A great deal of **serious careful planning** about the structure and scope of the workshop went on over a period of 9 months or so - and that careful work eventually bore fruit.

Some 75 delegates from governments, NGOs, and research institutions and universities from **all over Africa** attended, including Lusophone and Francophone countries, together with donors - DFID, the World Bank, the Wisconsin Land Tenure Center, FAO, GTZ, USAID, the EU (DGVIII), and Dutch and French Foreign Affairs.

A deliberate attempt was made to **provide a forum in which African voices could be heard**. The intention was to bring together a variety of key actors in land debates and struggles on relatively neutral territory so that they could share their experiences, their learning, and examples of best practice as well as looking towards possible solutions. Chatham House rules applied, so that delegates could feel free to speak freely - and from the sessions I attended this certainly appeared to work.

There was a good mix of plenary, small groups and very small groups to discuss different aspects of the **7 key themes, which are listed in Part III**. Some excellent papers were given, but speakers were confined to 10 or 15 minutes to emphasise that it was **a workshop rather than a conference**. This resulted in an important sharing of experience; the evaluations were very positive about this, although inevitably people wanted more time. As one minister said, it was very good to know that we are all in the same boat.

It was very clear that many countries were involved in **very long processes** - it had taken almost a decade, for example, between the appointment of a Presidential Land Commission in Tanzania under Issa Shvji and the eventual passing, in the week before the workshop, of the Land Act and the Village Land Act, 1999.

A number of countries have now arrived at the **key stage of implementing legislation** - Tanzania, Uganda and Mozambique, for example. In the past Oxfam has been involved in the struggle of land alliances pushing governments to consult more widely and to adopt laws and policies which took account of the needs and concerns of the poor and vulnerable. I believe strongly that **Oxfam needs to engage seriously in the new stage of implementation, for the struggle is only just beginning!**

There will be an official report on the workshop, which I shall circulate when available. In the meantime this report will comprise the **key points** that arose as they occurred to me from the sessions I was able to attend (a number ran concurrently) and the papers I have so far read; **the agenda** of the workshop; a list of the **papers** given; and finally the **addresses** of delegates.

On **papers**, I already have some of these in electronic versions and hope to have all eventually, and I know that DFID is contemplating posting them all on a website. I will do my best to distribute them appropriately, but please ask for papers you want.

Follow up activities

The steering group and DFID Natural Resources Advisers in Africa will be planning a series of **follow up activities**, for it was always intended that **the workshop would not be a one off event**. The steering group, on which I sit, reconvenes on 15 March and Michael Scott, Head of DFID's Natural Resources Policy and Advisory Department, has already written to participants to canvass their views about possible follow up activities. Among the ideas he proposed were:

- How best to facilitate the establishment of **an active, African-based network on land and natural resource tenure**.
- In considering further the case for and against a land tenure network, DFID is contemplating financing **a review of relevant existing regional networks** and how to build on them through specific, Africa-wide networking activities and would welcome the active involvement of workshop participants in this.
- How to support national efforts in policy development and implementation through **collaborative research, monitoring and evaluation** to assess improvements in land and resource access, impacts on poverty, and to better understand effective approaches.
- How DFID's bilateral programmes can promote continued **country to country contacts, exchanges, and training and capacity building**.
- How to **further donor collaboration**.

Michael Scott finally asked delegates to discuss practical follow up with colleagues and make specific suggestions on the concept of a land tenure network or of other practical activities to take forward the workshop's conclusions.

Part II: KEY POINTS

CONSULTATION

- The process of consultation and legislation often takes a decade or more, as in Tanzania and Uganda.
- But consultation is crucial.
- It is also very costly!
- There has been very great diversity in the extent of consultation in different African countries.
- You not only need to consult but also be *seen* to consult (Malawi).
- People will always complain that the consultation was inadequate!
- There has been tremendous suspicion of commissions in some cases (Kenya, Malawi).
- There are greatly varying perceptions of the legitimacy of traditional authorities, varying from outright rejection in parts of South Africa to the acknowledged land chiefs of West Africa.

