

CIVIL SOCIETY, 'GOOD GOVERNANCE' AND LAND RIGHTS IN AFRICA – SOME REFLECTIONS

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3 stories

In a small Central African country, a new Land Law is currently being piloted, with the support of a DFID-funded team of consultants. A workshop is to be held in the capital in October to plan implementation of the Law. Despite advice to the contrary, the consultants appear determined to exclude any local civil society engagement in the workshop for fear of antagonising their client, the Ministry of Lands.

In a large East African country, a protracted process of land policy making has been undertaken, with strong support from DFID. In contrast to the case above, DFID has been insistent that civil society play an integral part in this process, and the local Government agreed, albeit with some reluctance. Meanwhile, a highly politicised situation developed around land issues nationwide, with positions strongly polarised. Now, the main civil society land organisation has lost all faith in Government intentions and refuses further collaboration in developing the stalled land policy. So there is an impasse, with DFID left with the quandary of how, if at all, it might be unlocked.

In the newly liberated part of a very large country in the Horn of Africa, there was to have been a meeting in Europe last week to discuss how best to form a civil society organisation to defend the land interests of the poor. This was in the light of the liberation movement's commitment that 'the land belongs to the people.' But the meeting was cancelled because the movement now appears to have changed its mind on that commitment!

These three examples illustrate some of the complexities of civil society engagement in land rights in Africa.

What follows are reflections about governments, civil society, international NGOs and donors from someone who has spent a decade being involved in a variety of ways in land policy and law making processes in a number of countries across East, Central and Southern Africa constantly seeking to encourage governments and civil society to engage with each otherⁱ

Some context

'Good governance'

I do not much care for the term 'good governance'. It was, I believe, invented by Douglas Hurd, then British Foreign Secretary, at the time the Wall came down. Suddenly, thoroughly rotten dictators like Kamuzu Banda, Daniel arap Moi and Mobutu, who had been 'our' dictators during the Cold War, were asked questions about democracy. They had every reason to be irritated by this. Western hypocrisy knows no bounds and, as even Blair's Africa Commission noted. Western business interests are frequently all too willing to offer inducements to African government officials to sign contracts, most notoriously in Angola. The Chinese are simply following in well trodden Western footsteps.

Governments

I think it would be fair to characterise the general context in much of Africa as being one of weak governments (deliberately weakened of course by decades of structural adjustment) and fragile and highly donor-dependent civil societies. Each tends to be deeply distrustful of the other. There is now much talk of trying to revive the role of governments through social protection or social safety net programmes in the context of increasing livelihood vulnerability in many parts of the continent. Reflecting this, Oxfam recently published a report, *In the Public Interest*, which provoked this ironic *Guardian* headline: 'Public service: the revolutionary way to deliver health and education, says Oxfam' (1 September 2006).ⁱⁱ

Over the past decade, governments have frequently gone through the ritualised motions of consultation and participation on PRSPs, land policy and much else because influential donors and well-meaning, but less influential, outsiders pressure them to do so. But on the principle that turkeys don't normally vote for Christmas, there has generally been strong resistance from ruling elites to supporting any radical, pro-poor change, or any serious consideration of, for example, women's land rights. Rather, the pattern has often been akin to that recently described in Tanzania by Issa Shivji, of elites in alliance with foreign 'investors' plundering the land and other resources of peasants and pastoralists.ⁱⁱⁱ And of course there is the continuing war against the urban poor at its most vicious in Zimbabwe and Angola where there is, shall we say, a significant gap between official government rhetoric and violence on the ground.

There seems to be no culture of genuine democratic political engagement in modern Africa. When the Wall came down, there were widespread hopes, in places like Zambia and Kenya, that the advent of multi-party systems would bring about more democratic space. For the most part, those hopes have been dashed, and land issues have either been cynically exploited politically (as in Kenya, Zimbabwe etc) or tough action on a law or a policy has often been suspended 'until after the election'. From experience, the best time for a land activist to strike is immediately after an incumbent government has just won a second term!

In the context of land rights, we find all too many politicians, too few statesmen, far too many short-term, far too few long-term horizons adopted for addressing what are invariably complex and highly contested land issues.

