

**TOWARDS DEVELOPING A COMPREHENSIVE IMPLEMENTATION
FRAMEWORK OF THE RWANDA NATIONAL LAND POLICY
AND LAND LAW**

CONTRIBUTION FROM LANDNET RWANDA CHAPTER
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1.0 Introduction

Since its inception in 2000, Land-Net Rwanda Chapter has been engaged in the process of the formulation of the new Land Policy in close collaboration with the Ministry of Lands, Environment, Forestry, Water and Mines (MINITERE). This was done in the pursuit of the mission of LandNet Rwanda Chapter, which is **“to contribute to equitable and sustainable land reform through inclusive actions and processes”** and the network’s goal which is **“to build a network that promotes dialogue and partnership between government, civil society, donors and the grassroots on issues relating to land”** .

The Policy was finally passed by the cabinet in February 2004 after a long participatory, consultative and inclusive process in which LandNet Rwanda Chapter played the key role of soliciting grassroots views in the whole process and leading civil society through advocacy and dialogue with government in formulating a Land Policy that is equitable and pro-poor. The Policy aims at addressing most of the major land-related issues, including major and related conflict issues.

As part of the implementation of the Land Policy, a new Land Law “Organic Law Establishing the Land Tenure System in Rwanda” was passed by the Parliament in November 2004 and by the Senate in May 2005. The new Rwanda Organic Law is now officially known as No.08/2005 of 14/07/2005.

The country has now embarked on the daunting task of implementing both the new Policy and the new Organic Land Law. Since September 2005, LandNet Rwanda Chapter has concentrating experience learning from regional as well as international experiences in implementing National Land Policies and Land Laws, with the aim of forming a basis for proposing and recommending implementation strategies for the New Land Tenure Reforms in the country. It is for this reason that a Consultant was commissioned to compile these experiences.

LandNet Rwanda Chapter believes that, it is a major stakeholder in the implementation process and has a mandate to assist the Government of Rwanda in formulating implementation strategies that are pragmatic, efficiency and cost-effective. The network will aim at proposing implementation process that is equitable and pro-poor, with strategies and actions that lay particular focus on the rights and aspirations of the women, youth, widows, orphans and other marginalized groups, who are mainly the poor and disadvantaged and whose basic livelihoods remain highly dependent on access to land.

With the support of DFID, a Rwanda Land Tenure Reform Road Map Team was instituted within MINITERE to spearhead the implementation process. The Road Map Team is to work for two years and its major mandate is to develop the implementation framework of the land policy and law. Land Net Rwanda Chapter sees this Road Map process as a good opportunity to solicit views on behalf of MINITERE on the new Land Tenure Reform implementation strategies from key stakeholders, like LandNet Rwanda Chapter and others, which is a critical contribution for the success of the implementation process.

LandNet needs to engage in the dialogue on the implementation processes from an informed position and it is for this reason that it is critical for the LandNet Rwanda Chapter to examine the following areas as it prepares itself for the dialogue and the implementation itself:-

1. Review of the key and strategic issues addressed in both the new Land Policy and Land Law. The aim is not to open up debate on these issues since they were adequately debated during the consultative process prior to the formulation and passing of the policy and the land law. The intended objective is rather to refocus these issues and sensitize her members on what has been agreed to be the land question in Rwanda today.

2. Examine the National Land Policy and Law in the context of the overall national development agenda and to link the Policy and the Law to other national reforms and sectoral policies.
3. Examine the proposed implementation strategy in the National Land Policy.
4. Review experiences and best practices from the region and at the international level in implementing national land policies and laws, especially in post-conflict situations.

2.0 Critical Land Issues and Land Related Problems

1. *Scarcity of land and land resources*

Scarcity of land and land resources in the face of a rapidly growing population. Rwanda is the most densely populated country in Africa and it has one of the highest population growth rates. The population is projected to double to 16 million in 2020¹. The population density was 101 people per km² in the 1960s and it now stands at 303 people per km² (physical density). Distribution of arable land stands at one hectare for every 9 Rwandans and it is diminishing due to high birth rates. Rwanda's population growth is at 3.6% per annum and it is one of the highest. Land and environmental scarcity coupled with severe demographic pressure are associated with conflict and poverty in Rwanda.

