

# Rwanda's Land Tenure Reform

Non-existent to Best Practice

Thierry Hoza Ngoga



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## FOREWORD

### Redefining expectations: Rwanda's transformational land tenure reform

The Rwandan authorities have swiftly and cheaply created enforceable legal titles to every plot of land in the country. In this, Rwanda is wholly exceptional: in most poor countries, land rights are confused and contested. The failure to clarify land rights is hugely costly: fundamental processes of investment are stalled, especially in cities. Rwanda shows that this is entirely avoidable. Many other governments need to learn from it, and this book will enable them to do so. It is both important and liberating: *the Rwandan authorities were able to succeed because they thought for themselves, rather than attempting to copy a donor blueprint*. Thierry knows how public officials came up with simple yet ingenious local solutions to a major global problem because he was in the kitchen: part of the team transforming goals into reality.

Land reform is both the greatest challenge and the most promising opportunity for developing countries today. Effective land use provides a platform for productive activity and service delivery – creating jobs and raising living standards not just for landowners, but for citizens at large. However, weak land rights in many countries undermine this potential. Competing claims on land, complexity of land transfer, and limited planning and taxation of these assets limit both private and public investment. Land is frozen in unproductive uses – at a considerable cost to the economy. Active policy to strengthen land rights can change this.

Effective land rights serve three functions: security, marketability and legal enforceability. By providing security of future ownership, land rights allow owners to make significant investments in their land without fear of being dispossessed. By allowing land to be bought and sold by a market, land is able to be transferred to its most productive use, transforming it to meet rapidly changing needs. And for security and marketability to work in practice, legal enforcement of land rights through courts, policy and public records is needed. This includes legal enforcement of private land rights, as well as public land rights that enable governments to tax and plan land for the public good. While informal systems of tenure can provide a degree of security, they can be difficult to enforce and transact. Legally enforceable rights are essential for economic development.

Yet the political and financial costs associated with formalising land rights have meant that inertia has been the common policy response in many developing countries. This is why the success of Rwanda's registration programme is so important. Between 2009 and 2013 almost all the land in the country was registered. It was not an expensive process, costing only around \$6 per plot. As elsewhere, until land rights were clarified, Rwanda had suffered a lot of land disputes. Over 80% of court cases in the country were based on property disputes. Through a comprehensive and inclusive registration programme, the Rwandan Government was able to formalise land rights to ensure rising productivity and living standards as well as long lasting political stability. The results of the programme have been transformative; from being ranked 137<sup>th</sup> in the world for ease of property registration by the World Bank's *Doing Business Report* in 2008, it is now ranked 4<sup>th</sup>. Formal registration has meant that the government has been able to increase its land-related revenues five-fold between 2011–2013.<sup>1</sup>

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<sup>1</sup> 'World Bank, Rwanda Land Governance Indicators' (World Bank, 2014).



Thierry combines his first-hand experience of implementing the programme with a range of evidence to explore the aims, processes and challenges of the registration process from its inception to date. In doing so, he highlights key factors that led to successful reform. Determining boundaries to a plot by conventional international methods can be prohibitively costly. Instead, Rwanda used simple technology ‘general boundary’ surveying methods by local surveyors to reduce the costs of registration. But boundaries have to be grounded in legitimacy. The conventional international method of determining disputes through a court is both very expensive and biased towards the rich and powerful. Rwanda used a simple process of encouraging whole communities to participate in the registration process to resolve disputes. This enabled them to be settled quickly, cost effectively, and fairly.

Rwanda is exceptional in having achieved a comprehensive initial land registration. But since transactions continuously change ownership, a register has to be maintained. This has proved to be an ongoing challenge that Rwanda still needs to solve. This book explores this struggle. Without continued investment in public communication and in administrative reform to allow for low-cost transfer and development of land, land records are unlikely to be maintained over time. Leveraging the rising value of land itself that is in part the result of public investments offers one way to finance these systems.

