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1 Introduction

Rwanda is a small, landlocked country with an area of 26,338 square kilometres, only 52% of which is used or developed. The country has a population of nearly ten million people, with a population growth rate of 3.1% and a high urbanisation rate of 8% a year. The average population density for the country as a whole has been estimated at 330 persons per km in 2002, making it one of the highest density levels in Africa. This stimulates a high demand for housing, especially in urban areas where 25,000 new dwelling units are said to be needed annually. Land is used intensively, and, while a formal market is expanding, most land continues to be held under customary tenure.

In Rwanda, the existence of the Napoleonic Civil Code offered formal legal titles, but these were only available in the towns and cities and in effect they were available only to those who made substantial investments in the land. This right was not accessible to the majority of ordinary Rwandans; with only 1% of the land registered, almost all of Rwanda's land is still held under customary or local tenure. Successive waves of violence between 1959 and 1994 have weakened these informal structures. Population pressure, land scarcity and economic development are now increasing the demand for and hence the value of land. An active informal market in land has arisen to meet that demand. Customary tenure, such as it is, is no longer enough. As a result, all citizens are increasingly demanding access to formal systems to register their rights in land.¹

* The author wishes to acknowledge the substantial contributions of colleagues and friends to this chapter.

¹ Republic of Rwanda *Strategic road map for land tenure reform programme* (2008) 4.

In 2003, Government started a long process of consultation on land tenure. That revealed broad support for land tenure reform and led to the drafting of the National Land Policy (2004) and the enactment of the Organic Land Law (OLL) in 2005. In 2006, the Ministry of Land, Environment, Forestry, Water and Natural Resources (MINITERRE) carried out detailed field consultations in rural, urban and suburban settings. This was followed in 2007 by field trials that tested formal tenure regularisation procedures and processes that would lead to simple registration of land. These procedures were implemented by locally appointed committees and technicians to see how the population would respond to formal systems and what the practical difficulties would be in its implementation. The trials also served to ensure all of the issues were properly tested to inform the legal and institutional development process.² After the successful trial of land registration, the Government of Rwanda introduced a roll out of land tenure regularisation countrywide and this programme is supposed to be completed within three years (2013). The sections below analyse this programme and how land related legislation is implemented. It also discusses the likely consequences and policy implications of the programme.

2 Land tenure systems in Rwanda

Before discussing the current land tenure reform underway in Rwanda in general, and its main land registration programme in depth, it is important to give a cursory description of land tenure systems in Rwanda before, during and after the colonial period.

2.1 Pre-colonial period

As in most parts of the region, the land tenure system in Rwanda before colonialisation was characterised by the collective ownership of land. Families were grouped in lineages, and these were in turn grouped in clans which were represented by their respective chiefs.³ During this time, land rights varied with the main ones being clan rights, also known as *ubukonde*, held by the clan's chief. Usually this Chief owned a big chunk of land on which he would settle several families known as *Abagererwa* and these were supposed to pay tax in kind based on customary conditions. *Igikingi* or right to grazing land (most dominant aspect of tenure) was granted by the King or his chiefs. Custom or *inkungu* is another aspect of tenure which enabled the local authority to own abandoned or escheated land. Lastly there is *Gukeba* which referred to the process of settling families onto the grazing land or fallow land. However, all these rights were under the supreme authority of the King who was considered as the 'the guarantor of

² Republic of Rwanda *Field Consultations Report* (2007).

³ *National Land Policy* of the Republic of Rwanda (2004) 10.

the well-being of the whole population'.⁴ The King administered these land rights through both the chief in charge of the land, known as 'Umutware w'ubutaka', and the chief in charge of livestock, known as 'Umutware w'umukenke'.⁵

During this period, land ownership was collective and not individual and it is said that this system promoted socio-economic development and enhanced community cohesion and mutual trust amongst communities. Based on the customary Rwandan inheritance tradition, land rights were passed on from generation to generation.⁶

2.2 The colonial era

Colonisation started in Rwanda towards the end of the 19th century. German settlers were the first Europeans to arrive in Rwanda before they were defeated by Belgians and left the country in 1916 during the First World War. Although the arrival of Europeans caused some socio-economic disorder and introduced new aspects of life into Rwandan society, other aspects of life were left untouched. For instance, the German colonisers recognised the existing land tenure systems and the land management systems through the traditional royal administration. In this vein, Rurangwa argues that the purchase of land by the first Catholic and Protestant missions was a sign of respect for the King's authority over land by the German colonial authority.⁷

After the Germans left Rwanda, the country was immediately occupied by Belgian forces who imposed a new legal and administrative system. In this regard, Rurangwa argues that:

Belgian colonisation introduced deep changes in the management of the country which were later to destroy the traditional system. This traditional trilogy, which represented a system of national social balances, was therefore dismantled and transformed into a centralised administration. The 1926 reform divided the country into chieftainships and abolished the system by which a chief could own several land properties in different parts of the country, which characterised his importance in the country's hierarchy.⁸

Rurangwa goes on to say that the purpose of the abolition of the traditional structure by the Belgian colonial administration was to exercise 'better

⁴ J Pottier 'Land reform for peace? Rwanda's 2005 land law in context' (2006) 6 (4) *Journal of Agrarian Change* 509-537; *National Land Policy* (n 4 above) 10.

