

*Land Reform from Below: Decentralised Land Reform in Southern Africa*  
Kopanong Hotel, Johannesburg  
22-23 April 2008

## **LAND REFORM IN THE BROADER CONTEXT OF SOUTHERN AFRICA**

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### **I INTRODUCTION**

Thank you very much for inviting me here to talk to you, though I was a little daunted when I was asked to give a 'keynote address'. That sounds rather too grand for me. And talking to what I'm told is a very mixed audience is always challenging.

I have enormous respect for the work of PLAAS, which I have long admired from a distance, and occasionally from close up. You do me a great honour by inviting me to talk to you. And in so doing you also provide affirmation of my work. In such a polarised and contentious field as land rights in Southern Africa, I take that as a great compliment. Affirmation is a very important thing to give, as I can testify from many experiences.

When Karen Kleinbooi first wrote to invite me, I responded by saying that I was surprised to see 'Southern Africa' and 'decentralisation' in the same sentence, let alone in the same research programme. My overwhelming impression of working in this region – with the notable exception of South Africa, with its provincial structures

– has been of highly top down, directive, centralised, often controlling approaches, which assumed that officials knew best and that people needed to be told what was best for them. This perhaps reflects my own experiences, both as an academic and a development worker, which have very largely involved looking at things from a national, and thus rather top down, rather than from a local perspective.

I need to introduce myself, briefly. I worked as an academic in and on Southern Africa for about 20 years and then as a development worker for Oxfam GB for another 20 years. I've worked on land issues for a good part of that time. As an academic, I wrote a thesis and then a book on the politics of land in colonial Zimbabwe. I was deported from Rhodesia, where I'd gone as a student, by the Smith regime shortly after UDI in 1965. I taught History at the Universities of Malawi and Zambia in the 1970s. For Oxfam, I worked initially on its Southern Africa Desk and then, for about 10 years I was a land policy adviser, initially covering just Africa, but later I was elevated to a global level! Essentially that role involved giving practical support to local organisations working on land issues, lobbying key donors, such as DFID and the World Bank, to do sensible things, trying to encourage governments and civil society to trust and engage seriously with each other over the development of new land policies and laws, and a variety of networking activities, including setting up the Oxfam *Land Rights in Africa* website <http://www.oxfam.org.uk/resources/learning/landrights/index.html> which I still enjoy running.

Of some relevance to this workshop is the fact that because I was fortunate to travel a great deal, I tried to bring relevant experiences of good practice from one country into another. This is by no means an easy or straightforward thing to do however.

Oxfam retired me and my job a year ago, and I now do my work through an Oxford-based consultancy group, Mokoro (which means canoe in Tswana). One of my colleagues there is Martin Adams, who has worked as a Technical Assistant in the Department of Land Affairs here in South Africa and in the Ministry of Lands in Kenya. Together we compiled a 20-country *Independent Review of Land Issues, Volume III, 2006-2007, Eastern and Southern Africa*, which I shall refer to later.

Karen's invitation to this meeting had me looking back over various things I've written over the past decade or so. One of the interesting ones was for an event which took place very close to here, in Randburg, 10 years ago. It was a SADC workshop on *Land and Resource Tenure and Decentralisation*. I was asked to give a presentation on *Land Tenure in Southern Africa: Context, Trends and Lessons*. I'll come back to this a little later.

## **II GLOBAL**

A year ago, Ben Cousins, who has done as much thinking about land reform in this part of the world as anyone, argued that the unequal structure of international agricultural trade regimes need to be integral to all our thinking about agrarian reform and challenged us to think boldly with these words:

the realities of a changing and urbanizing world require us to reconsider the economic justifications for land reform and to think through what this means for a pro-poor land agenda in struggles, advocacy and policies.

The challenge for proponents of land and agrarian reform is to 'imagine', think hard about, and work for plausible alternative scenarios for sustainable and sustaining rural and urban economies. There are important lessons from past formulations and experiences, but in many ways this is uncharted territory.'

I was very struck by his last phrase, 'this is uncharted territory.' I'm sure he is right. We live in a complex, dynamic, fast changing world, full of uncertainty and full of new threats to the world's rural poor.