This book is essential reading for policy makers seeking to overcome the significant challenges of land registration – and for the development community at large in thinking about how best to support these programmes. While some of the factors that enabled successful registration in Rwanda can be attributed to the country’s unique political and economic history, many were the result of active policy reform; to build local staff capacity, raise public awareness of reforms, and to flexibly adapt strategies based on pilot projects and stakeholder feedback. Lessons from Rwanda’s experience can be leveraged to develop low cost land reforms even where vested interests mean resistance to reform is high.

Crucial to Rwanda’s success was the commitment of high level leadership to the registration programme. Too often, donor agendas are prioritised over the needs and desires of national governments and the citizens they represent. Though the process in Rwanda was certainly assisted and informed by donors, it was not driven by them. High level political support enabled a coordinated and comprehensive reform process that could reset old institutional habits. In detailing this process, this book can arm policy makers in designing transparent and flexible registration programmes that reflect national priorities. With this, governments can make the urgent investments in land that will redefine national development.

**Sir Paul Collier**

**Professor of Economics and Public Policy at the Blavatnik School of Governance,  
Oxford University and Director of the International Growth Centre (IGC)**

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# 1

## Introduction

### 1.1 Background

This book is about land tenure reform and so it is essential to commence by looking at the importance of land to people. Its importance is illustrated in the story of a married woman who has three children and is a resident in Remera sector, Gatsibo District, in the Eastern province of Rwanda. She is a farmer and has no other income-generating activity apart from farming. She portrays her story of what land actually means to her and her family in the box below. She participated in a focus group discussion organised by the author in May–June 2017 as part of primary data collection to supplement the secondary data used in writing this book.

*“Land, land, land. Where do I start? I wouldn’t know how to talk about and describe the importance of land – as what we have achieved in terms of development as a family is because of our land. My husband and I are farmers. We have two pieces of land which are registered where we live and where we farm. We are able to feed ourselves from our farm produce and take some leftover to the market. Selling some produce in the market allows our family to have some money to cater for other household needs. As a family, we are no longer part of the poverty category that is entirely catered for by the government. We are happy. So far, we have achieved a lot because of our land. We have bought four cows valued at more than 500,000 FRW [approximately £5000]. For people who were once in the extreme poverty category who could not afford anything, this is a very big achievement. All these cows came from the beans produced from our land. The money we got from selling the beans from our land was used to buy one cow which in the end gave birth to the three other cows. As a family, we feel empowered, we feel we have our place in society, we feel respected and my husband feels manly. In the past, it was so difficult for us. Even though as a family we were farmers, it was not easy to have some money to cover basic household needs before the yield period. We never had money and it was not easy for us as a family. Now, when we require money urgently, we take our land document to our Saving Cooperatives (SACCO) and they lend us money to attend to any family needs...Our farming projects are going well and if we have new project ideas to develop our land further, I have confidence that with our land documents, SACCO would still lend us money. Life has become enjoyable. My husband and I don’t fight any more as we did before because we are both busy focusing on projects that will develop our family. I deal with land and he spends most of his time looking after the cows. My husband and I are more confident about our future because we are able to attend to our needs and those of our children because of our land. As a family, we are able to buy school materials for one child who is already in school and are able to buy other things we need for the home. We are also currently able to pay for our family health insurance, something we could never have afforded when we were very poor. Without our land, we would not be able to do any of these things. I wouldn’t say that it is easy to get money to pay for all those things, but at least we work hard and are able to manage. It is not easy but it works and we are glad.”*

The importance of land could not be emphasised more than by the woman's story. Many people in the world depend on land for their livelihoods. Land is an important natural resource for the survival and development of people and ecosystems globally, and thus plays a critical role in the economies of nations. Regarding the advanced world, for example, it is well documented by economic historians like Rosenberg and Birdzell (1986), Torstensson (1994) and Goldsmith (1995) how land or real estate has contributed immensely to the economic development of the continent. In the developing world, land is the most basic and vital aspect of subsistence, and therefore a strategic socio-economic asset, especially in poor societies where wealth and survival are measured by control of, and access to, land (Deininger, 2003; USAID, 2005; Lund, 2008, cited in Abdulai and Owusu-Ansah, 2016).