⁵ *National Land Policy* (n 4 above) 10.

⁶ E Rurangwa 'Perspective of land reform in Rwanda'. Paper delivered at the FIG XXII International Congress, Washington DC USA, 19 - 26 April 2002 at 3; Pottier (n 5 above); E Daley *et al* (2010) 'Ahead of the game: land tenure reform in Rwanda and the process of securing women's land' (2010) 4(1) *Journal of Eastern African Studies* 131 - 152.

⁷ Rurangwa (n 7 above) 3.

⁸ As above, 4.

control of the country and get colonial orders accepted'.⁹

Another important change to the traditional land tenure system was the introduction of written law. However, this has been criticised as being very selective and providing tenure security to colonial settlers and other foreigners wishing to invest in Rwanda, rather than to benefit the indigenous population. This critique was based on the 1885 Decree on Land Use introduced by the colonial power. Some provisions stipulate that

only the colonial public officer could guarantee the right to use the land taken from indigenous [groups]. Settlers or other foreigners intending to settle in the country were to apply to the colonial administration, follow its rules for obtaining land, and conclude settlement agreements. Land use should be accompanied by a title deed. The natives should not be dispossessed of their land. Vacant land was considered as state-owned land.¹⁰

In spite of the introduction of written law by the colonial authority, the dual tenure system persisted. Customary tenure continued to be the dominant tenure system and land activities were dominated by agriculture and livestock. Between 1952 and 1954, King Mutara III Rudahigwa abolished the system of 'Ubukonde' and decreed that all the 'Abakonde' would henceforth share their land property with their tenants, known as 'Abagererwa'. From 1959 onwards, the land tenure system became a factor of real conflict among the population. It was during this period that, with the eruption of the political crisis, the first ever wave of refugees went into exile, leaving behind both their land and properties.¹¹

2.3 Land tenure after independence (1962-2004)

Despite the changes in the political administration and government institutions, customary land tenure continued to be the dominant land tenure system. Between 1959 and 2004 the dualism between written and customary tenure was apparent with written law benefiting only the elite and those in urban areas. The statutory order no 09/76 of March 1976 that was inherited from the colonial era was the main land governing tool used before 2005. However, this had no significant impact on the previous land tenure systems that were too selective and only benefited a small number of people who had made substantial investment on the land and who were mainly living in urban areas.¹² It could be argued that this situation strengthened the duality between the written law, which was very restrictive and confining on the one hand, and the customary law widely

⁹ As above.

¹⁰ Republic of Rwanda *Field Consultations Report 2007* (n 3 above).

¹¹ As above, 12. See also Pottier (n 5 above) 529; also *Field Consultations Report* (n 3 above).

¹² Pottier (n 5 above) 514; *National Land Policy* (n 4 above) 12.

practiced, but with a tendency to cause insecurity, instability and precariousness of land tenure, on the other hand.

After the 1994 genocide, pressure on land became very intense and a pressing socio-political issue with the sudden return of refugees. These included mainly Tutsis who fled the country in 1959 and 1973 and later mainly Hutus who fled the country during the genocide. As a result of this demographic surge, land scarcity increased and housing for this population influx remained a very crucial and challenging issue for the government.¹³ As land remained the main source of livelihood for more than 90% of Rwandans during that time, preventing any potential land conflict became a vital priority for Government action. Old case refugees who had left their land mainly during the political troubles against the Tutsis and moderate Hutus in 1959 and 1973 wanted their land back, though this had often been officially or unofficially occupied by their fellow citizens who had stayed in Rwanda. Consequently, there were multiple claims over agriculture and housing land, property and buildings.¹⁴ Due to the land scarcity and the sensitivity of the issue, the Government allowed some of these returnees to occupy public spaces such as Akagera National park. However, it has been claimed¹⁵ that some people used the opportunity to acquire large estates which they were holding onto for speculative purposes. In 2007, a Presidential commission was established with the responsibility of redistributing these estates amongst landless people of the region.