2. *Inequitable distribution of land*

The available statistics show that in 1984, 15 percent of the landowners owned half of the land. Distribution of arable land now stands at one hectare for every 9 Rwandans and it is diminishing due to high birth rates. A substantial number of rural families who subsist on agriculture own less than 1 hectare.

3. *Legacy of land disputes and conflicts*

The legacy of disputed land rights arise partly from absence of a legal framework on land tenure and property rights and partly from multiple waves of returning refugees. Increasing scarcity of land in the midst of high rates of population growth, with a historical legacy of discrimination and highly unequal land access, has greatly contributed to a long history of conflicts in Rwanda.

4. *Dual land tenure system*

The dual legal system governing land tenure and land ownership i.e. the customary law system running parallel with the statutory system. 90 percent of land in the country is under customary tenure governed by customary law which is unfavorable to women and which promotes land fragmentation through inheritance practices. It is noted however that the new Land Policy and Land Law state that customary tenure will be abolished. The biggest challenge is how to transit from the customary system to the statutory system. Stating that customary land tenure has been abolished is one thing, making it happen in reality is something else!

5. *Growing landlessness*

There is a considerable number of landless people that need to be settled at all costs. The landlessness is caused by many factors; key among them include the massive forced displacements that have occurred since 1959 and the biting poverty.

6. *Over dependence on agriculture*

Over 90 percent of Rwandans depend on land as their main source of livelihood. Coupled with a high population, this has led to excessive parceling of domestic cultivation plots. In 1986 an estimated 25.7% of domestic cultivation plots were less than 0.5 ha. While Vision 2020 and other policy documents aim to increase the options available for off-farm livelihoods, this is likely to prove a challenge due to structural and socio-cultural constraints.

¹ Rwanda Vision 2020

7. *Stiff competition in land use*

Competition between the needs of arable farming, livestock herding, nature conservation and urban expansion, and between different kinds of landholders (small-scale subsistence, commercial farming, public use, etc...)

8. *Imbalance between the population and the natural resources*

The imbalance between the population and the natural resources (land, water, flora and fauna and non-renewable resources), which have been degrading for decades. Degradation is seen through massive deforestation, the depletion of bio-diversity, erosion and land slides, pollution of waterways and the degradation of fragile ecosystems such as swamps and wetlands.

9. *Poor management and utilization of land and land resources*

Poor management and utilization of land and land resources partly due to lack of strong well-defined property development. Improving land tenure security and property rights can significantly increase the incentive for land users to employ more sustainable practices, conserving land quality, and can enable better protection of fragile resources and eco-systems. Bad management and poor utilization of land resources are also products of the lack of human, material and financial resources.

10. *Weak land administration*

Weak land administration systems and structures, characterized by highly centralized governance system. It is hoped that the on-going local government reforms will reverse this legacy of a highly centralized governance system.

11. *Insecure tenure*

Lack of a reliable land registration system that guarantees the security of tenure.

12. *Mushrooming informal settlements*

Vibrant and informal land market in the urban areas without a proper planning process and an efficient and effective regulatory framework to temper this market-has lead to the mushrooming of sprawling informal settlements. There are no pro-poor policies in place which would facilitate residents of these informal settlements to regularize ownership of their plots and upgrade their houses, and they remain at risk of losing their informal property rights.

13. *The disastrous effects of the war and genocide*

The massive return of refugees caused a systematic destruction of existing woody areas, and a quasi-anarchical takeover of protected nature areas, namely the Akagera National Park, and the Gishwati nature reserve. There is also the issue of contested rights over land because of different waves of population movement. This situation has led to the new national policy of land sharing.

3.0 **The National Land Policy in the Context of the National Development Agenda**

Land reform is identified as a priority in both the Vision 2020 and the Poverty Reduction Strategy Paper (PRSP).

3.1 **Vision 2020**

Vision 2020 is a framework for Rwanda's development, presenting the key priorities and providing Rwandans with a guiding tool for the future. Vision 2020 identifies six priority pillars and one of them is **Agricultural Transformation** which aims at the transformation of agriculture into a productive, high value, market oriented sector, with forward linkages to other sectors. Out of the three cross-cutting pillars of Vision 2020 is **Natural Resources and the Environment**.