It is therefore not surprising that in many developing countries, land accounts for 50% to 75% of national wealth (Bell, 2006) and in Africa, in particular, it constitutes the focal point for livelihoods for the majority of people. According to the Food and Agriculture Organisation (FAO, undated, p. 2) in Africa, agriculture remains the backbone of the continent's economy, accounting for approximately 20% of the region's GDP. Agriculture also employs 60% of the continent's labour force, constitutes 20% of its total exports and remains the main source of income for Africa's rural population (FAO, n.d., p. 2). Thus, as the population grows and pressures on land intensify with climate change, agriculture production will need to increase in order to cater for the growing population. According to the FAO (n.d.), agricultural production will need to increase by 70% by the year 2050 in order to cope with the pressures of climate change, a growing world population and limited resources. Land management systems, governance and distribution need to be enhanced in order to prepare for the growing needs of the populace. Developing countries in general and the African continent in particular need to do more in this regard given the consequences of land degradation, unsustainable agriculture systems, severe climate change effects, acute poverty and the inequality in natural resources distribution.

It is therefore obvious that land is far too important a subject to be left out of consideration in any serious macroeconomic deliberation and in the collective quest for poverty alleviation and economic development, especially in Africa (Abdulai and Owusu-Ansah, 2016). The way land is governed and managed determines Africa's ability to harness it and other resources for economic prosperity, social equity, environmental sustainability and peace and security (UNECA, 2012, p. 2).

Africa has not exploited land to its fullest to achieve its developmental goals, mainly due to inadequate land policies and weak land administration systems for implementation, even where these policies are in place (UNECA, 2012, p. 2).

## **1.2 Need for Good Land Governance**

Increasing pressure and demand for land, tenure insecurity, climate change, land grabbing, declining agricultural productivity, land degradation and land competition – in some cases leading to social conflict and even bloodshed – are some of the main issues calling for the need to improve land governance. According to Palmer *et al.* (2009), "*Land governance, by extension, concerns the rules, processes and structures through which decisions are made about the use of and control over land, the manner in which the decisions are implemented and enforced, and the way that competing interests in land are managed.*" It is the process by which decisions are made regarding access to and use of land, the manner in which such decisions are implemented and the way any conflicting interests in land are reconciled (Kironde, 2009). As Kironde notes, good governance in land matters is of a technical,

procedural and political nature since land rights cannot be separated from civil, political and human rights and are dependent on political, administrative and professional readiness to ensure fair treatment and equal opportunities for all.

In many African countries, control over land rights is a means of accumulating and dispensing political as well as economic power and privilege, through patronage, nepotism and corruption, and so addressing these issues is critical to improving land governance (Kironde, 2009). African countries have been subject to colonialism, and therefore there are mainly two types of land supply or tenure systems: (a) formal/State land tenure systems based on the real property law of the colonial masters of the respective African countries; and (b) customary/traditional land tenure systems, which originate from indigenous societies (Abdulai and Antwi, 2005). In the State land sector, the State holds the land in trust for its citizenry and so has to manage the land prudently in the public interest. The State also has the responsibility of regulating the customary landholdings by formulating and implementing appropriate land policies to enhance land governance generally. Thus, the role of the State as a holder of land, as well as a regulator, is crucial in good land governance.

The FAO (2007) has developed guidelines on good governance in land tenure and administration and argued that a land administration system that is designed to promote economic development is likely to place priority on areas such as the speed of re-registration after sale, the speed and accuracy of searches to check for charges against properties for loan purposes, the clarity of regulations for planning and building and the procedures for changing land use. If it is designed to enhance a pro-poor and gender-sensitive agenda, it is likely to place a high priority on areas such as achieving land tenure security for lessees and sharecroppers, the recognition of informal or customary property rights and the development of gender-neutral inheritance rights. Samples of the FAO's guidelines are summarised in Table 1.1.

