

CURBS ON LAND RIGHTS IN RWANDA: THE 'BUNDLE OF RIGHTS' IN CONTEXT

Rwanda



The government of Rwanda regulates a variety of rights by individuals—particularly farmers—to use and enjoy the products of the land as they choose, with potentially serious consequences. Photo: CIAT

By Chris Huggins

INTRODUCTION: THE 'BUNDLE' OF LAND RIGHTS

In policy discussions and popular debates around land, rights to land are often described in overly simplistic terms that emphasize the mode by which land or property is held and may be sold or rented. However, the more useful concept of a 'bundle of rights' considers not only rights to possess and sell land, but also other rights, such as the right to access and use land in various ways; to enjoy the benefits of those uses; to exclude others from using; or to dispose of by will. In some situations, all of these rights are enjoyed by one single physical or legal person; in others, they are split amongst several people (di Robilant, 2013).


Governments may intervene to regulate land uses and other parts of the 'bundle of rights' for various reasons. In Rwanda, the government is increasing the degree of regulation over various rights related to land, particularly through the introduction of land use consolidation. However, a general focus on 'land tenure' can obfuscate the ways in which the government of Rwanda regulates a variety of rights by individuals—particularly farmers—to use and enjoy the products of the land as they choose, with potentially serious consequences.



MAP



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Land is crucial to Rwandans. Farmers typically make their living on less than one hectare, spread across several small plots.



The Rwandan government has registered 10.3 million parcels across the country, for which 8.4 million leases were issued. Rural leases last for 99 years.
Photo: ©Chris Huggins

LAND LAW REFORM IN RWANDA

Land is a crucial issue to Rwandans. This small nation has a very high rural population density, and farmers generally own an average of around 0.5 hectares, spread across several small plots. Land scarcity has reduced farmers' abilities to leave land fallow, leading to low soil fertility and erosion. This, along with lack of access to affordable agricultural technologies, has resulted in a precarious food security situation. Accordingly, the government has prioritized land and agricultural reform as an important part of its economic strategy.

The 2005 Rwandan Land Law, and the National Land Tenure Regularisation Programme (NLTRP) that enabled its implementation, have been seen as highly successful. Customary land tenure systems in Rwanda are based almost entirely on individual ownership, usually by a man, though women play important roles in agricultural production and may have some property rights to specific plots of land (Musahara and Huggins, 2005: 324)ⁱ. Lively rental and sale markets, both informal and formal, have existed for decades.

The 2005 Land Law required that customary rights be formalized. The NLTRP did this through land surveys, dispute resolution, and provision of documentation. The NLTRP enabled women to register claims to land, and family members (such as children) to be registered as having 'an interest' in land, potentially simplifying issues around inheritance of land, for example.

Land users are issued a lease for each parcel, which is fully transferable through commercial transactions as well as through inheritance. In rural areas, leases have a duration of 99 years (in urban areas they are shorter). Many land tenure specialists consider a 99-year transferable lease to represent a secure form of tenure that encourages investment.

The NLTRP resulted in the registration of 10.3 million parcels across the country, for which 8.4 million leases were issued, with the remainder requiring more information before a lease is issued (Kanyesigye, 2013). It was cost-effective, as much of the work was done by local people who received training in specific tasks (such as surveying or dispute-resolution), and used a combination

of satellite photography and field surveys to register approximate parcel boundaries, rather than more precise parcel characteristics. The final data were digitized and stored in a Land Administration Information System.

While the NLTRP was carefully planned and generally well-executed, some problems arose in its implementation. Awareness-raising of the NLTRP wrongly mentioned land ownership and title deeds, and the 2005 Land Law wrongly mentions 'landowners' rather than leaseholders (see e.g. Articles 42, 43, 54). Some citizens were unpleasantly surprised to find out that they were to receive leases rather than freehold titles, and were concerned that their rights to land would not be secureⁱⁱ.