#### *A new threat to poor people's land - biofuels*

Just last week the international media was full of stories about a growing world crisis over food prices, growing hunger and riots in many parts of the world. There were headlines in the British media such as:

- 'Hunger. Strikes. Riots. The food crisis bites' (*Observer*, 13 April)
- 'Poor go hungry while rich fill their tanks – World Bank condemns rush to biofuels' (*Guardian*, 11 April)
- 'The other global crisis – rush to biofuels is driving up price of food' (*Independent*, 12 April)

A presentation last month at the World Bank by the Rights and Resources Initiative spoke of 'food, fuel and fibre all competing for the same, declining amount of land, all driving concerns about food security, riots, conflicts'. They spoke of 'the last great global land grab' and argued the need to 'drop *the* plan, trust in people, accept some chaos, be bold, strategic, catalytic.'

Biofuels are a relatively new phenomenon and people working on land rights have been slow to appreciate their significance. Two examples will suffice. I made no mention of them in my two-hour final speech to Oxfam last February, and this January a UNECA meeting in Kigali drafting a land policy for eastern Africa was also initially silent on the issue. Commenting on that draft, I made the point that the Mozambique Government recently undermined many of the pro-poor features of its 1997 Land Law reputedly because it wanted to be able to 'release' large amounts of land (probably to foreign companies) for biofuel production. I also cited recent research by ODI which has noted that:

this rapid expansion of biofuels is likely to generate increased conflict over land rights and utilisation' and that in Brazil 'evidence suggests that access to land for poor people continues to be reduced under biofuels production.

I also drew attention to an article entitled 'the new scramble for Africa' in the July 2007 edition of the GRAIN magazine *Seedling*, which said:

Millions of small farmers still occupy these lands, and they have become the main obstacle in the path of the agrofuel rush. It is becoming clear that, whenever agrofuels are on the agenda, the pressure on farmers to leave their land intensifies.

The agrofuels boom in Africa is not about rural development and improving the living standards of poor farmers. On the contrary, it is about foreign companies taking over the land: by striking deals with government officials and lobbying for legal protection, subsidies and tax breaks; by acquiring scarce fertile land and water rights; by coercing farmers into becoming cheap labour on their own land; by introducing new crops in large-scale plantations; by introducing GM crops through this backdoor; by displacing people and biodiversity-based systems; and by enslaving Africa even more to the global market. Land grabbing on an unprecedented scale is on the march in Africa.

The other side of the coin is to observe the very strong belief of some in government in seriously poor countries such as Mozambique, Malawi and Ethiopia who see biofuels as a magic fast track out of poverty.

Just as I was completing this paper, my former Oxfam colleague Craig Castro forwarded me the terms of reference for a piece of research on Biofuel Production in South Africa, Mozambique, Malawi and Zambia. Part of the background read:

Biofuels offer opportunities and threats for poor people. By stimulating stagnant agricultural sectors, biofuels may offer jobs for rural workers and new markets for small farmers. They may even be used to increase access to energy for marginalised communities, for example through off-grid electricity generation. But unchecked, biofuel production also poses threats, as poor people may be forced from their land to make way for plantations or exploited (as labourers or out-growers) by companies. Also, as more land and water is diverted to growing fuel crops, biofuels may have adverse impacts on food security. Whether biofuels have positive or negative impacts on rural poverty will largely depend on the policies and models of production adopted by companies and producer governments.

Southern Africa has been identified as one of three global regions (alongside Brazil and East Asia) with potential to meet global demand for biofuels, and was recently described by one biofuel industry executive as having the potential to be the 'Middle East of Biofuels'. In this context, renewable energy companies are undertaking inwards investment in the region, and governments are developing national biofuel strategies.

The global context has of course always been hugely significant for land reform in Southern Africa. One of my favourite ways of illustrating this comes from a book *Promised Land*, whose editors write in their introduction:

While it was inconceivable that land could be redistributed through a willing buyer – willing seller approach at the beginning of the Cold War, by the Cold War's end it was inconceivable that it could be done in any other way.

They thus nicely encapsulate the ironies of how the economic power of the old landlords was broken in Japan, South Korea and Taiwan after 1945, but how this did not happen in Latin America in the 1960s and 1970s, or in Zimbabwe in 1980 or South Africa in 1994.