**Table 1.1.** Samples of embodying good governance values.

<b>Good governance values in land tenure and administration</b>	<b>Examples of practice embodying good governance values</b>
Land administration systems should be efficient and effective.	Work is accurate and timely, with enquiries being answered within a reasonable period. Work is undertaken by competent persons. Good performance is rewarded (ineffective professionals are disciplined or dismissed).
Land policies that embody value judgements should be endorsed by elected politicians after consultation with interested and affected parties.	Land-use plans are approved by democratically elected politicians after effective public consultation.
Land information is freely available, subject to the protection of privacy.	Land registry information can be freely accessed (subject to privacy constraints). Prices paid for properties are available from the land registry. Land tax assessments can be inspected so that taxpayers can challenge the fairness of assessments. Decisions on changes to land use are made in meetings that are open to the public and citizens can present arguments to the decision-makers.

Land laws and regulations should be freely available, well drafted in a participatory and transparent manner, responsive and consistent, and able to be enforced by the government and citizens.	Citizens can bring land disputes before an independent and impartial judiciary that is supported, as appropriate, by technical experts. Laws are clear and consistent and translated into local languages. Alternative dispute resolution processes are available so that disputes can be settled by mediation and conciliation as an alternative to court actions. The decisions of the government in areas such as land-use planning, land taxation and compulsory purchases can be challenged by citizens in the courts on points of law. Valuations used by the government for taxation and compulsory purchase can be challenged by citizens.
Land administration agencies should be independently audited and should publish their accounts and performance indicators.	Land administration agencies publish their accounts and key performance indicators, which are independently audited. Government accounts are kept on an accruals basis. Professional bodies separate their promotional and disciplinary activities.
Land administration services should be provided without discrimination, e.g. on the basis of gender, ethnicity, religion, age or political affiliation.	Inheritance laws do not discriminate by gender. Information is accessible for all, including illiterate people. The land rights of minorities are protected by land registration. Indigenous rights to land are recognised. The cost of land registration is affordable. Registration does not require expensive services or examinations.
Sustainable land development should be encouraged.	Regulations to prevent unsustainable development are enforced.
Land services should be provided close to the user.	Land records can be accessed remotely using internet technology. Service points are accessible for citizens who live far from the registry.
Land registration and legal systems should provide security of tenure for those with a legitimate interest in a land parcel.	Registered rights of people are legally protected against claims of others. Records can be altered only by authorised officials according to a law-stipulated process. Back-up systems for land registration allow records to be recreated if destroyed by natural disasters or conflicts.
Land administration officials should behave with integrity and give independent advice based on their best professional judgement.	Policies exist to prevent and identify corrupt practices, insider trading and favouritism, and to discipline or prosecute those following such practices. Policies protect and provide incentives for “whistle-blowers”. Officials and politicians are required to disclose potential conflicts of interest and not to act in such cases. Government property is accounted for.

(Source: FAO, 2007)

The FAO (2007) has also catalogued the negative impact of weak land governance to include: land disputes or insecurity of land tenure; weak land and credit markets; abuse of compulsory purchase powers; reduced public revenues; environmental degradation; poverty and social exclusion; and constraints on economic development. In addition, land grabbing has been

rampant in some developing countries. Thus, the importance of good governance in land tenure and administration cannot be over-emphasised.

A number of initiatives, both at the regional and international levels, have been established in Africa to improve land governance and people's livelihoods. In this regard, the African Union (AU), in partnership with the United Nations Economic Commission for Africa (UNECA) and the African Development Bank (AfDB), established the AU-ECA-AfDB Land Policy Initiative (LPI) in 2006 with the aim of enhancing knowledge and mutual learning, and lobbying political will and financial support for land policy formulation and implementation in Africa. The LPI resulted in the development of a Framework and Guidelines on land policy in Africa, which aimed at facilitating land governance once implemented by AU member states. They were endorsed by African Ministers responsible for land with a commitment to enhance their application by the AU Heads of State and Government in a Declaration on Land Issues and Challenges in Africa in July 2009 (UNECA, 2012, p. 2).

In addition to the LPI, there are a number of other initiatives that have been set up to advocate and promote land governance. These include, for example, the United Nations Global Land Tool Network (GLTN), which comprises a network of various partners working for poverty reduction through land reform. Another global initiative is the FAO's *Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests* which, amongst other things, "seek to improve governance of tenure...with an emphasis on vulnerable and marginalized people with the goals of food security and progressive realisation of the right to adequate food, poverty eradication, sustainable livelihoods, social stability, housing security, rural development, environmental protection and sustainable social and economic development" (FAO, 2012, p. 1).