Civil society

On the civil society side, I have worked in collaboration with a number of NGO land alliances and coalitions across the continent in 'seeking to secure and defend the land rights of the poor in Africa', to cite the rather pretentious title of an article I once wrote.^{iv} I have enormous admiration for much of their work and for some extraordinary individuals, such as the late José Negrão from Mozambique. They have many achievements to their credit – one thinks of the way in which the Uganda Land Alliance, in its early years, was able to change the direction of the impending land bill, or the way in which in Mozambique an alliance, formed around José Negrão, was able first to promote an extraordinarily progressive Land Law and then to wage a remarkable campaign to make people aware of their rights under the law. The latter is an excellent example of a positive and critical role that civil society can play. Because governments are notoriously unwilling to translate new laws or policies into local languages, NGOs are often obliged to do this.

The more imaginative organisations also use theatre. I was present at the launch of the Copperbelt Land Rights Centre in Zambia in March 2004, when a 20-minute drama on land conflicts thoroughly engaged and amused the audience, including those in suits, far more than the usual array of worthy platform speakers, including my good self!

But for all the achievements of civil society – and there are many - the stark reality has to be faced that for the most part CSOs remain remarkably fragile. They often lack deep roots. They have to battle hard to sustain themselves. They are heavily donor-dependent and have to compete with each other for funding and so find it difficult to cooperate or coordinate. So they frequently feel obliged to bend their sails to the latest funding fashions of donors.

NGO land coalitions are extremely vulnerable to the varying qualities of their successive coordinators and to the level of interest and commitment of their membership. Most have to operate in the generally hostile political terrain described above. In Kenya, for example, where there is widespread awareness through the media of abuses (the Ndungu Report into illegal land grabbing was a best seller at Government Printer), there seems to be no ability to reform the political system from its rampant corruption. Only a dedicated optimist such as Jane Weru Mumbi can describe the farce over Constitutional reform as a learning process for the nation.

In Zimbabwe, while civil society (typically dubbed 'imperialist puppets' by the Mugabe regime) has continued the important task of documenting gross human rights abuses,^v it has proved equally powerless to prevent economic, social and political meltdown, or the process described by the veteran nationalist Eddison Zvobgo, referring to fast track land reform: "We have tainted what was a glorious revolution, reducing it to some agrarian racist enterprise." Zimbabwe has 'turned' a once widely respected NGO worker and researcher into a deeply corrupted and venal government official.

Even in South Africa, with its very long history of struggle and resistance, civil society has struggled since the change of government in 1994 to have significant impact on the land reform programme. Authors of a recent study of farm dweller evictions^{vi} bemoan the lack of a strong civil society voice pushing to defend the rights of highly

vulnerable people living and working on farms. Arguably, civil society enjoyed greatest space during the Mandela Presidency, when Derek Hanekom was Minister of Lands, but it failed to exploit it because it was unclear about its role in the 'New South Africa'. Indeed Hanekom and Geoff Budlender, Director-General of Lands, bemoaned the fact that they were not pressurised enough from the 'left' to counterbalance the strong pressures they were getting from the 'right' (from 'organised agriculture' as it is wonderfully known) to protect the status quo and not do anything too radical on land reform. More recently when critical voices have been raised, if those voices emanated from white throats, they have often been denounced and not considered for that reason alone.

International NGOs

International NGOs which have sought to engage on land rights in Africa, such as Oxfam and ActionAid, obviously need to be aware of the fact that they are entering sensitive and highly political terrain requiring a nuanced understanding of the national scene. Routinely putting foreigners in charge of country programmes, as so many agencies, including my own, tend to do these days, certainly does not help, in my view. Deploying sensitive and nuanced antennae to make a judgement of the most appropriate role^{vii} for an INGO in any particular context is absolutely critical but all too rare

As I have written elsewhere:^{viii}

INGOs can in theory play a critical series of roles – lobbying governments to listen to civil society, to adopt long term perspectives and to learn from other experiences; lobbying donors to do likewise; bringing relevant experience from elsewhere to bear; challenging simplistic magic 'solutions' a la de Soto; making information as freely available as possible and in relevant languages; supporting and strengthening the work of local NGOs; and – with appropriate sensitivity and humility – bringing their influence and reputation to bear in what are often defensive struggles in support of poor people's land rights.