As a way of solving land scarcity and housing issues, the Rwandan Government introduced a land sharing policy in 1995 and 1996 focusing on the eastern part of the country. This involved the Tent Temporary Permanent (TTP) programme and the '*imidugudu*' policy (villagisation) in the urban and rural areas respectively.¹⁶ Some of these measures, such as the TTP, were considered to be a short term and temporary solution but ended up becoming a permanent solution as there were no other alternatives to remedy the urban land scarcity.

Although there was a general willingness on the one hand for people to share their land, there was a widespread sense of tenure insecurity with some people fearing to share their remaining land or being evicted from their newly acquired land by the former owners.¹⁷ In this situation, the Government was obliged to tackle this socio-political problem which

¹³ Republic of Rwanda *Brookings initiative in Rwanda: Land and human settlement* (2001). See also E Daley *et al* (n 7 above); S van Hoyweghen *The urgency of land and agrarian reform in Rwanda* (1999) 354.

¹⁴ H Musahara & C Huggins *Land reform, land scarcity and post-conflict reconstruction: A case study of Rwanda* (2005) 271.

¹⁵ Van Hoyweghen (n 14 above) 354.

¹⁶ Musahara & Huggins (n 15 above) 282; J Bruce 'Drawing a line under the crisis: Reconciling returnee land access and security in post conflict Rwanda' Working paper, Humanitarian Policy Group and Overseas Development Institute (2007) 11.

¹⁷ Author's observation.

would have created a serious conflict between Rwandans. Thus, the government introduced the land tenure reform programme which is the main focus of this chapter.

3 The Land Tenure Reform Programme (LTRP)

Given the dependence of most Rwandans on land as the source of their livelihoods, and the need to prevent any future socio-political conflict based on land resources, it was imperative for the Rwandan government to introduce a land reform programme in the aftermath of the 1994 genocide. In this regard, the study carried out by the African Centre for Technology Studies (ACTS) between 2000 and 2002 cited by Musahara and Huggins concludes that:

the government, however, has a moral duty and responsibility to redress gross inequalities in land ownership, and to improve livelihoods for the rural poor. Land distribution to benefit the poorest will be a necessary part of any strategy for meeting these responsibilities. Doing so will reduce powerful tensions related to access to and control of land, and contribute to the process of national reconciliation and peace building.¹⁸

Thus, in 1996 the Ministry of Agriculture and Livestock held various meetings and workshops on land issues with the idea of developing a land law. During these meetings, delegates stressed that a land law was of prime importance to ensure that the country developed a thriving agriculture sector.¹⁹ As a result, in 1997 with financial support from FAO, the Ministry hired a consultant²⁰ to conduct a study on land reform. His main recommendations suggested that land subdivision should be avoided and the villagisation policy promoted as a way of increasing agricultural productivity. This paper became very influential in the design of the land law. For instance, article 20 of the Organic Land Law stipulates that a parcel of land which is below 1ha must not be subdivided.²¹ Van Hoyweghen argues that a convergence of FAO and the World Bank encouraged the Government of Rwanda to promote the commercialisation of agriculture rather than subsistence agriculture as formulated in the land law.²²

During this period all the international community and aid agencies had turned their eyes to Rwanda to support the country's efforts to recover from the tragic events which the same international community had failed to stop. Therefore, it was considered very important to have a consultative

¹⁸ Musahara & Huggins (n 15 above) 269.

¹⁹ As above 286.

²⁰ Olivier Barriere.

²¹ Republic of Rwanda, Organic Law no 08/2005 of 14/07/2005 *Determining the Use and Management of Land in Rwanda*. Hereafter referred to as the Organic Land Law (OLL).

See also Musahara & Huggins (n 15 above).

²² Van Hoyweghen (n 14 above) 367.

process for the design of the land law, given the socio-political and economic situation the country had gone through and in which land issues had played a central role. In this regard, the views of various stakeholders, mainly CSOs and CBOs, were needed to develop coherent and representative legislation that would benefit all Rwandans. Given the sensitivity of the issue, it is perhaps inevitable that a range of responses emerged in terms of the degree to which this was effective. While the Government of Rwanda declared that country-wide consultations were carried out,²³ others believe there remains room for improvement and that civil society has yet to make a substantial contribution to policy formulation. In this vein, Musahara and Huggins argue that there have not been adequate consultations and information campaigns about the land law and conclude that consultations were done in the inter-ministerial committee established for this purpose and local administrative entities.²⁴ It has also been claimed that circulation of the draft documents was delayed and that awareness of its contents was inhibited because documents were all written in French. This prompted one observer to claim that this did not help 'civil society to articulate its position in advance'.²⁵

Rwanda's history and political situation, however, were quite unique and, given the suffering experienced in 1994, it was remarkable that massive consultations for both the land law and land policy took place. In this regard, Palmer observes that:

In a country where history itself is so contested it will clearly not be easy to produce a land policy and a law which is inclusive – but to attempt to do this must be an essential part of the process of reconciliation.²⁶

The function of NGOs, especially those focusing on human rights, is to campaign for the role of civil society organisations, and that part of their remit requires them to put all governments, and occasionally donors, under as much pressure as they can. NGOs that focused more on sectoral issues, such as land, may be more pragmatic in seeking to realise practical progress within political and economic constraints.