Vision 2020 stresses the importance of land use management as a fundamental tool for development. The Vision makes provision for a modern Land Law providing Security of Tenure

and freedom of exchange. It proposes that land will be reorganized and consolidated so as to create adequate space for modern and viable farming and thus it sets up the policy of grouped settlements based on economic activity.

Vision 2020 takes cognizance of the challenge of accelerating urbanization which has happened in a rapid and uncoordinated manner, with implications that social services and employment opportunities are lagging behind. The Vision states that the country will develop basic infrastructure in urban centers and in other development poles, enabling the decongestion of agricultural zones.

The Vision mentions that the key policy areas that need urgent attention to bring about agricultural transformation include the following, among the eight:-

- Institutional and legal reforms to ensure security of land ownership; and
- Development of a market in land assets

3.2 The Poverty Reduction Strategy Paper (PRSP)

The PRSP prioritized the development and implementation of a Land Policy and a Land Law that:-

- i. ensures better land management;
- ii. confers security of tenure; and
- iii. provides for the resolution of land disputes;

as a necessary precondition for rural development and agricultural transformation.

PRSP has outlined six broad priority areas of the poverty reduction strategy. The six areas for public actions are stated as:-

1. Rural development and agricultural transformation - This includes the actions that most directly affect poor people's ability to raise their incomes. It includes agriculture and environment, land, supporting off-farm employment, credit, rural energy, small-scale rural infrastructure and labour-intensive rural public works;
2. Human development;
3. Economic infrastructure;
4. Governance;
5. Private Sector Development; and
6. Institutional capacity building.

PRSP has stressed the importance of sector strategies and it states as follows:-

"Within these broad priorities, specific priorities will be identified and action plans and programs will be developed to meet priority needs. The sector strategy process and the MTEF for the budget will be the main instruments identifying specific priorities, preparing action plans and programs and integrating them into the MTEF. The role of sector ministries as implementing agencies will diminish as decentralization proceeds. Their principal function will be the development of sector strategies, policies and action planning and the implementation of the policies and regulations. The development of the sector strategies will be open and participatory, consistent with the framework of the PRSP" (para 114 of the PRSP).

3.3 The National Land Policy vis-à-vis other Sectoral Policies

Land should be looked at as a cross-sectoral issue. Land Policy and Tenure Reform need therefore to be set within the broader objectives and programmes pursued by government, to ensure a consistent approach. Such linkages with other areas of policy should also enable different activities to build constructively on interventions under-way in their respective domains.

Experience from across Africa shows the need to set the land question within a broader policy framework aimed at promoting agricultural growth, and addressing poverty, while providing a mechanism for monitoring and amending the implementation process, as need be.

Land policies are of fundamental importance to sustainable growth, good governance, and the well being of and the economic opportunities open to rural and urban dwellers-particularly poor people². The biggest challenge is how to exploit the potential for using a national land policy as a catalyst for social and economic change and how to strengthen the effectiveness of land policy in support of development and poverty reduction.

In summary, land issues are much broader than usually written in the mandate of a ministry responsible for lands or a national land policy. A range of other “sectors” and activities have important links with or impacts on land use and tenure, including agricultural policies, natural resources management systems, policies on urbanization, infrastructure development, non-agricultural employment creation, internal migration, water management, to mention a few. This requires a multi-sectoral approach and considerable inter-ministerial co-ordination.

Thus the land policy should be looked at in the context of the following major sectoral policies:-

1. Macro-Economic Policies and Poverty Reduction Strategies:

It is of paramount importance to understand clearly the links between land reform, poverty reduction and sustainable development.

A national land policy addresses structural issues that, in the longer term affect the ability of the poor to take advantage of opportunities opened up by broad macro-economic changes.

Land remains an asset of great importance to the Rwandan economy, as a source of income, food, employment and export earnings. It is critical to establish clear linkages between land reform, poverty and economic development; given that land is the most critical sector in the development matrix. Since land is a primary means of both subsistence and income in rural economies, access to land and security of land rights are of primary concern to the eradication of poverty. The Land Sector still has the challenge of influencing the integration of land related issues (in form of coherent programs) into strategies for poverty reduction and economic growth. The contribution of land to economic growth depends upon the security, duration and enforceability of property rights, since these provide an incentive for agricultural investment, and develop markets to rent and sell land. There is evidence to confirm a relationship between land reform and growth and poverty reduction. There is ample evidence to show that secure land tenure provides an enabling climate for investment, which is important for growth and poverty reduction.

