

**REPORT ON DFID WORKSHOP ON LAND TENURE,  
POVERTY AND SUSTAINABLE DEVELOPMENT  
IN SUB-SAHARAN AFRICA**

**Sunningdale, Berkshire  
16-19 February 1999**

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**Part I: INTRODUCTION**

As many who will read this report may know, I have been involved in the planning of this DFID-sponsored workshop on land tenure etc. from the outset. A great deal of **serious careful planning** about the structure and scope of the workshop went on over a period of 9 months or so - and that careful work eventually bore fruit.

Some 75 delegates from governments, NGOs, and research institutions and universities from **all over Africa** attended, including Lusophone and Francophone countries, together with donors - DFID, the World Bank, the Wisconsin Land Tenure Center, FAO, GTZ, USAID, the EU (DGVIII), and Dutch and French Foreign Affairs.

A deliberate attempt was made to **provide a forum in which African voices could be heard**. The intention was to bring together a variety of key actors in land debates and struggles on relatively neutral territory so that they could share their experiences, their learning, and examples of best practice as well as looking towards possible solutions. Chatham House rules applied, so that delegates could feel free to speak freely - and from the sessions I attended this certainly appeared to work.

There was a good mix of plenary, small groups and very small groups to discuss different aspects of the **7 key themes, which are listed in Part III**. Some excellent papers were given, but speakers were confined to 10 or 15 minutes to emphasise that it was **a workshop rather than a conference**. This resulted in an important sharing of experience; the evaluations were very positive about this, although inevitably people

wanted more time. As one minister said, it was very good to know that we are all in the same boat.

It was very clear that many countries were involved in **very long processes** - it had taken almost a decade, for example, between the appointment of a Presidential Land Commission in Tanzania under Issa Shvji and the eventual passing, in the week before the workshop, of the Land Act and the Village Land Act, 1999.

A number of countries have now arrived at the **key stage of implementing legislation** - Tanzania, Uganda and Mozambique, for example. In the past Oxfam has been involved in the struggle of land alliances pushing governments to consult more widely and to adopt laws and policies which took account of the needs and concerns of the poor and vulnerable. I believe strongly that **Oxfam needs to engage seriously in the new stage of implementation, for the struggle is only just beginning!**

**There will be an official report** on the workshop, which I shall circulate when available. In the meantime this report will comprise the **key points** that arose as they occurred to me from the sessions I was able to attend (a number ran concurrently) and the papers I have so far read; **the agenda** of the workshop; a list of the **papers** given; and finally the **addresses** of delegates.

On **papers**, I already have some of these in electronic versions and hope to have all eventually, and I know that DFID is contemplating posting them all on a website. I will do my best to distribute them appropriately, but please ask for papers you want.

### **Follow up activities**

The steering group and DFID Natural Resources Advisers in Africa will be planning a series of **follow up activities**, for it was always intended that **the workshop would not be a one off event**. The steering group, on which I sit, reconvenes on 15 March and Michael Scott, Head of DFID's Natural Resources Policy and Advisory Department, has already written to participants to canvass their views about possible follow up activities. Among the ideas he proposed were:

- How best to facilitate the establishment of **an active, African-based network on land and natural resource tenure**.
- In considering further the case for and against a land tenure network, DFID is contemplating financing a **review of relevant existing regional networks** and how to build on them through specific, Africa-wide networking activities and would welcome the active involvement of workshop participants in this.
- How to support national efforts in policy development and implementation through **collaborative research, monitoring and evaluation** to assess improvements in land and resource access, impacts on poverty, and to better understand effective approaches.
- How DFID's bilateral programmes can promote continued **country to country contacts, exchanges, and training and capacity building**.
- How to **further donor collaboration**.

Michael Scott finally asked delegates to discuss practical follow up with colleagues and make specific suggestions on the concept of a land tenure network or of other practical activities to take forward the workshop's conclusions.