PROCESS

- There is need for pragmatic, gradualist, flexible, workable approaches.
- There is also a need for transparency and legitimacy.
- 'If it ain't broke, don't fix it' - i.e. it's better to use existing structures where possible rather than create new ones. (In South Africa new institutions are clashing with old).
- The use of pilot land reform projects (South Africa and soon possibly Zimbabwe) was seen as helpful.
- You need to think through the implementation stage - and have a plan - before embarking on legislation. (Uganda failed to do this).
- Badly implemented land reforms created great confusion in the 1970s. There is a need to avoid this in this second generation of African land laws (John Bruce).
- South Africa's Land Rights Bill will be the 5th major land law since 1994; the people involved are now exhausted; they can't implement the laws already passed; they are learning to become more pragmatic.
- Implementing participation is very difficult and provokes contestation.
- There is a general process everywhere towards individualisation of land rights.
- There is a slow but definite process of land privatisation in West Africa, often led by urban dwellers moving into rural areas looking for investment opportunities.

LEGISLATION

- There is a need for more user-friendly land laws written in more intelligible language.
- Land laws should be translated into local languages.
- Land laws should be reviewed periodically.

DECENTRALISATION

- There is a growing consensus that decentralisation and subsidiarity are the best approaches to land management, with state intervention best kept to a minimum.
- Decentralisation costs money!

- Decentralisation as a process is now underway in many West African countries and will have major implications for how access to land and resources is handled.

TENURE

- There is no ideal tenure system; it will vary according to the agrarian experience and the social and political environment of each country.
- Tenure relationships are characterised by their great diversity, which makes general prescriptions very difficult.
- Tenure systems need to be broadly acceptable to the people and community-based.
- Customary land tenure is very often perceived as being inferior to modern systems.
- The reality of multiple and overlapping rights to land does not sit easily within modern systems of tenure.
- Group ownership schemes can be viable in some circumstances. But defining a group may be problematic (South Africa).
- National land policies or basic land laws may be essential as a framework, but it is important for governments to recognise a diversity of tenures where appropriate, (e.g. in Uganda, where this was successfully pushed for by NGOs).
- There may also be a need for sectoral laws, e.g. for pastoralists.
- Land taxes have never been successful; people simply sub-divide the land and pass it on to their children.
- There is a wide variety of institutional arrangements by which people are able to access resources (e.g. loans, tenancy, sharecropping, gifts, pledging) which is often very significant for weaker social groups.
- In West Africa, conflicts around tenure and access to resources are likely to become increasingly critical, raising the risks of destabilisation in the region.

TITLING

- Individual titling as the blanket magic solution to Africa's land problems is now totally discredited.
- Titling is not cost-effective in most of sub-Saharan Africa.
- Titling is only appropriate in certain circumstances.
- Titling in the past has generally benefited the well-connected.
- Titling and registration systems in many cases give greater security to household heads but weaken the rights of other family members, particularly women, and other secondary users, such as visiting pastoralists (West Africa).

SOUTHERN AFRICA: RACE

- In Southern Africa the central issue, dominating all else, is the re-possession of former white-owned land, so tenure reform in the communal areas has been neglected.

DONORS

- Donors need to cooperate better so that African governments are not pulled in different directions.

- Donors need to strike a balance between enabling groups in civil society to make their voices heard and not making life even more difficult for African governments.
- Sustained donor support for all stages from policy development to implementation and impact evaluation is likely to be increasingly important in future.
- But African governments and NGOs are dangerously donor-dependent.

WORLD BANK

- The World Bank's policy on land *has* changed! (Shem Migot-Adholla had a slide telling us so. He is tasked with writing a new Bank policy, but admitted it would take time to push it through the relevant channels and felt anything controversial would be cut out and a bland policy eventually emerge).

CORRUPTION

- Land officials everywhere were thought to be the most corrupt of all government officials! (See recent Kenyan newspaper stories).

THE FUTURE

- To remain secure, rights to land have to be *defended* from encroachments and violations.
- There is a need to strengthen local capacities for management, information and dispute settlement.
- People who are resettled generally need a lot of support.
- The Botswana Land Boards were frequently held up as a model.
- It is good to have systems in which people are free to leave the land, do other things, and be able to return to the land later. (In Ethiopia people are unable to leave for fear of losing their access to land).
- CPRs (common property resources) are very important for the rural poor.