2. Agricultural Policy

One of the six priority pillars under Vision 2020 is rural development and agricultural transformation. The predominant economic activity for the majority of people in Rwanda is agriculture. The land policy is critical for the success of modernizing/transforming agriculture. The most critical concern is the impact of land tenure issues on agricultural investment and productivity; i.e. increasing tenure security has great potential to lead to increased investment and productivity³. It can be argued that a more secure ownership of land will stimulate agricultural production which is important for poverty reduction.

² The World Bank (2003) : Land Policies for Growth and Poverty Reduction – A World Bank Policy Research Report

³ Vision 2020 clearly points to two key policy areas, among eight, which need urgent attention to bring about agricultural transformation and these are : (i) institutional and legal reforms to ensure security of land ownership; and (ii) development of a market in land assets.

3. Environmental Policy and Natural Resources Policies

The existence of a multitude of sub-sectoral policies (environment, wetlands, forests etc..) and laws is likely to create implementation overlaps, conflicts and competition – these cannot be resolved without reference to the national land policy.

4. Decentralisation Policy

The PRSP clearly states that the role of sector ministries as implementing agencies will diminish as decentralization proceeds. As decentralization gets entrenched, the Land Sector should examine the following concerns and considerations:-

That the policy is driven by the principles of democratization, subsidiarity, popular participation and local empowerment.

- How to ensure that while localizing the process, it does not end up being de-concentration of state power rather than empowerment of local actors to either determine or manage local process (devolution of real decision –making authority). Distinctions have to be drawn between decentralized or de-concentrated exercise of basically state-run systems (Eritrea, Ethiopia, Namibia) and empowering the community level to govern its land relations (Tanzania).
- How to democratize land administration systems and structures? The need to install a simple, accessible, broadly participatory framework for land administration cannot be over-emphasized.
- Where to locate the land tenure governance machinery:- at the district level, sector level or cell/village/community level?
- What will be the make up of such land rights administrative institutions, the proportion of elected versus appointed members. The local institution should draw on a wide set of interests and stakeholders.
- The need to ensure effective representation of less vocal groups. It may also be necessary to have a specific number of seats set aside for women and minority groups to ensure their views are heard and to find ways of strengthening their capacity to intervene effectively within the discussions.
- A further concern should relate to the cost of establishing these structures and making a clear linkage with existing arrangements for managing land. These arrangements include the central structures as well as informal mechanisms at local level.
- International experience has shown that moving towards a more decentralized structure can, in addition to saving costs and eliminating unnecessary bureaucracies, enhance transparency and accountability and help use land administration as one element in a strategy to promote good governance.

4.0 Global Experiences and Best Practices in Land Reforms and Implementing Land Policies, especially in Post-Conflict Situations

There is a growing body of experience with implementing land reforms and especially in post-conflict situations and this provides a sound basis for sharing experiences between different countries and stakeholders. International literature review points to the following key insights, experiences and lessons:-

- Land policy clearly plays a fundamental role both in recovering from conflict, and ensuring that further conflict does not follow. In the first instance, land policy must deal with the immediate

chaos of property destruction and population displacement. Secondly, land policy must work to create institutions and laws to meet claims for property restitution.

