

LANDNET RWANDA CHAPTER

REPORT OF A WORKSHOP ON MAINSTREAMING GRASSROOTS CONSULTATIONS INTO THE NATIONAL LAND POLICY AND PRSP

Novotel Umubano, Kigali
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OBJECTIVES

1. To present and discuss the outcomes and findings of LandNet's grassroots consultation on land issues in Rwanda
2. To share and discuss experiences and insights on mainstreaming land, poverty and environmental issues into the National Land Policy and PRSP
3. To get updates and latest developments on the Land Policy and Land Bill
4. To draft collaborative recommendations for inclusion in the National Land Policy and PRSP

PROGRAMME

DAY 1	
Welcome message	Annie Kairaba, Coordinator, LandNet Rwanda Chapter
Official opening	Hon. Laurent Nkusi, Minister, MINITERE
Introduction to LandNet	Annie Kairaba
LandNet Grassroots Consultation on Land Issues	John Muyenzi, RISD Peter Brinn, LandNet consultant
Population et utilisation des terres (People and land use)	MP Juvenal Nkusi, CCOAIB
Land, people and the environment in Rwanda	Charles Gahire, REASON
Land and poverty in Rwanda (paper tabled but not presented)	Herman Musahara, NUR
Land and poverty issues in Rwanda	Brookings process
Actualite sur la Politique Nationale Fonciere et la Loi Fonciere (Update on the National Land Policy and the land law)	Eugene Rurangwa, Director of Lands, MINITERE
A review for LandNet Rwanda of the draft National Land Policy – and beyond	Robin Palmer, LandNet consultant
DAY 2	
Discussion of LandNet community consultation results	
Group discussions: Land rights; land redistribution; decentralisation; the role of civil society	
Presentation of group outputs	
Recommendations and synthesis	
Closing	Representative of Hon. Donald Kaberuka, Minister, Ministry of Finance and Economic Planning

WELCOME MESSAGE

Annie Kairaba, Coordinator of LandNet Rwanda, welcomed the Minister of Lands, Resettlement and Environmental Protection (MINITERE) by reminding him that when the National Land Policy was first discussed in a workshop a year ago, he had asked LandNet Rwanda to conduct a grassroots consultation, and this workshop was aimed at presenting the findings from those consultations. LandNet had been involved in consulting with community members from Gitarama, Kibungo, Umutara, Butare and Cyangugu for the last few months, and saw this as just the beginning of involving the Rwandan population into the two processes of the Land Policy and the PRSP. The basis of selecting these prefectures was simply that this was where LandNet members who were available to carry out the consultation were already working. LandNet did not consult on the basis of the Land Policy draft, because it wanted to allow communities to have an open mind while generating what they saw as the main land issues. Mainstreaming land into the PRSP was critical because land was so linked to poverty that one could not talk about Poverty Reduction Strategies without mentioning land. LandNet was aware that at present the PRSP did not address land adequately, but it was only a framework allowing different actors to come up with specific strategies. She stressed that were it not for the existing good partnership between LandNet and MINITERE, it would not have been possible to carry out such successful grassroots consultations or to hold this workshop. She thanked DFID for providing material and technical support and stressed that LandNet was a voluntary network which had organised this workshop and the consultation with the resources of its own members.

OFFICIAL OPENING

The Minister of Lands, Hon. Laurent Nkusi, thanked LandNet for organising the workshop, referred back to last year's workshop on the National Land Policy, said that MINITERE had attempted to incorporate the recommendations made there, and at a later workshop on women and land, into the revised draft of the Policy, which had now been submitted to the Prime Minister's office. But he stressed that the ideas generated at this workshop would not miss the boat and hoped they would also help in the implementation of the PRSP. The draft bill on human settlements also had direct links with land. He concluded by stressing that the Government wanted to involve civil society in such areas. He then formally opened the workshop.

HOPES AND FEARS

Participants were then encouraged to express their hopes and fears for the workshop.