Whatever the criticisms of the consultation on the OLL, these did not apply in the preparation of the National Land Policy. According to Palmer:

²³ 2004 *National Land Policy* (n 4 above).

²⁴ For example, Musahara & Huggins (n 15 above) 283 claim that 'despite the existence of a plethora of NGOs and CBOs, in general, civil society in Rwanda is weak and disorganised'.

²⁵ R Palmer 'Recent Experiences of Civil Society Participation in Land Policy Planning in Rwanda and Malawi' (2000) 4. International Conference on Agrarian Reform and Rural Development (ICARRD), Philippines, 5-8 December 2000.

²⁶ Palmer (as above) 2.

As an Oxfam colleague observed, the very notably greater openness of the National Land Policy workshop represented in itself a very positive evaluation of the earlier one. MINITERE was clearly now serious about the whole land question and very open about consulting and listening to what people had to say. In response, participants opened up to a quite remarkable degree in the context and a number of highly sensitive issues, such as land grabbing by the rich and the land rights of the 1959 refugees, were discussed. For Rwanda this workshop might well have marked, I felt, an important turning point ... MINITERE officials ... appear to be genuinely committed to listening and learning, and it will obviously be very important for civil society to encourage this. They are also hoping to take this workshop closer to the grassroots. They want to run similar consultative workshops in all the préfectures in the country because (they say) they recognised – as Kigali-based ‘outsiders’ largely ignorant of rural realities – that they needed to learn more from the préfectures, which better reflect people’s views.²⁷

The 2005 land law required some twenty decrees, laws and orders for its full implementation. Preparation of some of these decrees involved local as well as international stakeholders, including field consultations where different groups of land users took part in that process and gave their views. Farmers’ associations such as *Imbaraga* worked closely with the Ministry of Lands and the UK Department for International Development (DFID) funded project²⁸ to gather views from different farmers on how the secondary legislation could be more representative and address their concerns. However, only a handful of stakeholders were able to contribute substantially and give their views and suggestions on the draft laws. These were mainly NGOs and CSOs with qualified staff for whom land was a component in their daily activities. Groups advocating for children and women’s rights were also active in providing their views.

Although the draft land law was finalised before the land policy, one of the recommendations from a meeting convened by a local NGO on Land Use and Villagisation in Rwanda suggested that ‘a new land law should be preceded by a national land policy and the policy process should be inclusive’.²⁹ This recommendation was adopted in full by the Government of Rwanda because, although the draft land law was completed in 1999, it was published in 2005, a year after the publication of the national land policy. Rwanda’s inclination to focus first on the land policy might have been triggered by the experience of Uganda, which had difficulties by drawing up a comprehensive land law without first thinking through a policy.³⁰

²⁷ Palmer (as above) 5.

²⁸ DFID has been the leading funding agency for the drafting of both the National Land Policy and the OLL in Rwanda, and also funded the LTRP. After a successful trial exercise, DFID has provided £20 million funding for the second phase of LTRP, rolling out land registration country-wide.

²⁹ R Palmer ‘Report on land use and villagisation in Rwanda’ (1999) 5.

³⁰ Palmer (as above) 10.

It can be concluded that there was a gradual improvement in the consultation process during the preparation of the land policy and implementing legislation. Currently, NGOs such as the International Justice Mission (IJM) and Rwanda Initiative for Sustainable Development (RISD) are deeply involved in the land reform process. IJM has produced the family manual which highlights how women's rights should be respected during land registration and RISD is training local land committees on land disputes resolution mechanisms.³¹

3.1 Summary of the land policy and the organic land law

In its long term strategic development plan known as 'Vision 2020' and in its Economic Development and Poverty Reduction Strategy (EDPRS), the government of Rwanda has set out its objectives for economic growth for the next decade. The land policy which was published in 2004 is at the heart of the realisation of this vision because it contributes to four of its six pillars. These pillars are social capital, agricultural transformation, infrastructure development and private sector development.³² The architects of the land policy strongly believe that land will continue to be the main basis of wealth for the majority of Rwandans and 'the cornerstone of socio-economic development and poverty reduction for many years to come.' Thus it should be used in a more productive way in order to reduce poverty. Inspired by De Soto's theory that individual land ownership is the key to reducing poverty,³³ designers of the land policy believe that the only way land could benefit landholders in Rwanda and overcome various land issues the country has been facing for ages is land tenure reform through a land titling programme where security of tenure will be increased, help to reduce inequality and contribute to poverty eradication.³⁴

The land policy states that:

In the perspective of the harmonious and sustainable development of our country, the overall objective of the national land policy is to establish a land tenure system that guarantees tenure security for all Rwandans and give guidance to the necessary land reforms with a view to good management and rational use of national land resources. In order to achieve this target, the land policy should:

³¹ Author's observations (n 18 above).