The long-term sustainability of the NLTRP will depend on several factors, including the risk of an increasing number of land conflicts. According to the NLTRP, less than one percent of all landholding claims were disputed. However, the number of land-related cases referred to the National Ombudsman's office more than doubled from 2009 to 2011 because of intensified competition for land due to



Agricultural reform is large-scale and complex. Implementation involves land use consolidation and restricts cultivation to priority crops.



Land use consolidation shifts production from a diversity of crops to monocropping, and requires that neighboring farmers grow the same crop and use the same inputs. Photo: ©Jeff Haskins

the registration process, and alleged 'negligence' and 'corruption' by local authorities (Ndoli, 2012). Furthermore, citizens in several areas have reported that pre-existing land disputes were not considered as 'conflictual' by the land registration authorities (Ansoms et al, In Press). It therefore remains unclear whether some disputes may re-emerge in the future. In addition, millions of landholders have yet to collect their lease documents, raising questions about citizens' commitment to the official system.

THE AGRICULTURAL REFORM AND LAND USE CONSOLIDATION

The Government of Rwanda has dedicated almost 10 percent of its annual budget to the farming sector, in line with the Comprehensive Africa Agriculture Development Programme (CAADP) of the African Union. Much of this money is directed to smallholder farmers, through fertilizer subsidies, free or subsidized seeds, agricultural extension, and other interventions. Agricultural growth is intended to drive broader macro-economic improvement

and propel Rwanda to middle-income status by 2020 (Minecofin, 2000). In addition, agricultural specialization (i.e. focusing on a smaller number of crops) and intensification (e.g. using more fertilizers, and terracing hillside farms) are intended to result in increased yields, improved food security, and higher profits for farmers. Regional crop specialization policies are intended to result in improved market linkages and efficiencies.

The agricultural reform is large-scale, complex, and multi-institutional, including elements such as promotion of irrigation and mechanization, provision of extension services, post-harvest storage and handling programmes, and marketing efforts.

The Crop Intensification Programme (CIP) is one of the key implementation mechanisms, and works primarily through land use consolidation, which incorporates a shift from intercropping of diverse crops to monocropping. Under CIP, farmers with adjacent fields choose a single crop and similar choices of inputs, schedules for planning, weeding, and harvesting. Government-

approved seeds are provided along with subsidised fertilisers to be used only for priority crops, a policy that is often strictly enforced. Farmers are arrested if they attempt to re-sell fertilizer. The introduction of land use consolidation represents an increase in government control over some important elements of the 'bundle of rights' to land discussed above.

The agricultural reform is part of a broader target-driven government approach. An example of target-based development is the 'performance contract' (called *imihigo*) signed by households and all levels of local government. At the administrative Sector level, *imihigo* are written with little, if any, input from community members (Purdeková, 2011), but contain specific targets (e.g. hectares under production) for 'priority' crops. These targets may then be incorporated into household-level *imihigo*, as smallholders are urged to contribute to national production goals. The state has also begun to harness the *imihigo* structure for corporate interests by linking household *imihigo* targets to corporate production targets, in order to stimulate contract

farming for crops such as jatropha and pyrethrum (Huggins, 2014).

AGRICULTURAL REFORM AND THE BUNDLE OF LAND RIGHTS

The agricultural policy is, according to official documents, voluntary, and hence increases the opportunities available to smallholders. However, because it is part of a target-driven system which puts much greater emphasis on 'product' than 'process', and is embedded in a long-standing authoritarian institutional culture, it is often imposed on farmers (Huggins, 2013; ARD, 2008). This means that citizens refusing to follow the policy may face fines, destruction of private property, and other punishments (Pritchard, 2013; Newbury, 2011; Ansoms 2009; Huggins, 2009; Ingelaere, 2007), though the micro-politics of implementation vary across the country. There are few if any truly independent monitoring, watchdog or advocacy institutions in Rwanda (Gready, 2011), making it difficult to collect widespread information on this. However, even government agencies have acknowledged that, "power dynamics between local authorities and farmers are often skewed in favour of local authorities in order to

enforce the priority crops" (MINIRENA and RNRA, 2013: 23).

