

Published in *New People*, May 1998

## **THE LAND PROBLEMS IN AFRICA: THE SECOND SCRAMBLE**

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### **Land grabbing**

African land problems and their relation to poverty have again assumed burning importance across the continent. Access to land by the poor in many parts of Africa is currently seriously threatened by a combination of privatisation and unrestricted market forces; by governments desperately seeking foreign investment including for tourism; and by greed and corruption by the rich and powerful. All this amounts to a new and often unregulated land grab, comparable in many respects to the first 'Scramble for Africa'. Particularly at risk has been land held under some form of community control or ownership. So, for example:

- Vast areas of common grazing lands, once accessible to pastoral communities, have been fenced off and privatised by the well-connected in many parts of East Africa, Botswana and Namibia.
- Chunks of land have been sold or leased for tourist ventures throughout East and Southern Africa, notably the spectacular concession of the whole Mozambique coastline south of Maputo to the American millionaire (and former Renamo backer), James Blanchard III.
- In a modern version of the Great Trek, white South African farmers are taking up land in Niassa Province, northern Mozambique, giving rise to fears that this is just the beginning of a new recolonisation.

### **Land titling**

What lies behind this threat? In essence, it is the economic dogma of full-blooded privatisation, which reached most of Africa in the late 1980s in the form of structural adjustment programmes. In this brave new world critical eyes were cast on communally held areas. Land, along with everything else, should be privatised. There should be a market in land. Communal tenure was backward, wasteful, bad for the environment. It impeded progress and development. It blocked credit, security, entrepreneurial endeavour. The way forward was to give people proper title, which invariably meant western-style individual title. These arguments, marshalled by the World Bank, were much the same as those espoused back in the 1950s by planners in colonial Zimbabwe and Kenya. The threat to communal lands today is compounded by liberalisation policies which have opened countries up to foreign investment - and exploitation.

The World Bank has played and continues to play a key role in debates on land. It first began to get involved in Africa around 1982, arguing that 'improving' land tenure and land use should be a priority in the structural adjustment programmes that increasing numbers of

African countries were then being urged to adopt. At that time it tended to view indigenous land tenure institutions as a constraint on production. World Bank staff and experts began calling for the issuing of titles or registration as a top priority, together with a total redrafting of land laws in order to encourage privatisation and the development of a market in land, which they believed would lead to improved agricultural performance. The reforms demanded by the Bank in Africa were more radical and deeper than in any other part of the developing world and inevitably they involved the Bank in politically sensitive situations in which it had to exert considerable pressure to get its reforms implemented. In recent years, however, faced with increasing evidence from its own staff, among other sources, that things were not quite working out according to plan, the Bank has generally become far less dogmatic, more aware of the complexities of land issues, more open to dialogue, and, perhaps, more community-centred.

Much of East and Southern Africa has inherited a curious dualistic land structure from its colonial past. A commercial and a communal sector sit uneasily together, representing a long history of aggressive social engineering and control. South Africa is the most extreme case; on the one hand massive state support and subsidies for the commercial (white) sector (which today would not be tolerated), and huge dislocation and dispossession in the communal (black) sector on the other. Contemporary policy 'advisors' from outside find it convenient to ignore (or may conceivably never have known) this history, e.g. when insisting that white farms be bought for resettlement or redistribution only at current 'market prices' and on a 'willing seller, willing buyer' basis.

## **Land reform**

This is further demonstrated in the 'new paradigm' of market-assisted land reform is now underway in South Africa, Brazil and Colombia. Governments, rather than transferring or expropriating land, now play the far more limited role of merely providing grants to beneficiaries wanting to buy land, who themselves select the land and negotiate prices with any willing sellers they can find. Current South African experience, in a highly politicised context where the rural balance of power still remains with the old (white) landowners, reveals many problems with such an approach, which also ignores the history of past dispossession.

South Africa raises another important question for the future. Will the 'small (family farm) is beautiful' thesis, propounded by, among others, the World Bank and many NGOs, stand the test of the new economic order? Concerns have been voiced about how emerging small-scale black South African farmers will fare in a world in which the protective barriers once built around white farmers have been dismantled in the name of free markets. Some believe that this will leave many black farmers highly vulnerable to competition from subsidised imports, with the real danger that this may then lead to concentration of production and land in fewer hands.