- Land reforms are universally political and they can be contentious and explosive. In many cases, governments, and especially local-level state representations, remain unwilling to hand over property rights to community groups or private individuals because of the loss of power and patronage that this would imply.
- Full private ownership is not always necessary or even desirable. Security of tenure does not mean that property rights need to confer full ownership. Security of tenure does not mean that property rights need to be private and not common or state based.
- Formalizing property rights is not always necessary or even desirable. We should not always advocate for formalization of property rights⁴. It is not necessarily true that security is higher if someone has a formal property right – a title deed/certificate of title issued by the State. The evidence shows that the expected effects of formalized land rights on productive efficiency have not materialized. Rwanda needs to re-examine its rationale for titling, given the international experience.
- The last few years have witnessed a reassessment of conventional wisdom regarding land tenure and titling. Old doctrines and dogmas relating to titling have been questioned and some of the long-held conventional wisdom has been found to be a myth. Some of these include:-
 - The need for private title to land to encourage investment on the grounds that customary rights would never be able to provide sufficient basis for agricultural development. The approach in Kenya which was based on a sweeping assumption that individual private property is the sole foundation for agricultural development generally failed. It generally undermined security of tenure, deepened poverty and allowed richer groups to gain control over valuable resources. The expected economic and social benefits from the titling programmes were not realized⁵. There were negative consequences for poor farmers who were unable to pay for titling of their land; there was increased vulnerability for secondary rights holders such as women; and the grabbing of titles by richer, better educated people. In summary, contrary to expectations, the evidence from Kenya and some other African countries where titling has been systematically implemented shows that there has been no clearly discernible impact from land titling on investment behaviour (incentive to invest)
 - The second myth that has dominated much of tenure policy concerns the assumption that land registration and titling is the main instrument to contribute to a flourishing land market. Evidence has shown that land titling is neither a necessary, nor sufficient condition for the activation of the land market, as the contrasted experience of Kenya (where the rural land market is rather inactive despite titling) and Rwanda (where the market is quite active despite the illegal character of most land transactions) reveal (according to Jean-Philippe Platteau, 2000)
 - The third area of conventional wisdom resolves around the need for registration and titling as the main instrument to facilitate the use of land as collateral in credit markets. The evidence from sub-Africa shows that interventions to try to increase tenure security by land titling do not encourage availability of credit through the use of land as collateral. There are many factors which are responsible:- an absence of investment opportunities requiring

⁴ Security in practice is not an absolute quality, but a relative measure of three attributes of property rights:-

(i) duration-long enough to have an incentive to invest; (ii) protection-against arbitrary interference by others or the state; and (iii) robustness-freedom to use and dispose of land, free from interference of community or family.

⁵ Jean-Philippe Platteau (2000) in Does Africa Need Land Reform? Clearly states that contrary to expectations, the evidence from Kenya and some other African countries where titling has been systematically implemented shows that there has been no clearly discernible impact from land titling on investment behaviour.

credit; the fear of losing family land through fore closure; titled rural land may not be considered a reliable collateral by credit-givers because it poses difficulties of foreclosure or because, the market being thin, it is not easy to dispose of it in case of default.

- There are several lessons to learn from the above experiences:-
 - While some studies have confirmed the positive impact of titling where the conditions are right, experience with many titling programmes has also demonstrated that titling cannot be a panacea to achieve a wide variety of divergent goals at the same time.
 - Systematic titling is not sustainable, affordable or appropriate for the majority rural and cannot be extended to the entire country.⁶
 - Even where there is a strong case for titling, it has to be clear whether the specific objective is to increase tenure security, improve credit access, or contribute to an activation of land markets, or rob the poor of their land!
 - While there is no doubt that increasing tenure security has great potential to lead to increased investment and productivity, titling is no longer viewed as the only way to achieve this goal.
 - Given the imperfections in other factor markets, as well as the difficulty of registering multiple and often overlapping rights to land, the costs (for first titling and registration of subsequent transactions) as well as the possible negative equity consequences of titling need to be considered in advance. Doing so may lead to a more differentiated approach where measures that still fall short of full individualization may be chosen to increase tenure security and investment, at least in the short to medium term.
- Land reform is most effective when forming part of a broader agrarian reform⁷. This calls for tying land reform measures to the broader agrarian reform. In particular, ensuring marketing opportunities for farm produce are available, complimented by credit access, and agrarian support services are provided alongside a wider emphasis on rural development and rural transformation.
- Land reform can be a very expensive business. It involves a lengthy consultative and legislative process and a major programme of institutional building, training and awareness arising, as well as staff and other costs. This calls for balancing of costs and benefits. Some assessment must be made of whether the expected benefits from such reforms justify the expenditure, given alternative uses of scarce public funds.
- Land reform has to be considered a long term process. This requires a strong commitment from government, a willingness to learn lessons as implementation proceeds, a clear-sighted strategy for ensuring land reform supports and is supported by complementary measures to address poverty, increase agricultural productivity and manage land and natural resources in a more sustainable manner.
- Many land reform programmes have begun with pilot measures to test out their feasibility and need for amendment before launching a nation-wide approach. Use of pilot schemes seems much more appropriate than trying to do everything at once, since it allows for a focus on priority areas

⁶ In a country like Rwanda where more than 70 percent own less than 1 hectare, will titles give as much value to the land as anticipated? The debates about formalization of customary tenure and land markets in Rwanda needs to be revisited. A less costly scheme of formalizing ownership needs to be devised.