It was with that in mind that in January 2000 Oxfam GB set up a public website on *Land Rights in Africa* www.oxfam.org.uk/resources/learning/landrights/index.htm to disseminate arguments in favour of pro-poor land reform in a context in which the rich and powerful tend to control both power and information, and in which World Bank approaches often still suggested that land titling was the only magic bullet. That website has had some impact, I believe, but Oxfam's engagement on land rights has been almost as fickle as that of DFID, discussed below. My attempts as a policy adviser to retain land rights as a core interest have failed, as successive internal structural adjustments have bitten deep. I fear, but hope I am wrong, that when I am finally retired early next new year, it will become even more difficult for Oxfam to sustain any serious organisational interest in land rights. Hopefully, ActionAid and Norwegian Peoples Aid are showing signs of being able and willing to fill this gap.

Donors

What on earth is one to say about donors? I suppose I've been privileged to see some of the very best and the very worst of donors. Many of the latter, I fear, work for UN organisations and are utterly useless, despicable time-servers who rarely leave their offices are an utter disgrace to the high ideals of the UN.

I've often been appalled, especially in Southern Africa, by the almost complete lack of historical awareness of aid workers in donor agencies. Knowing little of the past, they cannot begin to understand why Africans are passionately concerned about land rights and, dangerously, they quite literally don't understand where Mugabe is coming from.^{ix} Not long ago, in a Cold War context, Western governments, which had offered no practical support to the liberation movements, forced restraining compromises on them on land redistribution under the famous 'willing seller, willing buyer' formula which in effect legalised and froze a century and more of land grabbing and oppression, to change which required the 'willing consent' of the main beneficiaries of past expropriation.

In a context of relative weakness on the part of both African governments and civil society, western donors often play a dangerously important and prominent role in poor countries like Malawi and Mozambique - though this is not necessarily reflected strongly in land rights issues. The role carries responsibilities which are of course frequently dishonoured, especially in the case of USAID, which is always pressing remorselessly for privatisation, regardless of context. But USAID is not of course alone in using aid as a diplomatic weapon.

Donors, and INGOs for that matter, talk endlessly about capacity building in civil society, in land administration and much else. But all too often this is a cop out and is badly thought through. Some support research of course, but rarely research institutions. So researchers turn to consultancies for survival. And consultants compete, often viciously, for contracts. Issa Shivji bemoans the fact that:

'Consultancy is touted as one of the main functions of our [Dar es Salaam] University in the new Draft Charter. In the 1970s, the mission of the Faculty of Law was to promote society-conscious lawyers using the historical and socio-economic model. We did Legal Aid to assist workers, peasants, women and children. Now we are chasing the phantom of producing corporate lawyers.'^x

An interesting Pan-African network on land and natural resources has collapsed because donors have stopped funding it.

Generalisations are difficult of course, because in any complex organisation you will find a range of individuals differing greatly in ability, commitment and – dare one say it – in passion. In the FAO's Southern Africa Office in Harare, I met someone literally counting the days until his well-heeled retirement and doing absolutely nothing else in the meantime. I also of course met the remarkable Kaori Izumi, whose passion and commitment for women's and children's land rights in a context of widespread property grabbing in the region, has resulted in the recent publication of two books and four reports of conference proceedings and has made a real difference in the lives of many poor people.

**KAORI IZUMI'S 2 BOOKS & 4 WORKSHOPS ON WOMEN'S & CHILDREN'S PROPERTY RIGHTS & LIVELIHOODS IN SOUTHERN & EAST AFRICA, 2004-6
POSTED ON THE OXFAM GB LAND RIGHTS IN AFRICA WEBSITE**

THE 2 BOOKS

Regional, July 2006

Reclaiming our Lives. HIV and AIDS, Women's Land and Property Rights, and Livelihoods in Southern and East Africa. Narratives and Responses. Ed. Kaori Izumi. HSRC Press, July 2006

http://www.oxfam.org.uk/resources/learning/landrights/downloads/eBook_reclaiming_our_lives.pdf