The World Bank Land Governance Assessment Framework (LGAF) has also been set up to assess land governance in different developing countries. LGAF was developed by the World Bank in collaboration with other organisations, including the FAO, UN Habitat, the International Fund for Agricultural Development (IFAD), the International Food Policy Research Institute (IFPRI), the AU and bilateral partners. According to the World Bank (2013, p. 6), three factors triggered the systematic assessment of land governance: (a) due to stagnant or low productivity of land in many areas, soaring global demand for land as a source of food; fuel and environmental amenities; a need for structural transformation that transfers labour out of agriculture; and land for urban growth; institutional arrangements governing land have emerged as a key factor for sustainable growth and poverty reduction; (b) as a result of institutional fragmentation, where responsibility for land is spread over a large number of government institutions, which are often poorly coordinated, there can be a wide gap between legal provisions and their actual implementation; and (c) technical complexity and context specificity of land issues and the fact that change may be resisted by powerful stakeholders benefiting from the status quo implies that progress would depend on the ability to forge a consensus among experts in a participatory and deliberative process based on a comprehensive analysis.

The LGAF focuses on specific areas to measure and assess good governance in the different countries in which it is implemented. These areas include: how property rights to land (at group or individual level) are defined, exchanged and transformed; how public oversight over land use, management and taxation is exercised; how the extent of land owned by the State is defined, how the State exercises it and how State land is acquired or disposed of; the management of land information and ways in which it can be accessed; avenues to resolve



and manage disputes and hold officials to account; and procedures to deal with land-related investment (World Bank, 2013, p. 6). Although the LGAF is presented as an assessment tool, it sets out a list of recommendations to be implemented in improving land governance and land administration through policy, legal, institutional and procedural reforms.

The World Bank Annual *Doing Business* Report is another important instrument serving as an impetus for countries to reform land governance. *Doing Business* assesses and measures how regulation affects various areas of doing business. Amongst the 11 indicators measured by the World Bank Annual *Doing Business* Report is registration of property, where the focus is on measuring the time, cost and processes involved in registering property: “*The foundation of Doing Business is the notion that economic activity, particularly private sector development, benefits from clear and coherent rules: rules that set out and clarify property rights and facilitate the resolution of disputes*” (World Bank, 2017, p. 1). Based on each country’s assessment, the report provides a ranking of 190 economies for all measured indicators. Since no country wants to lag behind and miss out on potential investments, there is a sense of willingness to reform, including land tenure and land governance.

The need to reform and enhance land governance and relevant systems has also been prioritised in goal one of the Sustainable Development Goals (SDGs) aimed at ending poverty. One of the targets of this goal (target 1.3) is that by 2030, all men and women, and in particular the poor and vulnerable, should have equal rights to economic resources as well as access to basic services, ownership and control over land and other forms of property, inheritance and natural resources (UN, n.d.). Land governance is also prioritised in the SDG 2 aimed at ending hunger. Target 2.3 states that by 2030, agricultural productivity and incomes of small-scale food producers should double. In particular, groups considered vulnerable, including women, indigenous peoples, family farmers, pastoralists and fishers, should have secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment.

From the preceding discourse, it can be summarised that there are various potential risks if land reform does not happen, which include: increasing tenure insecurity or increasing land disputes/conflicts and social tensions; poor land governance and accountability; land degradation; low land investments, that is that without a clear land regulatory and policy framework that governs land and protects landowners’ rights to land, the likelihood of land investment is low; loss of potential land-based revenue; escalation of land grabbing practices leading to landlessness; vulnerable groups such as women, in many countries, may not have rights to own land even though they may still be allowed to use it; poor quality of land administration services; and increasing potential risk of corruption. All these potential risks – if not tackled – will exacerbate poverty, food insecurity and hunger in the developing world in general and in sub-Saharan Africa in particular.