## Part II: KEY POINTS

### CONSULTATION

- The process of consultation and legislation often takes a decade or more, as in Tanzania and Uganda.
- But consultation is crucial.
- It is also very costly!
- There has been very great diversity in the extent of consultation in different African countries.
- You not only need to consult but also be *seen* to consult (Malawi).
- People will always complain that the consultation was inadequate!
- There has been tremendous suspicion of commissions in some cases (Kenya, Malawi).
- There are greatly varying perceptions of the legitimacy of traditional authorities, varying from outright rejection in parts of South Africa to the acknowledged land chiefs of West Africa.

### PROCESS

- There is need for pragmatic, gradualist, flexible, workable approaches.
- There is also a need for transparency and legitimacy.
- 'If it ain't broke, don't fix it' - i.e. it's better to use existing structures where possible rather than create new ones. (In South Africa new institutions are clashing with old).
- The use of pilot land reform projects (South Africa and soon possibly Zimbabwe) was seen as helpful.
- You need to think through the implementation stage - and have a plan - before embarking on legislation. (Uganda failed to do this).
- Badly implemented land reforms created great confusion in the 1970s. There is a need to avoid this in this second generation of African land laws (John Bruce).
- South Africa's Land Rights Bill will be the 5th major land law since 1994; the people involved are now exhausted; they can't implement the laws already passed; they are learning to become more pragmatic.
- Implementing participation is very difficult and provokes contestation.
- There is a general process everywhere towards individualisation of land rights.
- There is a slow but definite process of land privatisation in West Africa, often led by urban dwellers moving into rural areas looking for investment opportunities.

### LEGISLATION

- There is a need for more user-friendly land laws written in more intelligible language.
- Land laws should be translated into local languages.
- Land laws should be reviewed periodically.

### **DECENTRALISATION**

- There is a growing consensus that decentralisation and subsidiarity are the best approaches to land management, with state intervention best kept to a minimum.
- Decentralisation costs money!
- Decentralisation as a process is now underway in many West African countries and will have major implications for how access to land and resources is handled.

### **TENURE**

- There is no ideal tenure system; it will vary according to the agrarian experience and the social and political environment of each country.
- Tenure relationships are characterised by their great diversity, which makes general prescriptions very difficult.
- Tenure systems need to be broadly acceptable to the people and community-based.
- Customary land tenure is very often perceived as being inferior to modern systems.
- The reality of multiple and overlapping rights to land does not sit easily within modern systems of tenure.
- Group ownership schemes can be viable in some circumstances. But defining a group may be problematic (South Africa).
- National land policies or basic land laws may be essential as a framework, but it is important for governments to recognise a diversity of tenures where appropriate, (e.g. in Uganda, where this was successfully pushed for by NGOs).
- There may also be a need for sectoral laws, e.g. for pastoralists.
- Land taxes have never been successful; people simply sub-divide the land and pass it on to their children.
- There is a wide variety of institutional arrangements by which people are able to access resources (e.g. loans, tenancy, sharecropping, gifts, pledging) which is often very significant for weaker social groups.
- In West Africa, conflicts around tenure and access to resources are likely to become increasingly critical, raising the risks of destabilisation in the region.

### **TITLING**

- Individual titling as the blanket magic solution to Africa's land problems is now totally discredited.
- Titling is not cost-effective in most of sub-Saharan Africa.
- Titling is only appropriate in certain circumstances.
- Titling in the past has generally benefited the well-connected.
- Titling and registration systems in many cases give greater security to household heads but weaken the rights of other family members, particularly women, and other secondary users, such as visiting pastoralists (West Africa).

### **SOUTHERN AFRICA: RACE**

- In Southern Africa the central issue, dominating all else, is the re-possession of former white-owned land, so tenure reform in the communal areas has been neglected.

### **DONORS**

- Donors need to cooperate better so that African governments are not pulled in different directions.
- Donors need to strike a balance between enabling groups in civil society to make their voices heard and not making life even more difficult for African governments.
- Sustained donor support for all stages from policy development to implementation and impact evaluation is likely to be increasingly important in future.
- But African governments and NGOs are dangerously donor-dependent.

### **WORLD BANK**

- The World Bank's policy on land *has* changed! (Shem Migot-Adholla had a slide telling us so. He is tasked with writing a new Bank policy, but admitted it would take time to push it through the relevant channels and felt anything controversial would be cut out and a bland policy eventually emerge).