³² Republic of Rwanda Vision 2020 (2000). See also Republic of Rwanda *Economic Development and Poverty Reduction Strategy (EDPRS) 2008-2012* (2007). Vision 2020 identifies six interwoven pillars, including good governance, an efficient State, skilled human capital, a vibrant private sector, world-class physical infrastructure and modern agriculture and livestock, all geared towards national, regional and global markets.

³³ See H de Soto, *The mystery of capital: Why capitalism triumphs in the West and fails everywhere else* (2000). It should be noted that whilst the theory has been widely supported by many governments and donor agencies, it has also been widely criticised as promoting a policy approach which has not yielded the benefits claimed.

³⁴ *National Land Policy* (n 4 above).

- put in place mechanisms which guarantee land tenure security to land users for the promotion of investments in land.
- promote good allocation of land in order to enhance rational use of land resources according to their capacity.
- avoid the splitting up of plots and promote their consolidation in order to bring about economically viable production.³⁵

Article 29 of the Constitution states that ‘every person has a right to private property, whether personal or owned in association with others. Private property, whether individually or collectively owned, is inviolable’.³⁶ The policy seeks to develop a land administration system which guarantees security of tenure to all landholders and an increase in the productive use of land.

The OLL (2005) is a broad, over-arching law that governs everything to do with land in Rwanda. As the basis for land policy, the overall purpose of the law is to increase security of tenure and to ensure proper land management and land administration. Being the first of its kind in Rwanda, the law theoretically also seeks to maintain and strengthen land-owner’s rights beyond those that have been held in the past. This includes rights that go beyond the exploitation and use of the land. It is also intended that the law will help to resolve land disputes and promote economic development as it will no longer be used for subsistence, but for commercialisation.³⁷

In addition, the OLL describes land as the ‘public domain for all Rwandans’ which mostly must be held on a long term lease with the State as the guarantor of the right to own and use the land. Under article 7, the law gives equal protection to customary land rights (purchase, gift, exchange and sharing) and to land rights under written law. However, the law needs twenty decrees and laws to be fully implemented. Many of these have been already finalised and are currently in use.

This leads to the main focus of this chapter, examining the current LTRP which is the result of the land policy and the OLL and its implementing decrees. A key element in this discussion is the land registration programme and how these legal tools are being implemented through the land registration process.

³⁵ *National Land Policy* (n 4 above).

³⁶ Republic of Rwanda (2003) 8 ‘The Constitution of the Republic of Rwanda’ art 29.

³⁷ Republic of Rwanda, Organic Law no 08/2005 of 14/07/2005 (n 22 above).

3.2 Registration of eight million parcels in three years: A realistic ambition?

Land regularisation through land registration and titling is a key element in the current land reform programme in Rwanda. The Government of Rwanda believes that land registration will reduce disputes, promote investment and reduce poverty. Article 30 of the OLL makes land registration obligatory, and the relevant Ministry specifies the procedures. A central objective of the land reform programme initiated in 2007 is to register and allocate 7.9 million land titles within a period of three years (2010-2013). When this objective was presented at a workshop in Kisumu in April 2010, everyone in the room laughed, and there was the same reaction at the World Bank Land Policy Conference in Washington when the HTSPE³⁸ Managing Director advising the government made a presentation on the programme since registering and allocating this number of titles over three years, would require the completion of an average of more than 10,000 every working day, or one every three *seconds* for three years.³⁹ This is highly ambitious by any definition.

Although there is a mixture of opinion about the timeframe the government of Rwanda is very determined to complete land registration by 2013.⁴⁰ Prior to the analysis of the registration process and the examination of the former in relation to land registration decree requirements, it is important to describe the process of land registration and tenure regularisation itself. This involves the following steps.⁴¹

3.2.1 Notification and public information

Once a certain area is declared as a land registration area, meetings with local leaders are convened to explain how the land registration will take place in their area, its importance and relevant legal provisions. This puts local leaders in a better position to provide information to landowners. Public information campaigns are held to ensure everybody in the land registration area knows about the forthcoming activity.

³⁸ HTSPE (a British Consultancy firm) has been contracted by DFID to provide support to the Rwandan National Land Centre in the ongoing Land registration process.