⁷ More than 90 percent of Rwandans live in rural areas depending on agriculture. The agricultural sector contributes upto 43.5 percent of GDP. A land reform, implemented by a workable land law, that will improve land use and security and ameliorate the stress on the economy arising from land scarcity, degradation, and mismanagement will certainly augment the contribution of the agricultural sector to economic growth

where land issues have become acute, as well as learning how best to tailor reforms to fit local conditions⁸.

- The record of sub-Saharan African countries in formulating and implementing national land policies and laws is not a good one. Often countries have gone into land policy without the necessary analytical work to support it, such as the Zambia 2002 Draft Land Policy. Others have gone into land legislations without the necessary land policy to underpin it, such as the Uganda 1998 Land Act. And others have merely passed land legislations with very little success in implementing them such as Uganda, Tanzania and Malawi.
- Implementation of land reform needs to involve beneficiaries as well as government, civil society and NGOs at all levels, with a strong element of participation rather than top-down and centralized approach.
- Many past efforts at changing the institutional structure for land administration in Africa and elsewhere failed because of either a clash with local norms, lack of political will and/or obstruction by 'spoilors' with vested interests (i.e. large land owners), or lack of implementation capacity and/or financial sustainability.
- Quick and systematic implementation of these policy and legal reforms remain a major challenge. Experience suggests that, unless the institutions to implement the policies and laws can be made to work quickly and effectively, the attempts at legal reform may well add complexity and insecurity rather than reducing it.
- A national land policy cannot be implemented in isolation; formulation of a national land strategy should include other sector programs that are necessary for its success such as strengthening of credit markets, developing economic and market infrastructure that make land more productive and strengthening of the judiciary and land tribunals to enforce rights.
- Mistakes have been made during policy development in many countries by not tying policy development and land law formulation sufficiently closely to technical implementation and these mistakes can derail the entire land reform process⁹.
- To make reforms feasible, strong local capacity, an open and broad-based policy dialogue, carefully chosen and evaluated pilots, and sharing of experience across countries will be essential, and can also build capacity for policy formulation¹⁰.

5.0 Implementation Challenges

1. The greatest challenge is the cost (both in political and economic terms) of inaction and delay in implementing the reforms, given the seriousness of the Rwanda land question and the great expectations and aspirations of the different stakeholders. International experience has shown that raising expectations that are not met and designing mechanisms to promote land access, security of tenure and distribution of land ownership rights that do not function as expected can contribute to conflict.

⁸ It is gratifying to note that the DFID Programme in Rwanda has started pilot schemes/trial interventions in 4 districts.

⁹ There has been such a terrible delay in Uganda in implementing the policy reforms in the 1995 Constitution and the 1998 Land Act. For further insight, see Eddie Nsamba-Gayiiya 1999: Implementing Land Tenure Reform in Uganda : A Complex Task Ahead. Published as Issue Paper No. 84 by the International Institute for Environment and Development.

¹⁰ World Bank, 2004 (Land Policies for Growth & Poverty Reduction)

2. Designing just and pro-poor implementation strategies is a big challenge. The need to mainstream poverty and gender equity considerations, to ensure that land reform is truly pro-poor and does not increase inequality and vulnerability cannot be over-emphasised.
3. How to avoid the problem of empty principles and objectives? How to translate policy objectives into operational mechanisms?. For example the principles of equity in land distribution and efficiency in agricultural production.
4. The need to make hard choices: choices reached through compromise and consensus. As a rule in public policy, all good things do not come together; choices need to be made and at a price. The National Land Policy has a multitude of policy objectives sitting side by side and all appearing urgent and convincing but they are hard to reconcile in the context of limited financial resources and institutional capacity and variable agendas of the stakeholders. Choices must be reached through compromise and consensus.
5. Need for a coherent framework that links social, institutional, legal and technical aspects.
6. Institutional co-ordination is likely to be a big-challenge. There are many ministries and agencies with different mandates dealing with land related issues¹¹. The need to have an effective inter-ministerial agency co-ordination in all land reform matters is critical. In-puts and guidance from other ministries – MINAGRI, MININFRA, MINALOC, MINIJUST, MINECOFIN and MIGEPROF, is necessary for the successful implementation of the different elements of new Policy and Law.
7. The success of implementation will depend on the effective co-ordination and contributions of a wide range of institutional stakeholders including NGOs and CSOs, and the commitment of a large range of key actors. The challenge is to build various partnerships with all stakeholders.
8. The challenge of mainstreaming land into national policies and planning framework, including ensuring that the implementation of the new Land Law is properly reflected in budget processes.
9. The challenge of mainstreaming gender in all aspects of implementation. Women constitute 54% of the population and more than 30% of all households are headed by women.
10. The challenge of marshalling national capacity to implement the land reforms given the limited government financial resources and capacities.
11. The challenge of building and maintaining political will, is very essential to propel the reforms.