When it is imposed, the regional crop specialization policy limits farmer's rights to use land as they see fit, and as such reduces the size of farmers' 'bundle of rights'. In contrast to the long process of elaboration of the land policy and 2005 Land Law, the agricultural policy was formulated rapidly after a perfunctory consultation process, without extensive field trials (MINAGRI, 2004a).

Priority crops were chosen without extensive farmer consultation and the choice of crops owes much to the existence of processing facilities (for example, in the former Provinces of Kigali-Ngali, Kibuye and Gikongoro according to MINAGRI, 2004), suggesting the importance of industrial-scale value-addition. Agro-ecological 'favourability' is mentioned (Minagri, 2004), but this does not seem to be an overriding concern. While several priority crops (which include maize, beans, wheat, Irish potatoes, rice, soybeans and cassava) are already dietary staples, the government is primarily interested in processing and export potential. Government documents acknowledge that farmers can sometimes make more money from non-priority

crops (Kathiresan, 2011), but the goal is to generate downstream profits.

IMPACTS OF THE AGRICULTURAL REFORM

Land use consolidation entails a shift from intercropping to monocropping, and hence forces farmers to switch to commercial production rather than their usual combination of subsistence and commerce. Commercialization is also promoted by agricultural cooperatives, a key instrument in the agricultural policy. While some cooperatives are

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Reform is part of a target-driven approach that includes 'performance contracts' signed by households and local government, but written with little community input.



In contrast to the long process of elaboration of the land policy, the agricultural policy was formulated rapidly after a perfunctory consultation process. (Below) Rwanda land registration. Photo: Rwanda Natural Resource Authority





A woman planting pyrethrum seedlings, Musanze District. Photo: ©Chris Huggins

great opportunities for farmers, others have been established by government administrators with little farmer consultation, and some are very poorly managed (Ansoms, 2011). Farmers are sometimes forced to join cooperatives, and obliged to sell crops only through the cooperative; meaning that not only is their right to use land as they choose being limited, but also their right to consume or profit from their land as they choose (Ansoms et al, in press; Huggins, 2014). The restriction of these elements of the bundle of rights may have negative economic, ecological, and social consequences, as is discussed below.

According to the Government of Rwanda, there has been a massive increase in aggregate yields for priority crops: cassava production has almost tripled and total potato, soybean, and beans yields have approximately doubled (MINAGRI, 2012). Official government figures tend to be higher than FAO estimates, and may be 'inflated' (van der Laan, 2011: 4). Nevertheless, the positive trend is clear: the percentage of stunted children fell from 51 percent in 2005 to 44 percent in 2010 (Republic of Rwanda, 2013).

However, an exclusive focus on aggregate yields may obscure problems in particular areas, and does not consider the ways in which crops are produced, sold or

consumed. Rural households switching to monocropping rely much more on purchases of food than in the past, making them vulnerable to price changes and other market issues. In addition, because farmers are encouraged (or forced) to use government approved seeds, they are dependent on 'official' suppliers. This, alongside fertilizer purchases, represents an increased financial investment by farmers; and official suppliers are not always reliable. For example, maize production was 50 percent below normal in early 2014 across parts of eastern Rwanda, partly due to delays in distribution of seeds and poor quality seeds (Fewsnet, 2014).

IS REFORM LIMITING FARMERS' RESILIENCE TO CLIMATE CHANGE?