HOPES

- That there would be sincere, true discussions
- That the workshop would bear fruit and tangible outcomes
- Gender dimensions would not be neglected
- Increased membership in LandNet (especially local Rwandan NGOs)
- Clear ideas on realistic land use policies
- Measures for rational land use for food security and production
- Comparison and analysis of the grassroots consultation
- Incorporation of respect for property rights

FEARS

- That the broader consultation process was not genuine
- Not identify the views of land holders, and focus only on policies
- Ignore cultural and social sensitivity
- Fail to address sustainable use of land
- Afraid to honestly express fears, hopes and opinions
- That Rwandan civil society would not take an active, dynamic part in the process
- Lack of means to implement – not reaching objectives in reality, only on paper

INTRODUCTION TO LANDNET

The Coordinator of LandNet Rwanda, Annie Kairaba, gave a short presentation on its background. In February 1999, DFID had organised a workshop on *Land Rights and Sustainable Development in sub-Saharan Africa* at Sunningdale, near London. This involved policy makers and civil society leaders from many African countries, though not from Rwanda. Participants recommended the need to establish regional frameworks in Africa to facilitate the exchange of ideas, experience, expertise and other resources among African countries in the process of land policy development. LandNet Africa was a response to this need and was formally launched at a second workshop in Addis Ababa, Ethiopia, in January 2000, at which Rwanda was represented by MINITERE (the Secretary-General and the Director of Lands). It felt there was a need to create sub-regional components of the network, in East, West, Southern Africa and the Horn. In August 2000, the first East African regional workshop was held, embracing Rwanda, Kenya, Uganda, and Tanzania. In September 2000, the LandNet Rwanda Chapter was officially launched.

The main objective of LandNet Africa-wide is to bring together governments, civil society and donors as partners in addressing land issues in ways that promote poverty eradication and sustainable development. LandNet seeks to contribute to the creation of an enabling environment by, among other things, advocating for pro-poor land policies and laws and seeking to empower community groups to engage in processes which have a bearing on livelihood opportunities. Its members, in East Africa and elsewhere, seek to work together and so avoid duplication and competition. LandNet Rwanda's counterparts in East Africa are the Uganda Land Alliance, the Tanzania Gender Land Task Force, and the Kenya Land Alliance. LandNet East Africa is now being registered and has a constitution. This might also happen at national levels; they were wondering whether LandNet should become the Rwanda Land Alliance. She concluded by saying that LandNet was coordinated by RISD (Rwanda Initiative for Sustainable Development) and she encouraged local organisations to join, as it could only grow stronger if more Rwandan NGOs participated actively.

Discussion:

There had been good and close collaboration between civil society and MINITERE in the past, government recognised the value of civil society, and people from government were members of LandNet. In Uganda, there had been really close collaboration, and government trusted the capacity of the Uganda Land Alliance. LandNet Rwanda was a forum open to any organisation interested in discussing land issues. Its members worked on a voluntary basis.

PRESENTATIONS

1. LandNet Grassroots Consultation on Land Issues, by John Muyenzi, RISD, and Peter Brinn, LandNet consultant

The grassroots consultation was introduced by the speakers in the form of a series of slides; a paper summarising the results of the consultation was also distributed; and there was further discussion on the second morning of the workshop. The paper gave details of each separate consultation, with the key issues highlighted. The final report on the consultation including the methodology and an analysis will be presented as a separate document. The slides at the workshop comprised:

Rationale

- A contribution to the development of an equitable and sustainable Land Policy
- LandNet members' partner communities were concerned about land issues
- An opportunity to obtain a 'snap-shot' on land issues from partner communities
- Not a formal survey

Methods

- Collaborators: LWF, SNV, IRC, RISD, Concern, RWARRI, CLADHO
- Provinces: Umutara, Cyangugu, Gitarama, Kibungo, Butare
- Used participatory methods
- Developed common guidelines
- Training on how to use the guidelines
- Different teams worked in each Province
- Land issues discussed, not the Land Policy
- Each community characterised
- Communities asked to identify key land issues
- Then to prioritise them, justify their prioritisation, and suggest solutions
- Reports were written