Willing buyer, willing seller in effect legalised a century and more of white land grabbing in Zimbabwe, Namibia and South Africa, in the course of which millions of people were uprooted from their ancestral lands, without compensation. This colonial *status quo* was legalised, a line was drawn under a past history of oppression, and to change it required in virtually all cases the 'willing consent' of those who were the beneficiaries of past expropriation.

### *Older threats*

Looking through my writing over the past decade, I was struck by the fact that much of it focussed in one way or another on threats to poor people's land in Africa accompanying the global privatisation of resources; threats principally from unscrupulous foreign investment in mining and tourism and from greedy urban (and sometimes rural) elites. This was nicely encapsulated in the banner I saw at Lusaka Airport a couple of years ago, proclaiming 'Welcome to Zambia – A Paradise for Investors'.

A second theme was of growing pressure on and conflicts over land, often fuelled by rapidly growing populations and resulting in, for example, the breaking down of long-standing informal agreements between farming and pastoral communities in parts of West Africa and in the rejection of people suddenly deemed 'outsiders' in Côte d'Ivoire or Kenya's Rift Valley. In my introduction to a 1997 literature survey on *Contested Lands in Southern and Eastern Africa*, I forecast that 'this rejection of "outsiders", which goes against the grain of deep traditions in African history, is a very dangerous trend that could well become increasingly serious and destabilising in the future.' The recent post-election violence in Kenya is the latest tragic manifestation of this trend.

There is further gloomy news from 4 authors, one of whom may be with us today, Prosper Matondi, who recently wrote about '*African Agriculture and the World Bank: Development or impoverishment?*' Here is part of their analysis:

smallholder farming has been eroding over the last three decades, perpetuating rural poverty and marginalizing remote rural areas.

In global agricultural commodity markets, African smallholder producers have been losing market share continually over the last three decades. Africa's traditional export crops, the beverage crops: coffee, cocoa, tea, as well as cotton, tobacco, cashew, etc. have steadily declined to now quite negligible export levels. The comparative advantage that African smallholders held in these crops has been undermined by far more efficient producers elsewhere. There is no evidence provided to suggest that the broad masses of African small-scale peasant farmers will experience anything other than continuing

difficulties in meeting the rigours of global commodity market chains with their highly regulated standards and time schedules.

Smallholder farmers are often in competition with large-scale farmers who receive preferential state support. Small farmers have already been or are currently being pushed into vulnerable ecological areas outside their traditional home areas... those left in the countryside live on tribal communal 'holding grounds', akin to the Bantustans of the apartheid period of South African history, eking out an existence on the basis of exceptionally low-yielding, uncapitalized agriculture. Like the Bantustans, these holding grounds could function as labour reserves for the mainstream national economy and would most likely be based on conservative tribal customary legal frameworks not only with respect to land but in a wide array of other spheres as well. It is indeed an irony that such a possibility resurfaces little more than a decade after South Africa managed to rid itself of this 'separate and unequal' model of rural exploitation in the name of development.

### *Decentralisation*

I am very far from being an expert on decentralisation, but it seems clear to me that its latest manifestation has grown logically from the recent history of structural adjustment, privatisation and market fundamentalism. I witnessed some of this in Zambia, which seemed to serve as a kind of laboratory in which Washington-based institutions could experiment with their exciting new economic theories. Attacks on the role of national governments, for example in providing various subsidies to farmers – something still perfectly accepted and strongly defended in the West – has led logically to pressures from donors to decentralise. My sense is that often governments in Africa and elsewhere went along with the rhetoric of decentralisation because of their dependence on donors, but often resisted it in practice, especially over land.

I was very struck by the comment in Stephen Dorn's paper that 'decentralised governance may be less effective in delivering pro-poor land policies where there is a high degree of inequality.' Such as Southern Africa?

### **III REGIONAL**

I suppose that most of us think of Southern Africa as a region – the SADC region. Half a century ago it was common for academics to talk of a Southern African economic region to illustrate the fact that it was characterised by extensive labour migration in which thousands of people crossed colonial borders in search of work, mainly in the mines, on commercial farms, or in the burgeoning cities. The dominant political theme of the second half of the century was of course the liberation struggle against white settler colonialism. This affected all countries in the region in a variety of ways.