³⁹ This assumes an average of 50 working weeks a year and a working day of 8 hours.

⁴⁰ 'Give value to land' *New Times* 11 June 2010, quoting the Minister of Land, Mr Kamanzi Stanislas, participating in the ceremony of issuing certificate of registration of Land Titles to Rulindo District.

⁴¹ Republic of Rwanda, Ministerial Order determining modalities of land registration Annex 1, August 2008; Land Tenure Regularisation Operational Manual; Land registration training film and Payne's observations from working in the Land Tenure Reform Project.

3.2.2 Demarcation of land

Parcel demarcation is led by the Adjudication Committee together with the para-surveyors, moving from parcel to parcel in a systematic manner for each 'umudugudu'. Land-holders and their spouses are required to stand by their land holdings and show the boundaries, normally done in the presence of neighbours so they can verify that the boundaries are accurate. The land will not be formally surveyed, but the agreed boundaries must be identified by the land-owner with the field officers on the day of making the claim. The para-surveyors will then draw the boundaries of the land parcel on an aerial photo and give it a unique identification number, done in the presence of the land-owner so they can check that the boundaries being drawn are accurate. The Adjudication Committee will then check/confirm if the person(s) claiming rights to the land are the real owners.

3.2.3 Adjudication – recording the details

When demarcation of the land and the owners have been confirmed by para-surveyors, the Adjudication Committee and neighbours, the Adjudication Committee will then record all of the details in the Adjudication Record book: the unique parcel reference number, the landowner's name and other details pertaining to the land beside that number. For landowners legally married, both spouses' names and details are recorded, and any children with interests in that land. Landowners must bring with them their identification card and any other documents and/or witnesses that they may have to support their claims to land.

3.2.4 Issuing a claims receipt

When the recording of the details is complete, a Claims Receipt will be prepared by the Adjudication Committee to confirm that a claim has been made on that land parcel. After demarcation and adjudication is completed, the landowner (together with spouse, if any) signs the 'Claims Receipt' to confirm that they have identified their land parcels in the presence of witnesses and the Adjudication Committee, countersigned by the chair of the cell land committee and a survey technician. The claims receipt will only be issued to the landowner after the payment of the registration fee. This receipt does not confer legal rights, but will enable land owners formally to register their land and obtain legal title at the end of the LTR process.

3.2.5 Recording objections and disputes

If anyone disputes the claims being made, they can bring this to the attention of the Adjudication Committee, which will try to resolve the issue immediately. If that is not possible, the Dispute Record Book lists all

unresolved disputes, the names of the disputants and other basic information. The disputant signs an Objections Receipt, countersigned by the chair of the cell land committee and the survey technician. These disputes are then referred to '*abunzi*' (local mediators) for resolution before the claimant can receive title to the land.

3.2.6 Objections and corrections period

When all of these steps have been completed, the following data will be compiled and displayed at the Cell Office, or in another prominent place in the LTR area:

- An index map showing land holdings and their numbers;
- The Adjudication Record Book linked to the parcel numbers on the index map, showing details of all land claimants;
- The Dispute Book, showing details of all unresolved disputes that arose during the compilation of the adjudication record and the index map.

Every person living in the LTR area, and especially all people who own or use land, should go to the appointed place and verify and check the details of these records during this period. If claimants reside outside the LTR area or have relatives owning land, they are encouraged to invite absentee claimants to visit the area to inspect the records. Anyone is free to check the details of these records at any time to ensure that their claim has been properly recorded.

Any person claiming omissions or mistakes must request corrections be made to the information relating to their claim. For example, in the case of a minor omission, such as leaving out the claimant's ID number, the claimant should ask the Adjudication Committee to adjust and correct the mistakes. However, major mistakes or omissions related to ownership or boundaries cannot be corrected until the Adjudication Committee can verify the corrections.

If anyone has a major objection to a claim, they complete an objection form. The Adjudication Committee will help objectors to complete the necessary form if they do not know how to read and write, and they will provide other assistance as necessary during this period. Objections should not be frivolous and people raising objections must have clear reasons to support their objections. To ensure that everyone has time to inspect the record and the index map, the objections and corrections period will last for three months, allowing absentee landowners and other people who own land in the LTR area, but who do not reside there, to come and inspect the records.

3.2.7 Mediation period

After Corrections and Objections, the LTR process allows time for mediation of all unresolved disputes, first by *abunzi* or other local mediation agencies, and, if still not resolved, by the district court. Whatever decision is made through the mediation process should be final and the land registered to its rightful owner.

3.2.8 Final registration and titling

Following completion of the objections and corrections period the final adjudication record book will be submitted to the Sector Land Committee and then sent to the District Land Bureau for final registration and titling, signed and stamped, and then returned to the cell land committee for final issuance. Claimants will be asked to bring their claims receipt and ID to collect their titles.