Results

- Information from 14 consultations
- Approximately 900 people
- 30% female, 70% male
- Different community profiles
- Priority issues ranked highest, high, intermediary

Issues and Policy links

- 50 issues raised in the consultation
- 19 Land Policy statements with strategic options
- Issues were consistent with 7 Policy statements
- Some issues raised were outside the scope of the Policy
- Some Policy statements not raised in the consultation
- Some issues were in conflict with the Land Policy

Policy statements covered:

- Land tenure
- Land administration

- Cadastral matters
- Land market
- Reorganisation of rural areas
- Demarcation of agricultural areas
- Use and management of agricultural uplands

Common issues, different perspectives and expectations?

- Land rights
- Land redistribution

Conclusions

- Limitations of the methodology (opportunistic)
- Provided lessons for future consultations
- Generally good convergence between issues and Policy
- Independent confirmation of some aspects of the Policy
- Indicates direction of priorities for implementation

Discussion:

The consultation revealed that people could be evicted from land without compensation, even after making improvements. People felt they needed land rights, including for returnees. It was difficult to improve land or use it for security if you were not the owner. Government should have the responsibility to see that land was used well, and to repossess it if it was not used properly. The dominant concern was land rights, then shortage, redistribution, the landless, and poor management. It was stated that there was a law allowing for compensation when land was taken, but it was not enforced. There was an apparent contradiction in that people seemed to want compensation, but also security. Some wondered whether the old caseload issue should be settled before the new land law was passed. There were concerns over fragmentation of land. In response to a question, Peter Brinn said that people were not afraid, they had mentioned redistribution of church land, that some people had acquired land illegally etc. The report represents exactly what people stated during the consultation.

2. *Population et utilisation des terres (People and land use)*, by MP Juvenal Nkusi, CCOAIB

The speaker mentioned recent research carried out by CCOAIB, representing 23 development NGOs, which had just been published and would be translated into Kinyarwanda. He mentioned the important cultural role of land, the high levels of contestation, and the fact that all the crises of the past 50 years contained a land component. There were frequent illegal transfers of land and conflicts between individual and communal needs, especially over terraces. The new inheritance law made it possible for women to inherit resources, but in practice they were often given the worst land. The need to modernise agriculture was constrained by traditional ownership. Grouped settlement could help production (he had argued for this back in 1986). There was a need to find ways of managing sub-division and adopting new approaches, including public private partnerships.

Discussion:

Existing laws and rules were insufficiently enforced. How can we get people to change their attitudes so as to use land as a tool against poverty? Need for recognition of land rights of those who went into exile. Need to sensitise and encourage, rather than force, people into villages. Need to show people the real benefits of change.

3. *Land, people and the environment in Rwanda*, by Charles Gahire, REASON

The paper noted the need to adopt an institutional framework in addressing issues of land, population and the environment, as each issue should not be handled in isolation. It was argued that environmental education and public awareness needed to be put at the forefront of Rwanda's macro and micro economic planning and communication on this was needed at all levels.

4. *Land and poverty in Rwanda*, by Herman Musahara, NUR

Mr Musahara was unable to attend the workshop owing to a family bereavement, but his paper was tabled. It comprised a conceptual framework on land and poverty and a section on land attributes and the seeds of poverty in Rwanda. He cited a recent Poverty Reduction survey carried out by researchers from the National University of Rwanda and tabulated some of the land related problems they reported. These included small plots, weak links with markets, expensive fertilisers, lack of services in the imidugudu, lack of property rights, lack of credit, erosion. His paper argued that:

Land policies are very fragile when mechanistically determined by planning technocrats and administered from the top. Land policy should involve a process that involves the people, to decide on ownership and security of tenure and also to participate in arbitration of land related disputes. LandNet could continue to provide a platform from which informed dialogue can take place. Otherwise like in other countries, government may take a wait and see attitude when land is being grabbed.