### **CORRUPTION**

- Land officials everywhere were thought to be the most corrupt of all government officials! (See recent Kenyan newspaper stories).

### **THE FUTURE**

- To remain secure, rights to land have to be *defended* from encroachments and violations.
- There is a need to strengthen local capacities for management, information and dispute settlement.
- People who are resettled generally need a lot of support.
- The Botswana Land Boards were frequently held up as a model.
- It is good to have systems in which people are free to leave the land, do other things, and be able to return to the land later. (In Ethiopia people are unable to leave for fear of losing their access to land).
- CPRs (common property resources) are very important for the rural poor.

## Part III: WORKSHOP AGENDA

### Tuesday 16 February

Arrival, Registration

6.30 pm Reception, Northcote House, Sunningdale Park

8.00 pm Private dinner for workshop delegates, Northcote House

### Wednesday 17 February

Registration, continued

#### 8.45 **OPENING PLENARY**

**Keynote address** Clare Short, UK Secretary of State for International Development

9.15 **DFID statement** Michael Scott / Julian Quan, NRPAD

9.30 **Structure of the workshop** / discussions on key issues and expectations small groups and plenary review. Facilitator: Bara Guèye, IIED, Senegal

10.15 COFFEE

10.30 **Regional Overviews:** *East Africa:* H. W. O. Okoth-Ogendo  
*Southern Africa:* Joseph Matowanyika, SADC  
*West Africa:* Camilla Toulmin and Hubert Ouedraogo, IIED

11.30 **Plenary Discussion**

12.15 LUNCH

1.00 **Theme 1 Tenure, Economic Development and Poverty** (in plenary session)

#### Main papers

- *Land tenure and sustainable economic development in Ethiopia:* Dessalegn Rahmato, Institute of Social Studies, Ethiopia
- *The World Bank approach to tenure reform* Shem Migot-Adholla, The World Bank
- *Does Africa need Land Reform?* Jean-Philippe Platteau, University of Namur, Belgium

#### Short paper

- *Uganda's land policy and pro-poor economic growth* Hon. Baguma Isoke, Minister of Lands, Uganda

2.30 **Plenary discussion:** Resource People: John Bruce, Land Tenure Center, Wisconsin/  
Robin Palmer, Oxfam GB

3.00 **Theme 1 Break out discussion groups x 4**

TEA /COFFEE - during discussions

4.30 **PLENARY:** Review of outcomes; Information for Day 2

5.30 **CLOSE**

**Thursday 18 February**

**AM Overarching Theme: *Stakeholder rights and land tenure policy***

8.45 **Thematic papers and discussions x 3** (in parallel)

**Theme 2 *Integrating Statutory and Customary tenure systems***

Main papers

- *Only the name of the country changes: the diaspora of European land law in Commonwealth Africa* Patrick McAuslan, Birkbeck College, University of London
- *Customary tenure under Uganda's 1998 Land Act* Rose Mwebaza, Uganda Land Alliance
- *The land market in peri-urban Kumasi, Ghana* Kasim Kasanga, UST, Ghana

Short papers

- Jeff Nkata, PS Ministry of Lands, Malawi
- Cyrus Wambugu, Ministry of Land and settlement, Kenya

Resource People: H. W. O. Okoth-Ogendo / Philippe Lavigne Delville (GRET)

**Theme 3 *Tenure and common Property Resources***

Main papers

- *Tenure and pastoralism in expanding agricultural areas in Sudan and the Horn* A. G. Ahmed, OSSREA, Ethiopia
- *Management of Common Property Resources for sustainable livestock production in Nigeria* Dr Junaidi Maina, Federal Department of Livestock, Ministry of Agriculture and Natural Resources, Nigeria

Short paper:

- Michael Ochieng Odhiambo, Reconcile (NGO) Kenya

Resource Person: Ben Cousins, University of Western Cape, South Africa

**Theme 4 *Threats and opportunities for women's security of tenure***

Main papers

- *Women's Land Rights and Uganda's 1998 Land Act* Irene Ovonji Odida, UWONET, Uganda
- *Threats and opportunities for women's security of tenure in Tanzania* MHS Stella Longway and F.Mutakyamilwa: Government of Tanzania