Thus, recommendations from the above initiatives and potential risks are making the need for land reform inevitable and urgent. However, these initiatives, albeit well-intended, are not always well-implemented and therefore do not always achieve the anticipated outcome. According to UNECA (2012, p. 2), despite Africa being an experimental field for many development partners who support programmes in land policy development and implementation, there are issues of competing programmes and initiatives in countries with little coherence and mutual learning. Moreover, some programmes with positive outcomes are abandoned due to lack of political will and commitment or financial support.

Land tenure reform is politically, economically, socially and technically complex. Inclusive national policy and legal frameworks supported by strong political will and commitment,



with mature institutions, are paramount to the successful implementation of land reform. Strong cooperation between governments, stakeholders and the public is also a key ingredient gaining the necessary buy-in from those affected.

To succeed, there is the need for demand for land reform to be locally driven and in most cases, if not all, implemented with the full participation and involvement of the local community. National governments and the public have to assess the need for land reform and work together for its success. As such, policy, legal and institutional frameworks suitable to accommodate land reform should be developed in a participatory and transparent manner with regional and/or international support sought (where necessary), and the public voice needs to be heard for the land reform's success. When demand for land reform comes from within, the chances of successful implementation are naturally higher.

### **1.3 The Need for a Book on Rwanda's Land Tenure Reform Programme**

In the years following the 1994 genocide against the Tutsi, Rwanda embarked on an ambitious land tenure reform programme. This was predominantly aimed at increasing tenure security to landowners (reducing land-related disputes), improving land use management and investment in land, introducing an efficient land administration system, reducing poverty and ensuring sustainable peace and social stability, an important ingredient for economic development of the country. The need for land tenure reform was also triggered by the increasing reliance of Rwandans on land for their livelihoods. By 2004, when a land policy was adopted and a land law promulgated one year later in 2005, land was a means of livelihood for 90% of the population. At that stage, more than 90% of land was unregistered, with poor land administration services and land management systems in place (GoR, 2004). One of the key components of the land tenure reform programme was a vigorous land registration campaign, which culminated in the registration of more than 11 million land parcels in less than five years. The land tenure reform programme was used to clarify the rights of the existing landowners and occupants of land, and to convert those rights into a legally recognised form that would allow rightful owners to transact their interests in land and use their land titles as collateral to access investment capital from banks, where necessary.

The Government of Rwanda, the public, development partners and a wide range of stakeholders worked together to deliver this programme. Today, the programme is seen at both national and international levels as a model of success in implementing a complex land reform programme in the developing world. Thus, there is growing and significant interest from international stakeholders to learn from Rwanda's successes, the impact of its land tenure reform (LTR), its challenges and lessons learned.

Although studies have been conducted on aspects of the Rwandan LTR programme by different researchers at different times, culminating in the production of separate reports, a consolidated document that systematically reports on the entire programme from inception to implementation is notably non-existent. Studies that have been carried out include: the gendered nature of land rights; LTR and local government revenue; urban land markets; informal land transactions under the land tenure regularisation; land market values, urban land policies and their impact on urban centres; environmental and gender impact of land tenure regularisation; and land issues in Rwanda's post-conflict law reform. Indeed, for other African countries where land reform has taken place in one way or another, it is common for it not to be holistically documented from preparation to implementation through to completion: it is evident that existing studies on land reform tend to focus on certain issues or provide a critical account of the reform. For example, some studies on the continent focus on

land registration programmes and their impact on poverty reduction, land law, governance and rapid urban growth, customary tenure and gender perspectives of land tenure, with special focus on women's land rights in different countries and land rights of indigenous groups.

In this book, a detailed real account of all the key phases of the programme is described and the critical factors that defined the outcomes and requirements for sustaining the process are identified. In addition, an account of the impact of the programme, its challenges and lessons learned is provided. Beyond LTR, this book also provides insights into emerging issues post-land tenure reform and what efforts are being undertaken to ensure sustainable land administration and land governance. The book draws on various types of secondary data, including relevant laws, policies, operational manuals and published studies, as well as consultants' reports. It also uses primary data comprising mainly interviews with policy makers, land professionals, academics, Civil Society Organisations (CSOs), donor organisations and the general public.