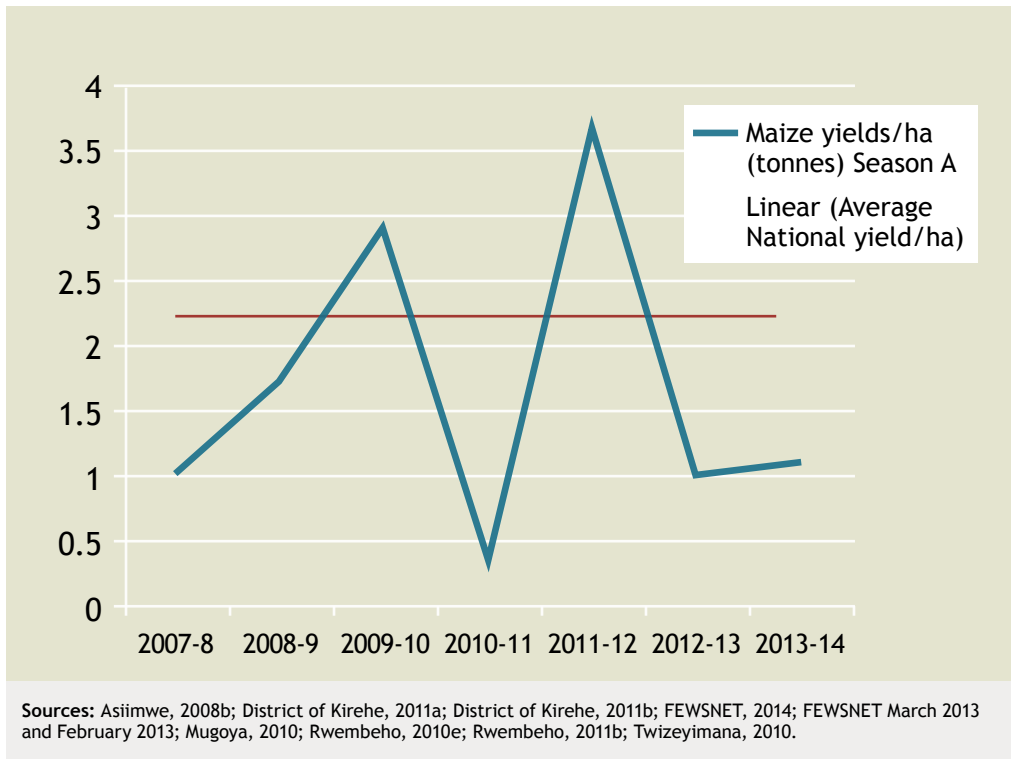
More generally, restrictions on the rights of farmers to use land and profit from it as they see fit are an obstacle to agricultural responses to market problems (such as the price crashes often brought on due to regional crop specialization) and climate change.

A case study from Kirehe District, Eastern Province, illustrates some of the dynamics (Huggins, 2014)ⁱⁱⁱ. Customary agricultural practices in this dry, hot landscape are risk averse, involving intercropping of various food crops

and minimal use of expensive inputs. Farmers customarily rely on drought-resistant crops such as sorghum, which are unlikely to make farmers rich, but are resilient to the frequent drought conditions. By contrast, the government promotes maize production, and insists upon the purchase of artificial fertilizers. Local authorities receive a payment for every kilogram of fertilizer applied to maize, which in practice has led them to force farmers to buy fertilizer. The private firm selected to provide agricultural extension services in the District also has an exclusive contract to sell fertilizer, meaning that its extension officers focus on maize and fertilizer distribution rather than responding to broader farmer demands.

Many farmers in Kirehe refuse to follow the policy because even 'drought-resistant' maize varieties are not dependable. They risk being fined, while those who cannot pay fertilizer debts may be detained in local police stations or have household possessions seized. Other sanctions include the uprooting of any crops not permitted under the regional crop specialization policy. These kinds of sanctions reflect a broader pattern seen across Rwanda (Pritchard, 2013; Nsanzimana, 2013; Rwagahigi, 2012). In a few cases in Kirehe, farmers have been beaten^{iv}.