5. *Land and poverty issues in Rwanda*, by the Brookings process

The Brookings representative did not produce a paper, nor stay for any other session of the workshop, but he did invite all participants to a workshop on 3 December at which the findings of the Brookings research would be tabled. They had produced a short *Issues* paper in March and were hoping to draw post-conflict lessons from Rwanda for application elsewhere, with a focus on human settlement and land.

6. *Actualite sur la Politique Nationale Fonciere et la Loi Fonciere (Update on the National Land Policy and the land law)*, by Eugene Rurangwa, Director of Lands, MINITERE

The MINITERE paper briefly covered why a land policy and law were needed and said that both were now before the office of the Prime Minister and other Cabinet ministries. The draft Policy of last year had been enriched by taking more account of the concerns of women, pastoralists and orphans as well as the deliberations of last year's workshop. In his presentation, the Director stressed the need for a coherent, harmonising Policy. The implementation of the Policy would not be for MINITERE

alone, but would need multi-sectoral cooperation. He hoped the Policy would be debated in Cabinet before the end of December. From comments made there, they would receive guidelines about what to do next. When developing their Policy, they had sought to learn from the experiences of neighbouring countries. Some articles had been added to the bill on penalties, at the request of the Minister of State. They needed a legal consultant to help them draft these. The land bill will become a framework law on which other laws would be built. The Policy and the law would be submitted to the whole population, as in the cases of Gacaca and the Constitution. There would be a gradual process, putting together ideas from all Rwandans.

Discussion:

There had been evasion of responsibility in the past. A Policy needed political will, then discussion with beneficiaries. Once this was in place, you sought to mobilise resources. Fears of disturbing customs were unfounded. MINITERE had done consultations, received observations from farmers' organisations etc. They wanted modern laws and an end to duality. They needed proper management of land, rather than the current haphazard situation. All contributions were welcome. The Director was asked how they would solve the problems of those who were dissatisfied by the new land law. Land courts at the district level would sort some things out. The absence of maps had hindered implementation, but it was hoped to develop these next year. They had thought about the old caseload issue, but Rwanda has gone through abnormal circumstances, which could not be forgotten, but he agreed that the old caseload must enjoy basic rights.

7. A review for LandNet Rwanda of the draft National Land Policy – and beyond,
by Robin Palmer, LandNet consultant

The speaker began by noting they he had attended both last year's workshop on the National Land Policy and the 1999 RISD workshop on land use and villagisation, and it was clear to him that there had been progress in that Rwandans were feeling steadily more comfortable and confident to discuss these contentious issues openly and honestly. In his work, he always sought to encourage governments and civil society to engage with each other over land issues in order to produce more viable and inclusive policies and laws. But there would always remain areas of difference. Governments would always be governments and civil society needed to struggle to make space for itself to get its views heard. There was no time to go through his paper in detail, but he noted that it included a summary of the Policy for LandNet by Lisa Jones of UNHCR; comments on it by a number of writers; and the section from the PRSP on land and settlement. He thought that, with the Policy now with Cabinet, it might be too late for further serious civil society engagement, and that LandNet might be best advised to focus on implementation of the new law, and perhaps become involved in the gradual piloting of it, which now seemed to be MINITERE's intention. There were useful NGO experiences to be learned from South Africa in this area. Rwanda might learn from the fact that both Uganda and Tanzania had both passed land laws which they lacked the capacity or resources to implement. It would be useful to seek to share experiences with Malawi, which was undergoing a similar process of finalising a land policy and law. It was also important for Rwanda to recognise and tolerate the great regional diversity within the country.