Zimbabwe, July 2006

The Land and Property Rights of Women and Orphans in the Context of HIV/AIDS: Case Studies from Zimbabwe. Ed. Kaori Izumi. HSRC Press, July 2006

http://www.oxfam.org.uk/resources/learning/landrights/downloads/eBook_land_&_property_rights_of_women_&_orphans_in_zimbabwe.pdf

THE 4 WORKSHOPS

Regional – children, March 2006

Report of the Regional Workshop on HIV and AIDS and Children's Property Rights and Livelihoods in Southern and East Africa. Harare, 7-8 March 2006

http://www.oxfam.org.uk/resources/learning/landrights/downloads/childrens_property_rights_wshop_report.pdf

Zambia, January 2006

Report of the National Conference [in Zambia] on Women's Property Rights and Livelihoods in the Context of HIV and AIDS. Lusaka, 25-27 January 2006

http://www.oxfam.org.uk/resources/learning/landrights/downloads/zam_womens_prop_grab_wshop_report.pdf

Namibia, July 2005

Report on the Proceedings of the National Conference on Women's Land and Property Rights and Livelihood in Namibia, with a Special Focus on HIV/AIDS. 6-8 July 2005

http://www.oxfam.org.uk/resources/learning/landrights/downloads/namibia_womens_land.pdf

Zimbabwe, December 2004

Report on FAO, UNIFEM and National AIDS Council Joint National Workshop on HIV and AIDS, Women's Property Rights and Livelihoods in Zimbabwe. Harare, 1-2 December 2004

http://www.oxfam.org.uk/resources/learning/landrights/downloads/zimbabwe_workshop_report_hiv_aids_womens_property_rights_and_livelihoods.pdf

One of the hardest things appears to be to sustain initiatives or to adopt long-term perspectives, and most institutions, including my own, seem unable to prevent bad managers from undermining the good work of their able predecessors.

The case of DFID's involvement in land rights in Africa, which I have written about more fully in a paper for a conference in The Hague earlier this year,^{xi} illustrates above all the fickleness of donors. A serious level of engagement was encouraged and directed for more than 5 years by Michael Scott, Head of DFID's Rural Livelihoods Division, who very clearly saw the role of land rights in poverty and conflict reduction and much else. Serious budgetary support and technical assistance was offered to ministries of land in a number of African countries, a number of networks were set up to encourage dialogue between governments and civil society, a dedicated (though part-time) Land Tenure Adviser, Julian Quan of NRI, was appointed at headquarters, conferences were held, research undertaken, an important book written,^{xii} and DFID engaged in creative and critical engagement with the World Bank as the leading European agency in the field. In addition, a Land

Tenure Advisory Group provided IIED, NRI and Oxfam with easy access to DFID officials and offered a regular two-way flow of ideas and information.

But all that came to an end with Mike Scott's retirement and subsequent structural adjustment within DFID. The story is pitiful. Two examples will suffice. A major conference was held in London on *Land in Africa: Market Asset or Secure Livelihood?* in November 2004,^{xiii} attended by a number of African ministers, but not by anyone from DFID's headquarters just half a mile away. Meanwhile, half a mile away, a malevolent newcomer set about rubbishing all that had been done before, reportedly even shredding historical records, and rejected any collaboration with those who had gone before.

It now appears clear that while DFID has continued to engage sensitively on land issues in countries such as Kenya and Ghana, this is because dedicated individuals care and see the importance of land rights. But centrally DFID appears to have lost the political will to offer any kind of alternative voice to that of the World Bank, and now, when pressed, shelters behind the EU Land Policy Guidelines of November 2004.^{xiv}

As for the FAO, it would seem that you are engaging in a fairly bloody internal battle. To outsiders, the decisions to abolish the posts held by your excellent regional land officers, including Kaori Izumi, passes all understanding. The decision not even to invite them to this meeting is even more bewildering, if not outrageous. I suppose it reflects the fact that many of you now feel comfortable retreating from the perils and pitfalls of land reform, on which you have done excellent work in the past in countries such as Angola and Mozambique, in favour of the safer and doubtless more lucrative waters of depoliticised land administration.