Yet, when we think about land issues, what is immediately apparent is how overwhelmingly important is *the national level*. Debates over land law and policy and realities on the ground are hugely influenced by the national political landscape – just

contrast Zimbabwe with Botswana for example. It is primarily at the national level that many of us have sought to intervene or have an impact – through direct advocacy, engaging with governments, civil society organisations and donors, or writing the kind of policy briefs that PLAAS has become famous for.

One might conclude ruefully that a decade or so of such engagement has not brought too many obvious successes, so perhaps more might be achieved in future at the decentralised, local level.

I have in fact seen some great work done at the provincial level. For example Oxfam lobbied for and then helped get secure tenure for individuals to own land which had previously been the property of mining companies, municipalities and absentee landlords on the Zambian Copperbelt. In the Indonesian province of Aceh, devastated by the tsunami, Oxfam has done outstanding land and property advocacy work, involving highly credible research and persuasive follow up, to ensure that those who were previously being left out (principally so-called renters and squatters) were included as beneficiaries in terms of land and housing. The point about post-tsunami, post-conflict Aceh was that the timing was critical - when some of the old structures and constraints had been removed or shaken, new space became available and new things were possible – just like South Africa in 1994!

*Ten years ago*

I'd like to turn now to the SADC workshop on *Land and Resource Tenure and Decentralisation* in Randburg 10 years ago, which I mentioned at the beginning. I gave a presentation on *Land Tenure in Southern Africa: Context, Trends and Lessons* and did this in the form of bullet points on acetates, in those glorious days before PowerPoint. One trend I noted was that there had been growing centralisation of authority after Independence, with governments wanting to control everything, but that they were now facing demands to decentralise which they were inclined to resist. Before a number of government officials, including the soon to be notorious Border Gezi from Zimbabwe, I boldly stated these:

#### *LESSONS FOR GOVERNMENTS*

- Central governments cannot expect to manage and control land effectively at the very local level;
- Land reforms work best where Local Government capacity is strong;
- Uniform national land policies which neglect local ecological, population density, tenure and other differences will prove conceptually flawed;
- Governments should intervene to the minimum extent possible in a few special cases where some tenure reform is required, e.g. where indigenous systems are under great stress, in settlement areas, or zones of ethnic conflict, etc;

- The most effective form of policy intervention would be for governments to guide and coax, assisting indigenous tenure systems to evolve and to operate more effectively;
- Policy makers should identify and recognise the positive values of indigenous systems and give local communities control of their resources, while keeping national goals and priorities in view

On decentralisation, I noted that there were increasing arguments in favour of *local* control and management of land and other natural resources, but the problem was how to make this effective, democratic, representative, transparent and accountable? Some held up the Botswana Land Boards as a good model, while others cited Tanzanian Village Assemblies. The challenge was to develop *appropriate* institutions. In conclusion, I offered these:

### *GENERAL LESSONS*

- There are no 'CORRECT' solutions
- There are no 'FINAL' solutions
- It's a 'LONG HAUL' struggle
- So there is need for pragmatic, gradualist approaches
- Things generally don't work out as planned
- People often don't behave in ways planners expect
- The principle of subsidiarity is key
- Land will ALWAYS be a contested issue.

These seem to me still to hold water, though it was almost certainly not what some of the civil service technocrats wanted to hear.

*Regional Land Issues Review, 2006-7*

Last year, Martin Adams and I edited an *Independent Review of Land Issues, Volume III, 2006-2007: Eastern and Southern Africa*. I thought it might be helpful just to record some of its highlights for Southern Africa in more or less bullet point form.



*Angola* – legal confusion, insecurity, lack of information, land grabbing by elites, urban evictions, rampant corruption.

*Botswana* – reviewing all past land laws and policies, loss of communal land rights of poorer stock keepers as rangeland is allocated to outsiders.

*Lesotho* – land reform ground to a halt, corrupt land administration.

*Malawi* – momentum for land reform slowed down because of lack of resources, resistance from chiefs to privatisation of customary land, a new land law needed.

*Mozambique* – fast tracking of investor land requests, long time lags between delimiting community land and recording boundaries in registers and issuing certificates, much donor engagement, threats to the 1997 Land Law.