Short Papers

- *Threats and opportunities for women's security of tenure in Southern, East and West Africa* Karen Dzumbira, WILDAF, Zimbabwe:

Resource Person: Liz Wily, Independent consultant, Kenya

10.15 COFFEE

10.30 **Break-out discussion groups x 4** (Customary / Statutory tenure group to divide)

12.00 **PLENARY:** Results of discussions

12.45 LUNCH

**Thursday 18 February**

**PM Overarching theme: Institutions and implementation**

1.45 **Thematic papers and discussions x 2** (in parallel)

**Theme 5 *Land Rights management Systems***

Main papers

- *Experiences of delivering communal and individual rights in Ivory Coast* Jean-René Okoin, Plan Foncier Rural, Ivory Coast
- *South Africa's proposals for land rights management* Aninka Claassens and Sibongile Makopi, Department of Land Affairs, South Africa
- *Challenges in implementing Uganda's 1998 Land Act* Eddie Nsamba Gayiyya, Acting Chief Government Valuer, Uganda

Short Papers

- Botshelo Mathuba, Presidential Adviser, Botswana
- Cuna Junior, DINAGECA, Mozambique

Resource Person: Martin Adams

**Theme 6 *Land tenure, governance and decentralisation***

Main papers

- *Niger's Rural Code* Moussa Yacouba, Niger
- *Land tenure reform, rural local government and traditional authorities in South Africa* Lungasile Ntsebeza, University of Western Cape, South Africa

Short paper

- *Tenure issues in local and regional development* Belay Demissie Yazew, Amhara Agricultural Bureau, Ethiopia

Resource Person: Camilla Toulmin, IIED, UK

3.00 **Break out discussion Groups x 4**

TEA /COFFEE - during discussions

4.30 **Plenary**

Report backs of discussion groups (facilitator)  
Closing discussion  
Information for day 3

5.30 **CLOSE**

**Friday 19 February**

8.45 **Plenary: Brief statements from donor agencies on current perspectives and activities**  
Discussion

9.30 **Theme 7 *Legal and policy processes, participation and consultation***  
(papers and discussion in plenary)

Main paper

- *Land law reform in Uganda: policy and legislative processes* Benedict Mutyaba, Chair of Ugandan Parliamentary Committee on Land

Short papers

- Conceicao Quadros, Land Commission, Mozambique
- Aninka Claassens and Sibongile Makopi, Department of Land Affairs, South Africa
- Patrick Saidi / Viphya Harawa, Presidential Land commission, Malawi

Resource Person: Liz Wily

- 10.15 **Perspectives on Follow up Action:** Facilitator: Bara Guèye  
Formation of discussion groups (thematic discussions on a regional basis: exact groupings and focus to be determined by workshop)
- 10.30 COFFEE
- 10.45 **Discussion Groups (x 4) on national processes and follow-up action**
- 12.30 LUNCH
- 1.30 **Discussion groups continued:** development of reports to plenary
- 2.30 **Plenary: Report backs from Discussion Groups; responses from donor panel; discussion**  
Facilitator: Bara Guèye
- 3.30 TEA / COFFEE)
- 3.45 **Plenary: Organisers / resource people's panel & facilitated discussion:** review of outcomes, key issues and recommendations for follow -up action
- 5.30 **Closing Address:** DFID
- CLOSE**

## **Part IV: LIST OF PAPERS**

### **1. REGIONAL OVERVIEWS**

Joseph Zano Zvapera Matowanyika, 'Land and the Pursuit of Sustainable Development Pathways for Southern Africa: an Overview.'

H.W.O. Okoth-Ogendo, 'Land Policy Development in East Africa: a Survey of Recent Trends.'

Hubert Ouedrago and Camilla Toulmin, 'Tenure Rights and Sustainable Development in West Africa: a Regional Overview.'

### **2. GENERAL PAPERS**

Karen Dzumbira, 'Women and Land Tenure Policy in Africa.'

Patrick McAuslan, 'Only the Name of the Country Changes: the Diaspora of "European" Land Law in Commonwealth Africa (with Special Reference to English Land Law).'

Jean-Philippe Platteau, 'Does Africa need Land Reform?'