Concluding thoughts

I am conscious that this must read as a deeply pessimistic assessment. But it was interesting to hear that this pessimism and frustration were largely shared by fellow land activists attending a workshop on *Land Restitution in South Africa* last week. The general sense appears to have been one of space either being diminished or closed off altogether. In the process the always hard task of sustaining alliances is becoming even harder, both for individuals and for organisations.

Both mainstream donors and the UN now seem determined to shy away from land as a political issue, appearing to be content with normative work supporting the development of guidelines, manuals and tools which no one will ever use, while the violence, the human suffering and injustice continue – and too many of us look the other way.

It does not have to be this way. I have seen and admired the quiet diplomacy of Vincent Lelei in Zimbabwe. I have also admired the courage of Jan Egeland and Anna Tibaijuka in standing up to tyranny in Zimbabwe.

Let me end, as I began, with a story. For the first time in my almost 20 years of working with Oxfam, I was recently asked to talk to the course we run for new members of staff. Someone was sufficiently inspired by what I said about women's

land rights that she asked me for things to read, which I did. She replied: 'it is so much to learn, but today is as good as any day to start.' I responded: 'Don't be intimidated. The main thing is to care and to have the passion and a sense of injustice and wanting to change the way things are. Without that, in my view, all the learning in the world is not much use.'

ⁱ Much of this is documented on the Oxfam GB website I manage on *Land Rights in Africa* <http://www.oxfam.org.uk/resources/learning/landrights/index.htm>

ⁱⁱ Colleagues who work 'with the private sector' were irritated by the simultaneous headline in *The Independent*. 'Private sector not the answer to poverty' says Oxfam.

ⁱⁱⁱ Issa Shivji, *Lawyers in Neoliberalism. Authority's Professional Supplicants or Society's Amateurish Conscience?* Valedictory lecture, University of Dar es Salaam, 16 July 2006, http://www.oxfam.org.uk/resources/learning/landrights/downloads/shivji_valedictory_lecture.pdf

^{iv} 'Struggling to Secure and Defend the Land Rights of the Poor in Africa', *Journal für Entwicklungspolitik* (Austrian Journal of Development Studies), **XIX**, 1, 2003, 6-21 www.oxfam.org.uk/resources/learning/landrights/downloads/struglin.rtf

^v See, for example, the films by the Solidarity Peace Trust, *Crime of Poverty* (October 2005) and *Meltdown – Murambatsvina 1 year on* (August 2006).

^{vi} Social Surveys and Nkuzi Development Association, *Still Searching for Security: The reality of farm dweller evictions in South Africa* (December 2005) http://www.nkuzi.org.za/docs/Evictions_Survey.pdf

^{vii} As an example, back in 1996 concerning the Land Law in Mozambique, I urged a colleague that 'given the horrendous past role of foreign intervention in Mozambique and the fact that local NGOs are now clearly running with this, I think it is right – no essential – that INGOs step back and let them get on with it. Obviously, we can and should support them in this when asked – funding workshops, translations of legislation, networking, information sharing etc.'

^{viii} Robin Palmer, *Critical Reflections on the Role of an International NGO seeking to work globally on Land Rights - with specific focus on Oxfam's experiences in Southern Africa*. Paper for International Conference on Social Movements Perspectives: Land, Poverty, Social Justice and Development, Institute of Social Studies, The Hague, 9-10 January 2006, 2. http://www.oxfam.org.uk/resources/learning/landrights/downloads/critical_reflections_on_oxfam_and_land_rights.rtf

^{ix} To be fair to British diplomats, the Foreign and Commonwealth Office has generally invited a group of Zimbabwe 'experts' to brief new High Commissioners taking up their posts in Harare.

^x Shivji, *Lawyers in Neoliberalism*, 16.

^{xi} Palmer, *Critical Reflections*, 7-8.

^{xii} Camilla Toulmin and Julian Quan (Eds), *Evolving land rights, policy and tenure in Africa* (London: DFID, IIED and NRI, 2000).

^{xiii} <http://www.iied.org/pubs/pdf/full/12516IIED.pdf>

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http://www.oxfam.org.uk/resources/learning/landrights/downloads/4_eu_land_policy_guidelines_nov_2004.pdf