*Namibia* – lack of awareness of laws, customary rights being defined and registered, poor implementation of land reform because of lack of coordination, very slow pace of resettlement, not a single resettlement project said to be sustainable after 5 years.

*South Africa* – growing pressures on the willing buyer, willing seller approach, fragmented initiatives, need for overhaul of land policies, weakening of civil society coordination, more people evicted from farms since 1994 than had acquired new rights through land reform, slow progress on restitution and redistribution, weak capacity, now exploring area-based planning for land reform.

*Swaziland* – delays in developing land policy, concerns over disempowering chiefs and putting all power in the hands of the King through a new Land Management Board.

*Zambia* – ignorance of land laws, slow revision of policy and law, scandals in the ministry, President pushing chiefs to release land for investment, conversion of customary land to leasehold, ministry incapable of administering the land currently under its jurisdiction, lack of information and basic data.

*Zimbabwe* – confusion and contradiction in policy, no effective support to new farmers, plummeting production, tenure insecurity, land invasions, evictions of original occupiers by political and military elite, widespread corruption.

I suppose that comes across as rather a depressing list, and ten years after Randburg, I get a strong sense that post-apartheid land reform in South Africa has not been a huge success. Indeed, in a recent PLAAS Policy Options paper Edward Lahiff has written that 'In terms of overall achievement, land reform has consistently fallen far behind the targets set by the state and behind popular expectations.' This is attributed by many to 'a lack of political direction, bureaucratic inefficiency and a lack of mobilisation among the rural poor and landless themselves.' The 2005 Nkuzi study of farm dweller evictions bemoaned the lack of a strong civil society voice pushing to defend the rights of highly vulnerable people living and working on farms. In a new PLAAS Policy Brief, Lionel Cliffe argues that 'A new phase of land reform located within a wider agrarian reform is needed and will require new institutional arrangements.'

This relative failure both gives us cause for reflection and serves as an illustration of how difficult land reform can be to achieve. South Africa, after all, had a lot going for it. Apart from being by far the wealthiest country in the region, it has a long history of, for example, resistance to evictions. It also possessed:

- a number of organisations with much experience of working in this and related areas, some under the umbrella of the now defunct National Land Committee (NLC);
- a significant number of experienced analysts (including some present in this room) who could draw on the lessons from earlier experiences of post-colonial land reform in this region and beyond; and
- a first Minister and Director-General of Lands who were both passionately committed to pro-poor land reform.

Outsiders cannot help but feel that a great historical opportunity was missed, but of course this does go back to the global context, the ending of the Cold War and the willing buyer, willing seller issue.

Towards the end of our *Review of Land Issues*, Martin Adams and I wrote:

Compiling this land review provokes a number of thoughts. Many countries in Eastern and Southern Africa are clearly struggling to implement laws and policies that they have formulated in recent years. There are many reasons for their difficulties, including over-ambition, lack of capacity, scarcity of financial resources, and the assumption that customary law can be swept away by the stroke of a pen, or women's land rights protected by another. Social reality at the local level is generally very different from what is imagined in the capital. One of our contributors, who must remain anonymous, wrote:

'Don't get too excited about any policies that come out of (the ministry). They are never designed to be implemented, just to look good - and they do, they do! The practice, of course, is another story.'

Political will to do the decent thing and implement reforms which might offend powerful vested interests is infrequent. There are examples recorded in the foregoing country reviews of sheer bloody mindedness, wickedness, corruption and neglect – by politicians, officials, army officers or business interests. The heavy reliance on western donors and NGOs and the frequency with which consultants are cited is no surprise. Many countries are engaged in ongoing policy debates or struggles about the very purpose of land reform and land policy and who should benefit. These debates and struggles will continue for years to come. Finality in these things is illusory.

### *Donors, governments and civil society*

We are all donor dependent of course and most of us are well aware of the serious challenges this entails. I seem to remember your promising sounding Pan-African Programme on Land and Resource Rights collapsing because donors pulled the plug. And donors are frequently only interested in supporting research programmes which fit their current, often rapidly changing, priorities. The long-term approaches to land issues, which many of us bang on about, are hard to find, whether we're looking at governments, at civil society, at researchers, or at donors. So it's a tough, difficult world out there, and working on land reform is certainly not for the faint-hearted. Any SWOT analysis will quickly tell you that there are many more threats than opportunities. And one of the more prosaic obstacles is the very real gap in mindset, temperament, culture and exposure to external experience between people who work in civil society and those who work in government. This was sharply brought home to me again in a number of interactions at a UNECA meeting in Kigali in January this year.