GROUP WORK

GROUP I: LAND RIGHTS

1: Problems

- Problem of defining land rights (are they different from property rights?)
- Should state rights over land override individual rights?
- Problem of defining the limits of land rights e.g.
 - (i) should one use land as a guarantee or security?
 - (ii) can the state expropriate land, and how can expropriation take place?
- Lack of equality of land rights, e.g. gender inequality on land ownership

2: Causes

- The absence of laws defining land rights
- Dualism in the present laws governing land (i.e. written and customary)

3: Strategies and possible solutions

- Putting in place the possibility of consultation and a research process to enhance popular participation in the making of the land law and Policy, as is done in the Constitution making and Gacaca processes
- Mechanisms of implementing the law on land should be put in place so that no one infringes the land rights, e.g. empowering the land commissions
- Empowering civil society so that it can have the means of educating the people on their land rights, as provided by the proposed land law
- Making a uniform written land law to avoid dualism in the land law (i.e. written and customary)

4: Conclusion

- The group emphasised a rights based approach to land issues
- People should have a right to land, and government has a duty to facilitate access to it
- This will inevitably move the role of law as a tool of sustainable land management to a central position

5: Discussion:

- The right to land affects everyone, but not everyone can have land
- There is much inequality
- People are reluctant to develop their land
- There is need to improve the law
- Civil society should be involved in planning and implementing the new law

GROUP II: LAND REDISTRIBUTION

1: History

There has been redistribution of land throughout Rwandan history. In the pre-colonial period all property, including land, belonged to the king. There were then 3 types of chief - for farming land, for pastures, and for defence. The king would give authority to those chiefs, who could distribute it to families, which gave land to children. The king also gave land to the churches. During the reign of Mutara III Rudahigwa, there was a general distribution of land. Whoever worked for a landholder was either paid or given land. Colonialism introduced protected areas such as national parks, rivers and lakes. After independence, the paysannat system was introduced in some areas, aimed at promoting the cultivation of particular crops, such as coffee, and to alleviate problems of overpopulation by moving people to less populated areas. Land was distributed following agreements made between the state and new settlers. Each settler was given 2ha, which was not supposed to be sub-divided. Some land was also appropriated by the state, e.g. for ISAR. After the Genocide, land has been distributed both by the Government and by the people themselves.

2: Problems

- Inequitable distribution - some have large areas of land, others small areas, and some are landless
- Some have had their land expropriated
- People who came back from exile expect land, as do those who are still outside
- The imidugudu also require land nearby

3: Causes

- The leadership does not plan ahead when distributing land
- Culture and customs such as sub-division among family members which is inequitable and discriminatory, e.g. girls don't get any share
- People don't control the number of children they have
- Lack of proper technology for using land reduces productivity and means that fewer people benefit
- Lack of laws about land use

4: Solutions and strategies

- Survey of all unused or under-utilised land
- People should be made aware that they can take up land anywhere in the country where there is space
- Government should have long term plans for land distribution and use
- There should be an emphasis on training people to appreciate the value of land and to use it in ways that can reduce poverty
- Raise awareness that people should work together to ensure greater productivity
- Sensitise people that they should not always depend on land, but look for non-agricultural activities to help ensure a better livelihood

5: Discussion:

There are laws on under utilisation of land, but they are not enforced. People with large holdings should share. There are different categories of landless people. Land is of cultural importance, even to civil servants, teachers etc. There is a need to reorganise and resettle people, and to listen to people.

GROUP III: DECENTRALISATION

1: Approach

What does decentralisation mean?

- Taking leadership closer to the people and giving them the resources to implement policies
- A way of enabling communities to solve their own problems, especially those dealing with land
- Grassroots leadership should be helped to identify ways of resolving problems

2: Problems

As far as land issues are concerned, no decentralisation has yet occurred. Only MINITERE can take decisions at present. This causes a lot of difficulties as far as land problems are concerned. This is shown by the fact that a lot of land disputes are dealt with by high level leaders, even the President, Ministers, Prefets etc, rather than leaving them to grassroots leadership. There is mistrust and conflict, poisoning and bewitching because of land disputes.