4 Discussion

These steps of land tenure regularisation (land registration) presented above were developed based on a six months successful trial land registration exercise carried out by a project funded by DFID operating under MINITERE, and further developed and adopted by Ministerial Order. This sequence was based on the fact that land registration was initially intended to be implemented within eleven years across the country, as proposed in the original draft Strategic Road Map for land tenure regularisation presented to a stakeholders workshop in October 2007. The trial land registration results suggested that a systematic land registration could start with a few staff moving from sector to sector and district to district. During the workshop, government officials insisted that they wanted a fast track, and the then Minister of Lands and Environment suggested that:

It is important to provide a 'fast-track scenario' to show the cost implications and feasibility of moving faster with land tenure regularisation – the first registration of land – than the draft Strategic Road Map currently proposes, and to help establish what the real obstacles to faster progress really are.⁴²

The Strategic Road Map was revised with a three-year target completion date approved by the Cabinet. Consequently, DFID contracted the consultancy firm which had done the trial land registration to help implement the LTRP, although the procedures based on the initial 11 year proposal were not been amended (as set out above).

⁴² Resolutions from the Strategic Road Map Workshop, 3 - 4 October 2007 in Kigali.

The great advantage of the process is that it is led by local people, bringing communities together to understand and participate. The process also encourages people to resolve their land disputes, thus guaranteeing local ownership of the process and outcomes, and strengthening local communities' ability to deal with any outstanding land issues before there are sent to the competent authority. The process of land tenure regularisation has increased women's confidence in performing some of the tasks formerly considered as men's duties: there are many female para-surveyors and members of the Adjudication Committee.

Since the programme is being implemented nationally, however, some of these steps may not be properly followed and may result in negative consequences, especially with the limited timeframe for the programme. The government of Rwanda may have good intentions, but these may not be achieved. For example, the law stipulates that:

The Adjudication Committee varies according to the village in which the adjudication and demarcation of parcels is carried out. It is comprised of 10 members among whom five are members of the cell Land Committee while the other five are members of the village committee of the village in which registration takes place. When the boundaries of a registration area go beyond the boundaries of a cell, the adjudication committee in the registration area must include all members of the land committee of the relevant cells.⁴³

This may not be the case on the ground. The Adjudication Committee is subdivided into different groups of 3 or 4 members in order to speed up the process. Instead of starting land registration in one '*umudugudu*' in the cell and moving to another afterwards as provided for by the law, registration starts in all '*imidugudu*' of the cell at the same time. Apart from this being contrary to the law, it might also affect the quality of work performed by the Committee, especially in case of disputes and the Adjudication Committee quorum may not be attained to resolve the disputes on the spot. Also, some people might wrongly claim rights over land and this might lead to rightful owners losing their right because the Committee was not sufficiently well informed to know the real owner; also, it is easier to corrupt three people than ten.

Due to the pressure of this process, it is inevitable that there will be many demarcation mistakes. Land parcels will be demarcated, but the quality is likely to be poor and this will be costly in terms of time and money spent to rectify mistakes. Also, disputes are likely to increase due to increased pressure on staff and the Adjudication Committee will not have sufficient time to resolve land related disputes or organise hearings.. This will obviously affect other organs such as local mediators known as '*abunzi*'. There is a real risk that the three year programme will create a backlog of land disputes which the '*abunzi*' will not be able to settle.

⁴³ Ministerial Order (n 42 above), sub-section II.

Apart from the above problems, there remains a lack of capacity in the existing land institutions at policy and implementation level. The National Land Centre and the District Land Offices lack competent human resources: there are very few trained Rwandan surveyors currently working on the programme. Although there is a plan to train many para-surveyors, there is still a huge need of professionally trained Rwandans, leaving a large gap in the institutions supposed to be overseeing and coordinating the whole exercise. To register and allocate an average of more than 10,000 titles a day for three years requires a much larger team of adequately qualified staff than is presently in place.⁴⁴ It remains to be seen how some of the technical problems will be resolved although it is questionable that even trained surveyors could complete the work on target. A medium-term land registration programme would have allowed the country to train professionals in fields such as surveying, and improve institutional capacity.

5 Land tenure regularisation and housing development in Kigali

Since the OLL was published, land prices increased sharply, especially when the LTRP started. As a result, land scarcity in Kigali became a very big issue, even though the objective of the policy and law is to *reduce* such scarcity. Rwanda's total population in 2010 is about 11 million, and the country's area, combined with extensive hills and forests, make it one of the most densely populated countries in Africa. The capital, Kigali, is inhabited by more than a million people, growing at about 3% a year, increasing the need for land for affordable housing, industry, commerce and recreation.⁴⁵

The provision of adequate quantities of affordable housing is another challenge facing the government. Kigali City Council tried to introduce low cost housing schemes. However, these were not successful due to inadequate planning mechanisms and financial constraints. The Batsinda project accommodates 280 families previously residents of Kiyovu area, which was expropriated and allocated to private developers. The expropriation of these people has caused considerable local controversy, as many of the displaced households claim they did not get fair compensation as provided for by the expropriation law.