6.0 Towards Developing Comprehensive Framework for Implementing the Rwanda National Land Policy and Land Law

The need for a comprehensive implementation framework for the national land policy and law and to guide the reform process is not a matter for debate. Everybody agrees that there is an urgent need for a strategic approach to the implementation process. What ought to be the key elements of this strategic approach? Land Net Rwanda Chapter has designed a quick checklist as its contribution to the process of developing the ongoing implementation framework of the Rwanda National Land Policy and Law, as following:

¹¹ Land issues are much broader than usually written in the mandate of the ministry responsible for lands or a national land policy. A range of other “sectors” and activities have important links with or impacts on land use and tenure, including agricultural policies, natural resources management systems, policies on human settlements and urbanization, infrastructure development, non-agricultural employment creation, internal migration and water resources management. This requires a multi-sectoral approach and considerable inter-ministerial co-ordination

6.1 Check-list

1. Assessment of the capacity of the existing structures and systems already in place which should be able to kick-start the implementation, as new structures are being set up.
2. Audit the existing and proposed new structures to eliminate wastage due to duplication, overlaps and unproductive competition among various decision-making centers.
3. Identification of the institutional and governance structures which are needed to implement the land reforms.
4. Assess the relevancy, appropriateness and cost-effectiveness of the proposed structures in the new Land Law. In creating new institutions, care should be taken to avoid institutional innovation, like it happened in Uganda, i.e. creating many new institutions which become unaffordable.
5. The Land Law has decentralized the land administration and management function to the district. There is need for further decentralization and devolution in line with the principles of democratization, subsidiarity, popular participation and local empowerment. Participatory process become meaningful only when there is enough capacity in the decentralized bodies and in the communities. The key question to ask is at what level of society and with what degree of autonomy from the executive should land relations be regulated and with what level of popular participation. This is what is referred to as governance of local land rights¹².
6. The involvement and participation of civil society in all the processes is key to the success of the implementation. Civil society should be involved as a matter of right and need. The Road Map Team should put in place as one of the priority activities, an information sharing mechanism to key stakeholders like LandNet.
7. Civil society should take a keen interest in protecting the rights of the vulnerable groups, including women, widows, orphans and the poor generally. Provision of information on land rights is a key strategy for improving the security of land rights and therefore livelihood sustainability of vulnerable groups. Hence, civil society should champion the provision of this public information to address the broad range of land sector issues.
8. All stakeholders should be involved in identifying the available options and work out costs and trade-offs involved in the different approaches. The Land Sector should draw on the international best practices in the assessment of technical, institutional and organizational options. It is vital that the implementation process is carefully thought out and is sustainable, and that all stakeholders are carefully consulted. Ensure participatory decision making and collective action.
9. Develop a comprehensive strategic plan for the Land Sector with prioritized and sequenced activities, which are fully costed. The draft should be done by the technocrats in the ministry, with full participation of all stakeholders.
10. Engage stakeholders in the entire implementation process to ensure continuous legitimacy to the process. Success will depend, to a large extent on continuous stakeholder support and confidence.

¹² In Tanzania, the community (village) has been empowered by law to govern its land relations. The authority over land governance has been given into the hands of democratically elected community level bodies. The land administration functions have been devolved to the elected Village Councils and Committees. In Uganda the law provides for land disputes to be settled at the local level by elected committees (LC2 committees). The new draft policy in Uganda is recommending land dispute resolution by traditional/community institutions in areas where customary tenure predominates.