In some recent presentations of this kind, I've been fairly forthright in my criticism of the weaknesses I've observed in key actors on the land scene. For an FAO meeting in Rome I said:

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.

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 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. 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.

I came to the rather sombre conclusion that ‘there seems to be no culture of genuine democratic political engagement in modern Africa.’

Of civil society, I said

I have worked in collaboration with a number of NGO land alliances and coalitions across the continent. 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 but 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 generally hostile political terrain.

I suppose that here I may be, perhaps a little reluctantly, close to the views of Sam Moyo and Paris Yeros in their book *Reclaiming the Land*:

Development agencies and NGOs had long penetrated rural areas through the funding of ‘projects’. This activity expanded under structural adjustment, as the social responsibilities of states were renounced and global development agencies found new and willing partners in NGOs to take over from states. As has been well demonstrated, NGOs have served to depoliticize and co-opt rural grievances into welfarist projects, maintain their own selves in business by means of external funding, and indeed serve as the vehicles of ‘indirect rule’.

#### *The policy – implementation gap*

One of the most striking features about land debates is the wide gap that exists between policy and implementation. I guess that this has always been so. It was fundamental in the way that I structured my 1977 book on *Land and Racial Domination in Rhodesia*, with chapters divided into ‘policy’ and ‘actuality’. One could cite many other examples. Recently I have had a close relationship with an excellent book being published later this year by James Currey, called *Women’s Rights to Land and Privatization in Eastern Africa*, where the dichotomy between recent laws and policies and realities on the ground is brought out in a variety of illuminating and interesting ways. A new study of Northern Uganda shows how only very few people, even in government institutions, know much about the 1998 Land Act – over which many long battles were fought. All this reminds me of my friend and colleague, the land activist Shaun Williams, who in everything he writes manages to find some excuse to cite James Scott’s book, *Seeing Like a State*, which talks about the huge gulf between grandiose planning and realities on the ground. Its sub-title is *How Certain Schemes to Improve the Human Condition Have Failed*.

This rather provokes the thought – why then have so many of us engaged in policy and advocacy work at the national level? Maybe the way forward is decentralisation! Certainly the fact that many countries in Southern Africa are now focussing on implementation rather than law and policy making might support this.

### *Decentralisation*

Decentralised approaches have been banded about a good deal. When I set up Oxfam's Land Rights in Africa website in 2000, I quickly had to cobble together some 'key principles' on the back of an envelope. One of them read:

*Decentralisation.* In principle the allocation of land and other natural resources and reviews of land sales should be devolved to accountable and representative local structures.

Harmless enough, and in line with the subsidiarity line that Oxfam and IIED were supporting, and receiving some criticism for because of its gender implications.

In 2000 I wrote a chapter on 'Lessons from Recent Policy and Implementation Processes' for a DFID book, *Evolving land rights, policy and tenure in Africa* in which I said:

Faced with a variety of pressures to devolve and decentralise because they can no longer control in the good old fashioned way, many African governments have gone along with the rhetoric while clearly being very reluctant in practice to embark on the road leading towards subsidiarity. They might bend to NGO or donor pressures for wider consultation, but have yet to be persuaded of the virtues of genuine public participation.

In the same book, Camilla Toulmin of IIED (now its Director) wrote a chapter on 'Decentralisation and Land Tenure' which I would commend to you. She concluded by saying that there are no perfect answers, and that 'second best solutions are inevitable in seeking a balance between building on existing structures while rendering them more representative, and avoiding the concentration of powers in a single structure'.

In a fine broad ranging paper the law professor Patrick McAuslan has recently argued that:

The commitment to decentralization has been a major step forward in allowing the citizens to manage their own land affairs. The new approach to land registration – the involvement of the community and local institutions, local and simple registration systems - can help protect the tenure rights of the poor.