It is now clear that the collapse of the old Eastern Bloc socialist countries and the triumph of western ideology has meant that radical land redistribution is off the agenda today in South Africa, as yesterday in Namibia. This conveniently ignores the crucial role that relatively equal distribution of land played in enabling people in Taiwan and South Korea to participate fully in their countries' much lauded economic growth. Moreover, conventional planning and civil service wisdom has it that the resettlement programme in Zimbabwe (which has had mixed results) has been an unmitigated disaster and that nothing like it should be contemplated in either Namibia or South Africa. State collective farms in Mozambique were

incontestably a disaster. All this has meant in effect the triumph of much white settler agricultural ideology in official thinking and planning in Southern Africa long after the collapse of settler political control.

A key problem is how to reconcile the undoubted fact that with the push for privatisation a market in land now exists and is growing in many areas, especially near towns, with people's need for security, which has traditionally been based on guaranteed access to communal land and common property resources, complemented by access to off-farm remittances. It is now clear that uncontrolled land markets are bad for equity and efficiency and encourage insecurity among the most vulnerable.

## **Indigenous tenure systems**

There was a general trend during the colonial period and continued since independence for land rights to become more individualised as a result of factors such as population growth, more intensive land use, the closing of land frontiers, and greater commercialisation of agriculture. Often this led to the emergence of land markets, especially in those parts of West Africa where tree cultivation developed.

In contrast to those arguing for individual title in the Western sense, many observers have stressed the capacity of indigenous tenure systems to adapt to situations of great demographic and economic change. (The term 'indigenous' is now generally preferred to 'customary' tenure, on the grounds that the latter is a misnomer, tenure systems having changed so much over time). World Bank writers now admit that previous Bank assessments exaggerated the benefits and neglected the costs of freehold tenure and the advantages of communal tenure. Valid though this endorsement of indigenous systems may be in challenging earlier assumptions that they represented a serious barrier to economic development, it is important to note the caveat in the case of Rwanda, where local systems proved quite unable to cope with extreme population pressures, when combined with a lack of alternative economic outlets.

An important theme is the way in which indigenous and modern land tenure systems have been able to live side by side. This rather contrasts with the expectations of planners who believed that once 'modern' systems were introduced, as in Kenya, they would inevitably undermine and replace indigenous ones. In fact there is evidence of continuing complex interactions between the two.

Kenya's land titling and registration programme has a longer history than any other. It was introduced in the wake of the 'Mau Mau' crisis and resulting British colonial response - the famous Swynnerton Plan of the late 1950s, many of whose ideas were adopted by World Bank planners in the 1980s. There is both an extensive literature on the Kenya programme and a growing consensus that it has been extremely expensive and deeply flawed, and has not achieved the goals of agricultural transformation that were set. More recently Bank writers have accepted that titles in Kenya became 'virtually worthless' because landowners had no incentives to update them.

There may now also be a general consensus that in Africa titling is not worth the expense or the effort involved. This is principally because records are never maintained properly; they fail to reflect social reality; the process has generally disadvantaged secondary holders of land, especially women; it has not brought an end to land disputes; and it failed to activate a credit market. But it is important to note that in particular contexts, such as semi-arid areas with low population densities, titling can offer positive incentives for people to make

long-term investments, such as soil and water conservation and is most likely to be justified where there is high incidence of dispute (as in urban and peri-urban areas), in resettlement areas, or where new project interventions require full privatisation. On the other hand, the Belgian authority Jean-Philippe Platteau argues that titling is certainly not justifiable in situations where land is abundant or has no commercial value, where land transactions and disputes are few, and where other markets are absent or poorly developed. He believes that there is a need for a pragmatic and gradualist approach that promotes the adaptability of indigenous tenure systems, avoids a regimented model, and relies mostly on informal local procedures, which are cheap and equitable and attract local support. He further believes that the World Bank is now open to such an approach.

This is borne out by the 1994 Wisconsin Land Tenure Centre and World Bank collection, *Searching for Land Tenure Security in Africa*, characterised by its openness to challenge previously accepted dogma, its admission of past failures, and its recognition of the strength of indigenous tenure systems. If customary systems do not in fact break down under population and other pressures, but rather evolve, the editors conclude that there is a need to re-examine the extent to which more intrusive programmes, which seek to replace them, are necessary. According to the editor Shem Migot-Adholla, the book 'has been received exceptionally well within the Bank' and 'the change (of policy) has been surprisingly fast in the last two years partly because of widespread publicity in and outside the Bank'.