Private land developers have been encouraged to invest in property development for low and medium income households to promote

⁴⁴ This number refers only to the registration and allocation of new titles and excludes any transfer of newly registered titles which may take place during the three year period, either due to sale or inheritance. A failure to include these in the register would prejudice the accuracy and therefore certainty which the register is intended to provide.

⁴⁵ www.kigalicitycouncil.gov.rw.

economic investment and development. Despite having got land cheaply from poor urban residents, they have developed properties only affordable for high-income residents, who could presumably afford to build their own houses. In many cases, there are accusations that land acquisition through expropriation has been undertaken in ways not consistent with the legal provisions. Instead of allowing landowners to negotiate land prices directly with any potential land developer as provided for by the expropriation law, city authorities have intervened by setting land prices in advance and at rates often considerably below market values. Having acquired prime urban land at these discounted values, the city authorities then sold the land to property developers at a high price. This market-based displacement benefited developers and investors at the expense of existing land owners, who lost their lands and houses for compensation sometimes insufficient even to allow them to purchase an undeveloped land parcel in the urban periphery.

The Expropriation law has also been breached in various ways, mostly affecting poor households who cannot afford to build according to the city building standards. For example, 200 hectares of land owned by 1, 028 families in one of the Kigali suburbs was officially valued in April 2008 and, according to the law, landowners are supposed to get their just compensation within four months after land valuation. People claim that they were not paid until 2010 after storming the Mayor's office and asking her to urge the private developer to pay them⁴⁶ as they were unable to farm their land after land valuation.

6 Conclusions and policy implications

This chapter has reviewed the ambitious efforts by the government of Rwanda at land reform, an issue which has played a key role in previous conflicts and may do so in the future. It is understandable that the government has been ambitious in addressing land issues, by ensuring that all social groups have access to land, with clear and secure tenure rights recognised and protected by law. With support from international donors, the LTRP seeks to realise this policy objective within a very short time, suggesting that political considerations may have exerted a great influence on developments and that, as a result, the institutional and professional capacity to deliver may not be adequate. The risk is clearly that, having raised expectations to such a high level, any shortfall in delivery of the target may itself create the very tensions the programme is intended to prevent. There is an urgent need to increase professional and para-surveying capabilities to the scale required, though a pragmatic relaxation of the deadline may also be desirable to moderate expectations. This is not

⁴⁶ Republic of Rwanda, Law no 18/2007 of 19/04/2007 relating to expropriation in the public interest. See also *The New Times* of 20 May 2010.

to question the objectives, but simply to pose the question of the means required to achieve it.

The chapter has also discussed the need for increases in the supply of affordable housing to meet the increasing population, both nationally and in urban centres, particularly Kigali. As Rwanda's economic development gathers pace, it can be expected that increasing numbers of people will seek their fortune in Kigali. Instead of attempting to deter such movements, efforts are needed to plan for growth and identify areas suitable for developing new housing, commerce and industry, while minimising encroachment upon productive agricultural land. To reduce unauthorised urban expansion, strategic development plans are needed which recognise population growth and the limited resources of most of the population to achieve conventional standards of development, as defined by professionals under the current Kigali City Master Plan. Plans which set modest standards of plot size and road reservations will help to reduce the land required for urban growth; recognition that incremental development can give lower-income groups access to legally approved housing can contribute to realising policy objectives. The high building standards in the Master Plan should be revised in order to meet the increasing demand for affordable housing in Kigali.

On a related issue, the process by which local authorities facilitate the displacement of existing residents from inner city locations at below market compensation levels is penalising many households. An alternative means of putting valuable locations to more productive use would be for the local planning authorities to restrict their efforts to preparing land use plans and allowing potential developers to negotiate the acquisition of sites directly with the existing residents, as was the norm in Turkey for many years. This approach received a sympathetic reception during housing workshops, and could enable developments to take place, while enabling all stakeholders to achieve an equitable distribution of costs and benefits.

The government of Rwanda is to be congratulated on measures to create a dynamic economy and a stable society under conditions of considerable change. Urban development and housing policies are under review in many countries, and no country, irrespective of its level of economic development, can claim to have resolved the challenges. Success is more likely where all sections of the population, including the low-income majority, can benefit from these processes and collectively contribute.