But the strongest advocate for decentralised approaches is undoubtedly Liz Alden Wily. In 2003 she wrote *Governance and land relations: a review of decentralisation of land Administration and management in Africa*. This was part of her argument:

The review concludes that policy or legal commitment to decentralisation in the land sector is very widespread and often the centrepiece or anchor of more general reform. It is certainly one of the more significant innovations. The trend is however predominantly new, usually still at the planning stage and quite commonly afflicted by characteristic shortfalls of top-down formulation, well meaning as the intentions may be. Systems design is thus often awkward, unrealistic, expensive and liable to lack the simplicity and local ownership of procedure that will be essential to widespread adoption and sustainable use. There is also a great deal of risk in this situation; already there are signs that governments do not always sustain their enthusiasm for decentralised mechanisms when they confront the realities of implementation or the loss of control over the periphery that some of the more genuine moves towards decentralisation embody.

The review finds plenty of evidence to suggest that only when land administration and management is fully devolved to the community level and with a reasonable measure of empowerment and flexibility to act provided, is there likely to be significant success in bringing the majority of land interests under useful and lasting record-centred management and in ways that are fair and relevant to the majority poorer right holder.

Above all, it is clear that most developments are only at the beginning of what could and should be dynamic and open-ended evolution, with substantial learning by doing.

In a recent, very important paper on Kenya, just posted on the Oxfam land rights site, Wily makes practical suggestions for genuinely local democratisation of land governance as a way out of the current crisis. She stresses the need to act on identified illegal allocation of public land, to devolve land administration to the most local level possible, and vest radical title in real communities, not district/tribal territorial domains. Her paper is entitled: *Devolved land governance – the key to tackling the land issue in Kenya?*

#### *Your research programme - DLRSA*

I like what I've read of this research programme of yours. I was particularly struck by the emphasis placed on policy briefs and sharing best practice. On policy briefs, PLAAS of course already has a pretty good track record. Whenever I've been asked for advice on policy briefs, for example by groups in Uganda and Kenya, I have always referred them to the PLAAS briefs. I've no idea, however, how influential they've been in practice. I suspect not very much! It would be good to hear an assessment of that.

On the difficult area of sharing relevant best practice, this is something which my friend and colleague Kaori Izumi of FAO made a special point of doing in the four Southern African regional workshops she ran on women's and children's land and property rights in the context of HIV and AIDS. She called them 'inspiring initiatives', which is a phrase I greatly like. They include:

- The Memory Book Project in Uganda
- The Widow's Day in the High Court in Zimbabwe
- The Victim Support Unit of the Zambian Police
- The sensitive approach of a local chief in Kenya in protecting widows' and orphans' property rights
- Transforming home-based care groups into business groups in Kenya
- The Swazi Positive Living agricultural cooperatives and child protection committees
- The Village of Hope in Rwanda
- Community tribunals in Zambia
- The Paralegal Kids Programme in Zambia

The point to stress here is that people came to share these experiences openly, honestly, face to face, rather than through more impersonal and often inaccessible electronic means. There is no substitute for such encounters.

#### **IV CONCLUSION**

This is where I go into preaching mode, encouraged by a former Oxfam colleague, Anne Mumbi, who once said that I should be a Bishop! The message is basically pretty simple. Working on land rights is always hard and very often unrewarding. There are no easy wins. The odds, globally, nationally and locally, are usually stacked heavily against you. So you will need passion and commitment, built on a sense of outrage at injustice and a desire to change the way things are. You will need both optimism for when things are really bad and opportunism for spotting new spaces when they open up, often unexpectedly. I have sometimes found that a sense of humour can be a useful weapon against pomposity. Above all you need to believe in the power that individuals have to make a difference, even in the most unpromising of situations. I believe this passionately and I believe it because I have seen it with my own eyes in many places across the world. I have seen it within communities of course, predominantly from women, but I have also seen it among development workers, among government officials, even among donors, and certainly among researchers and academics, some of whom are in this room. Such individuals have pushed out the boundaries from where they found themselves and made things happen which would not otherwise have happened.

So, the struggle continues, and victory is sadly not always certain, as the old Frelimo slogan assumed, but that is no excuse for not taking part in the struggle. And as I look at Zimbabwe now, I am reminded of Che Guevara's famous words 'Against brute force and injustice the people will have the last word. That of victory.' As a honorary Bishop I fervently pray that he is proved right on this occasion.

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