Experts argue that the government's choice to grow maize in Eastern Rwanda is 'surprising given its high sensitivity to moisture deficits' (MINAGRI et al 2012) and available data shows that the maize crop fails at least every second year (see table 1). However, the government has continued to push maize production (Rwembeho, 2014). This is eroding local capacity to adapt to climate change, and exposing households to debt (for hired labour and fertilizer). The recent introduction of crop insurance and irrigation schemes are not sustainable solutions to a problem which is likely to get worse with climate change (Cairns et al, 2012; Government of Rwanda 2011). Government agencies have started to acknowledge that the "Crop selection strategy... may undermine the flexibility needed for climate resilient crop selection by farmers..." (MINIRENA and RNRA, 2013: 23).

TABLE 1: ESTIMATED MAIZE YIELDS PER HECTARE, KIREHE DISTRICT, 2007-2014

CONCLUSION

The rights of farmers to use land as they choose (within limits) and consume or profit from agricultural production as they see fit, are part of the bundle of land rights often ignored by a narrow focus on land tenure security. These rights are fundamentally an essential part of farmers' abilities to develop resilient household farming systems in the face of market volatility, elite capture of profits, and climate change. Assessments of Rwandan land tenure cannot ignore these rights.

The government has retroactively tried to make the agricultural reform more climate-smart but the policy changes made to date seem minor, given that monocropping may lead to a 'high risk of crop failure' in some areas, and that maize farming 'will become nearly impossible' in the East of the country (REMA, 2011). Regional crop specialization is closely tied to macro-economic strategies, and any change to this policy may have to come from the highest levels of government.

The government has restricted citizens' rights over land without providing a clear, consistent argument or systematic and transparent regulatory framework for doing so. While all governments restrict citizens' land rights to some degree, most do follow clear, standardized procedures. Given the lack of these in Rwanda, the media have noted the coercive dimensions of the agricultural reform, and some windows of opportunity do exist for farmer's voices to be heard. For example, large farmers' organizations have the

potential to advocate for change, either publicly or behind closed doors. Their international partners could provide diplomatic support for this. Community radio stations have provided citizens with opportunities to report problems on phone-in-shows, although their programming is often too closely tied to government public relations priorities to be truly independent.

At the regional level, Rwanda's enthusiastic participation in the Comprehensive Africa Agriculture Development Programme (CAADP) could increase accountability if CAADP requests data on indicators such as 'Improvement in the household asset and/or income levels of targeted vulnerable populations' (CAADP, 2009: 35), or on livelihood changes in marginal agro-ecological zones. Stakeholders supporting CAADP should place more emphasis on these indicators.

The government of Rwanda should be congratulated for its willingness to invest heavily in smallholder agriculture. However, the current reform seems to work through farmers, without necessarily prioritizing their own initiatives, preferences and knowledge. In order to provide Rwandans with a full bundle of land rights, including the right to make land use choices appropriate to a range of economic, gender-related, and climatic factors the Government of Rwanda and its partners should work with farmers as equal partners in the reform.

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Restrictions on the rights of farmers to use land and profit from it as they see fit can impede farmers' ability to respond to market problems such as price crashes, and to adapt to climate change.

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¹ The exception to this is the Batwa minority, who have customarily held land collectively. However, these rights have been disregarded by colonial and post-colonial regimes (Huggins, 2009)

² Interviews with householders, Gatsata District, Kigali, 2nd July 2010; interview with parasurveyor involved in national land registration process, Ruhengeri town, 30th April 2011; interview with smallholder farmers, Mwoga cellule, Mahama sector, Kirehe District of October 11 2011; interviews with smallholder farmers, Mwoga cellule, February 15 2013

³ This case study is based on 166 interviews with farmers, agricultural extension staff, local administrators, and others conducted in Kirehe District between May 2011 and February 2013, with the permission of the Rwandan government, under research permits MINEDUC 802/12.00/2011, MINEDUC/S&T/0026/2011, and MINEDUC/S&T/0026/2013

⁴ Household interviews, Mahama Sector, Kirehe District, June 2011; Huggins, 2009: 301

The views presented in this brief do not necessarily represent those of any FOLA partners, but rather reflect the views of individual authors.