3: Causes

- Poverty – land is the only source of livelihood for most people
- Corruption and greed – where people use their positions in society to accumulate wealth, including large plots, farms, mining areas etc
- Villagisation policy – which was established without consulting the population, so was not accepted, nor were resources made available
- Ignorance – of land laws which makes resolution of land disputes difficult
- Fear – to press for change once decisions have been taken. This makes people follow blindly. Top down decisions, even when ill informed, are never contradicted. Issues of land ownership are not talked about openly.

4: Strategies

- A land policy should be put in place which allows for regional differences and the different needs of the people
- Encourage other income generating activities off the land
- Build the capacity of local authorities to solve problems
- Authorities at all levels should respect people's wishes when implementing existing laws governing land
- Empower the leadership more

5: Discussion:

- Local institutions should manage land - give them rights and the freedom to make decisions
- People don't understand decentralisation - there is no word for it in Kinyarwanda!
- Government has put local structures in place without giving them resources
- LandNet needs to support these structures and strengthen the foundations of decentralisation, which offers the best means of resolving conflicts
- People often look upwards for solutions because they are not listened to at the local level

GROUP IV: THE ROLE OF CIVIL SOCIETY

1: Problems

- No prior participation from civil society, although on the Land Policy there was some small scale consultation

2: Causes

- No dialogue between civil society and government
- Government did not consider civil society participation as a priority
- No platform for civil society

3: Role

- Civil society's role should be to ensure that people's views are incorporated in the Land Policy and land law

4: Strategy

- Collect information on the up to date documents
- Analyse them
- If not completed:
 - Make necessary recommendations to MINITERE before Cabinet decision
 - If decisions have already been taken, contact parliament with a view to lobbying MPs
- If completed:
 - Sensitise the public
 - Make a follow up of their implementation

5: Alternative role for civil society

- Carry out a countrywide consultation
- Make an independent document on the Land Policy and law
- Then compare them with the existing ones
- These documents can help in lobbying for further amendments where the needs arise

6: Stakeholders

- Coordination by LandNet
- Religious umbrella groups
- Farmers' associations
- Environmental groups
- The business community
- Advocacy groups (e.g. Ibuka, Profemme etc)
- Trade unions (e.g. Cestrar, Cosyli)
- Development organisations

7: Priorities

- Analysis of drafts
- Make parallel drafting of similar documents
- Time scale: 1 year

8: *Discussion:*

- Civil society should be seen as partners in good governance
- Civil society does not have the strength to confront government
- Need to ask why civil society views are not taken into account
- There is no civil society vision on land as yet
- Need to get together to define a role and be proactive, rather than reactive
- Organisations should reinforce rather than duplicate each other
- We are now becoming self-critical, which is good
- Lobbying is a continuous activity
- Civil society needs to have a pluralistic vision
- Need to ensure the Land Policy is along the right lines through the channel of LandNet

KEY ISSUES

The various recommendations were then synthesised into the following broad key issues:

- History has an important influence on the present, so we must try to understand it better in order to go forward
- It is important that reliable information is available to inform decision making
- Identifying the ultimate owner of land is a critical issue
- Land ownership and use are not always seen as secure
- Recognition of the value of an open discussion such as this
- Endorse consultation and participation as an important contribution to governance, and as a means of increasing awareness
- The importance of looking for solutions to problems at an appropriate level
- Recognition of regional differences and particularities
- Recognition that there is a fear of contradicting leaders
- Recognition that there is a need for more education on decentralisation
- Confirmation that civil society has an important role in dialogue with Government, but that it lacks capacity.
- Concern that the contributions of civil society are not always incorporated into policy
- Recognition that Rwanda must look for alternatives to dependence on land in the longer term

CLOSING

The workshop was closed by Prosper Musafiri, Coordinator for Economic Reform and Acting Secretary-General in the Ministry of Finance and Economic Planning. He commended LandNet for this consultation and mentioned that the PRSP had recently been presented to donors and broadly approved. It contained a section on land and settlement. The work undertaken at this workshop would help ensure that land will be fully integrated within the PRSP processes. He closed by saying that he wished to become a member of LandNet.

26 November 2001