11. Promote various meaningful and beneficial partnerships. The goal of partnership is to make the different but equally viable roles of the various stake-holders/actors complementary and mutually supportive. The advantages of partnerships are in obtaining synergy, public efficiency and community participation. Local partnership approaches will mobilize resources, create synergies among on-going activities, and promote broad-based participation for the benefit, especially of disadvantaged groups. Most importantly partnerships will enable each stakeholder to play to its comparative advantage in a co-ordinated way.
12. Ensure deeper decentralization, genuine democratization, popular participation and local empowerment¹³. Avoid the temptation of de-concentration of state power; ensure empowerment of local actors to either determine or manage local process (i.e. devolution of real decision-making authority).
13. Develop a comprehensive package of all legislative measures (decrees, regulations and procedures) required to implement the NLP and the Organic Law. Different stakeholders should be involved in the entire process in as far as possible.
14. Develop and operationalise specific indicators for measuring programme implementation effects. The monitoring and evaluation of stated actions and strategies as stipulated in the NLP and Land Law should be executed and periodic reviews conducted so as to inform the necessary changes and modifications in the policy.

6.2 Proposed Roles of different Stakeholders

The design and implementation of new Land Policy and Land Law measures must acknowledge the wide range of stakeholders with an interest in land, and its role both as an economic good, social and political asset. Widespread consultation and participatory processes are needed to permit effective engagement by a broad range of stakeholders and actors in discussion of proposed policy and legal reforms and the institutional options for implementation. Considerable time and effort has to be invested in getting public in-put into the process.

6.2.1 MINITERE

As a central ministry, the role of MINITERE will be to provide leadership to the implementation of the land reform. Further, the Government's five-year decentralization programme (2004-2008) identifies the following responsibilities and priorities for MINITERE: (i) guide the formulation of relevant sectoral policy and strategy at the national level (ii) ensure that devolved functions are harmonized with the national policy on environment protection, resettlement and land use; and (iii) provide sectoral technical support and capacity building to the decentralized entities.

6.2.2 Other Government Ministries

Inputs and guidance from other ministries will be necessary for the successful implementation of different elements of the new Policy and Law:- MINAGRI on land use and management; MININFRA, for land use in urban areas; MINALOC for decentralization administration; MINIJUST for dispute resolution;

¹³ The biggest challenge is how to democratize land administration systems and structures. The need to install a simple, accessible, broadly participatory framework for land administration cannot be over-emphasize. Where to locate the land tenure governance machinery:-at the district level, sector level or village/community level? What will be the make up of such land rights administration institutions, the proportion of elected versus appointed members? The local institution should draw on a wide set of interests and stakeholders. It will be necessary to have a specific number of seats set aside for women and minority/disadvantaged and vulnerable groups to ensure their views are heard and to find ways of strengthening their capacity to intervene effectively within the decision-making processes.

MINECOFIN for budget allocations, MINEDUC for geographical information system and MIGEPROF for protection of interests of women and children.

6.2.3 Local Authorities

Government decentralization policy clearly indicates that the bulk of the work in administering and implementing the law: the resolving of conflicts, the registration of rights, the planning of local land use and so on – will be done by the district authorities. Although, based on the current level of decentralization, there a new proposal to move most of this work at the sector level.

6.2.4 LandNet

LandNet Rwanda Chapter, LandNet at East Africa level should be seen as a serious and useful partner in the implementation process. LandNet Rwanda Chapter should continue to play an active role as it played during the formulation of the Land Policy and Land Law. The network should continue influencing policy makers and donors on the importance of consultation and participation in the implementation process as a good value for democracy and as important elements and essential for effective good governance. In particular, LandNet will:

- i. Play an important role in translating and advocating for the needs and expectations of the grassroots people, particularly the women, the marginalized and the poor.
- ii. Be a watchdog on transparency and accountability.
- iii. Through research and documentation, continue to share experiences and other relevant information.
- iv. Carry out public awareness on the new Land Policy and Land Law and Implementation Framework.
- v. Provide legal aid where needed especially to the vulnerable groups.
- vi. Participate in land sector decisions, implementation and monitoring of the new Land Policy and Law.

6.2.5 The Private Sector

Some of the technical land services, which are now provided mainly through government, will need to be privatized. The private sector can play an important role in land service delivery. In order to improve private sector participation, it is necessary to identify strategies through which its role can be enhanced and supported. For private sector participation to be effective there is need for capacity building in the sector.