### **3. COUNTRY PAPERS**

#### **BOTSWANA**

Botshelo M. Mathuba, 'Botswana Land Boards and Customary Land Administration: an Outline.'

Botshelo M. Mathuba, 'Land Tenure Issues in Botswana.'

#### **ETHIOPIA**

Dessalegn Rahmato, 'Land and Rural Poverty in Ethiopia.'

#### **GHANA**

Kasim Kasanga, 'The Development of a Land Market in peri-Urban Kumasi, Ghana.'

#### **IVORY COAST**

Jean Rene Mambo Okoin, 'Côte d'Ivoire's Rural Land Use Plan: an Innovative Approach towards an Appropriate Rural Land Tenure Code.'

#### **KENYA**

Michael Ochieng Odhiambo, 'Land Tenure and Constitutional Change in Kenya: the Opportunities, the Constraints, with special Reference to Common Property Resources.'

Cyrus N. Wambugu, 'Land Tenure Reform and Registration Programmes in Kenya.'

#### **MALAWI**

Viphya Harawa, 'The Presidential Commission of Inquiry on Land Policy Reform in Malawi: Operational Design and Consultation Approach.'

G.E. Nkhata, 'Conversion of Customary Land to other Tenures (Private Tenure) in Malawi.'

#### **MOZAMBIQUE**

Conceição Quadros, 'The Land Policy and Legislative Process in Mozambique.'

#### **NAMIBIA**

Wolfgang Werner, 'Land Policy Development and Popular Participation: the Case of Namibia.'

**NIGER**

Moussa Yacouba, 'Niger's Experience in Decentralised Management of Natural Resources.'

**NIGERIA**

Junaidu A. Maina, 'Management of Common Property Resources for Sustainable Livestock Production in Nigeria.'

**SOUTH AFRICA**

Aninka Claassens and Sibongile Makopi, 'The Proposed Land Rights Bill in South African: Institutional Arrangements in the Context of Capacity Constraints.'

Aninka Claassens and Sibongile Makopi, 'South African Proposals for Tenure Reform; the Draft Land Rights Bill: Key Principles and Changes in Thinking as the Bill Evolved.'

Lungisile Ntsebeza, 'South Africa's Land Tenure Reform Programme in the Former Bantustans: the Example of the Eastern Cape Province.'

**SOUTHERN AFRICA**

Martin Adams, Siphosiso Sibanda and Stephen Turner, 'Land Tenure Reform and Rural Livelihoods in Southern Africa', *ODI Natural Resource perspectives*, **39**, February 1999.

**SUDAN**

Salah Shazali and Abdel Ghaffar M. Ahmed, 'Tenure and Pastoralism in Expanding Agricultural Areas in Sudan and the Horn of Africa.'

**TANZANIA**

M.H.C.S. Longway and F.K. Mutakyamilwa, 'Legal Land Reforms against Gender Discrimination.'

**UGANDA**

M. Baguma-Isoke, 'Land Tenure Policy and Economic Development: the Uganda Experience.'

Benedict Mutyaba, 'Land Law Reform in Uganda: Policy and Legislative Processes.'

Rose Mwebaza, 'Integrating Statutory and Customary Tenure Systems in Policy and Legislation: the Uganda Case.'

Eddie Nsamba-Gayiiya, 'The Complexities of Implementing Land Tenure Reforms - Tasks Ahead for Uganda.'

Irene Ovonji Odida, 'Land Law Reform: Challenges and Opportunities for Securing Women's Land Rights in Uganda.'

**WEST AFRICA**

Philippe Lavigne Delville, 'How to Harmonize Legal Framework and Customary Land Rights: Recent Experiences and Forthcoming Legislation on Land Tenure in French-Speaking West Africa.'

**4. PAPERS BY DONORS**

DFID, 'DFID Statement on Land Tenure in sub-Saharan Africa.'

FAO, 'Delegate Workshop on Land Rights in sub-Saharan Africa.'

Willi Zimmermann (GTZ), 'Land Tenure in Development Co-operation.'

World Bank, 'Set of slides'.



## Part V: WORKSHOP DELEGATE ADDRESSES

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