## **NGO responses**

To be poor in Africa today is the fate of many. But the future may hold the even grimmer prospect of increasing numbers of people, especially women, being both poor and landless - with incalculable social consequences. In Rwanda such a situation contributed significantly to the 1994 genocide. Land has always been crucial in Africa, but never more so than today. Which is why it is essential that more national NGOs should be aware of and rise to the challenges posed by this.

In response to such threats, local communities and local and international NGOs have been moved to mobilise. Since 1995 land coalitions have emerged in Uganda (the Uganda Land Alliance), Tanzania (the National Land Forum) and Zambia (the Zambia National Land Alliance). In South Africa, the umbrella National Land Committee has a long and effective history of mobilisation. There are recent signs that *de facto* land alliances are emerging in Mozambique, Zimbabwe and possibly Kenya, while in Namibia NANGOF (the Namibian NGO Federation) has been in the forefront of land campaigning. Attempts have been mooted to link up these fledgling organisations into a regional network, but the obstacles to this are proving great.

These new land alliances are demanding open and fully participatory debates before new land laws are passed. They are particularly concerned about the long-term impact of proposed changes on the poor and vulnerable; that women's already fragile rights to land may be still further eroded; and that communities unaware of their legal rights may be exploited by the powerful.

For women have different land needs, preferences and priorities to men. Regardless of marital status, NGOs argue that they should be entitled to independent land rights including an expansion of enforceable legal rights of access to and control and ownership of land and property, increased inheritance rights (as daughters and widows), access to loans and co-registration in leasehold systems.

NGOs also stress the urgent need to pay particularly careful and sensitive attention to pastoralist land rights because:

- pastoralists have suffered acutely from the privatisation and fencing of common land and the alienation of pastures for non-pastoral uses;
- governments have found it virtually impossible to provide tenure security for pastoralists;
- government policies have often led to the breakdown of patterns of mobility; less effective rangeland management, greater vulnerability to drought, land degradation, declining productivity, increasing poverty, absentee landlordism, the undermining of social institutions of support and coping strategies;
- pastoralists are frequently unaware of the laws governing land, of their legal rights and of the high risks of their lands being alienated;
- there is much official ignorance about pastoralist production systems and prejudice towards pastoralists.

If this were a boxing match, the NGO coalitions may have scored some useful points in the early rounds, but there is still a very long way to go and there are absolutely no guarantees of easy successes, simply a long hard road ahead demanding capacity, time, and a keen eye on the ball - or the opponents' gloves. For land will always be a hugely controversial and contentious issue, since it is primarily about power and it involves unequal struggles between vested interests and the weak. Privatisation now offers very rich pickings for the rich, both domestic and foreign. Those who struggle on behalf of the poor have to confront both lack of power - peasants do not typically overthrow governments in Africa - and lack of information - a culture of secrecy all too often surrounds government activities on land. The argument for the need for national debates and proper consultation is perhaps beginning to be won. But that may in part be because the donors, in particular the World Bank and DFID, have also become persuaded of this and have also become increasingly concerned about the relationship between access to land and poverty. But that is only the beginning. Conducting such consultations will be difficult and time- and resource-consuming, as it involves thinking things through in detail in advance, involving governments and broadly-based, representative groups, and guiding and structuring in ways that ensure consultees send a clear message Who is to do this and how remain fundamental questions.

When land bills are finally passed, there then exists the huge task of explaining them to the people and of making communities aware of their legal rights. This is something the Mozambican national NGOs, ORAM (Associação Rural de Ajuda Mútua) and UNAC (União Nacional de Camponêses) have now committed themselves to with the new *Lei de Terras*. The need to be 'with the people', to cite the title of a Zimbabwean political autobiography, remains greater than ever.

This is especially so because of the widespread abuse of political power, an issue which crops up everywhere and one which cannot be ducked. One of many examples is in Kenya, where the impact of land clashes and resulting creation of what resemble ethnic homelands has been documented in a series of reports on human rights abuses. This rejection of 'outsiders', which goes against the grain of deep traditions in African history, has its echoes in many other countries, such as Zimbabwe and Malawi, as well as in much of West Africa. It is a very dangerous trend that could well become increasingly serious and destabilising in the future.