LTR is not a new thing in the developing world. Many countries have embarked on it in the past, continue to embark on it today and will continue to do so in the foreseeable future. However, in Africa, there has not been any country that has carried out a comprehensive and successful LTR programme like the one in Rwanda. Rwanda's LTR programme was implemented in a systematic manner (from policy formulation, legislation enactment, development of institutional framework to programme implementation). The systematic land registration (SLR) exercise carried out covered all land in the country, leading to the complete registration of the entire country's land in less than five years. The Rwandan case is therefore unique and worth documenting. The benefits of the LTR programme are very important to various sectors of the economy and thus go beyond land rights. The common message people associate with LTR programmes is mainly the regularisation/formalisation of land rights to enhance the security of land rights, and so it is important to showcase what else is achievable when such programmes are properly and comprehensively implemented; for example, the benefits to the agriculture and mining sectors. When an LTR programme is comprehensively and successfully implemented, institutional memory is difficult to maintain because institutional reform is extensive and key individuals involved in the programme subsequently move on. Therefore, the need for a holistic account of Rwanda's successful LTR programme to be documented cannot be overstated.

The outcome of Rwanda's LTR programme demonstrates that it is a good-value-for-money project where the government and donor funds used for the programme have achieved the desired objectives. It also shows that it is possible to have a fit-for-purpose land administration system for which the public has taken responsibility in designing and implementing, unlike those projects which are planned with little or no public input. The successful implementation of the programme is a good success story to tell as it is the only African country to complete an SLR countrywide in less than five years at an affordable cost to citizens.

There are ongoing land reform initiatives across the continent, but many African countries face social, economic and cultural issues similar to Rwanda, and so Rwanda's experience in land reform is relevant. Some of the conflicts on the continent are land-based and Rwanda is a good example of a country that faced a tragic past but has managed to bounce back and introduce a LTR programme that is considered successful and is working well. It is therefore good to provide countries that are engaging in ongoing land reforms, or those countries desirous of embarking on similar projects, with a guide on how Rwanda approached the

reform, the multifarious benefits emanating from the reform, the challenges it faced and the key success factors, which are all important for other countries. Some countries may find LTR projects impossible and very expensive, but Rwanda's low-cost programme provides some good lessons. The book would thus serve as a good guide for other countries that could benefit significantly from Rwanda's experience and may even do better as Rwanda had no predecessors to learn from. The book may also serve as a useful source of information for academic institutions (higher education or tertiary institutions) in Rwanda and Africa more broadly, that offer land administration programmes.

## **1.4 Parts, Chapters and Structure**

This book is in four parts, with nine chapters.

Part 1 provides the relevant context of the book and contains two chapters (chapters 1 and 2). Chapter 1 is the introduction and explains why land is so important; it discusses some of the issues land resources currently face, especially, in developing countries and why it should be managed and governed properly; it outlines why there is an urgent need for an improved land governance and land administration system or land tenure reform where this is not taking place, and it provides a summary of the importance of documenting Rwanda's LTR programme and explains why this book is timely and different from existing literature on land tenure reform. In chapter 2, the historical context of land tenure systems in Africa is summarised. This is important given that the book is aimed at providing insights from Rwanda for other countries willing to initiate land reforms similar to Rwanda. It also draws attention to the developments and changes of land tenure systems in Rwanda before, during and after independence. Further, the chapter looks at the concept of land tenure security, given its relevance to the book.

Part 2 deals with the preparatory work that was carried out for land tenure reform and has one chapter (chapter 3). The chapter describes the key exercises that were undertaken as part of preparing the ground for the land tenure reform programme. First, a detailed explanation of why Rwanda introduced the land tenure reform programme from a social, political and economic perspective is provided. Second, it traces the key preparatory phases of the land tenure reform programme and what was done during each phase as well as how the Government of Rwanda decided to develop an inclusive planning process to prepare for the implementation of the land tenure reform programme.

Part 3 concentrates on implementation of the LTR programme and contains four chapters (chapters 4 to 7). Chapter 4 focuses on how the policy and regulatory frameworks were established which supported the LTR programme. It also describes some of the policy and legal instruments and how they were aimed at guiding and supporting the envisaged land tenure reform. It also describes the land tenure regularisation trial phase and discusses the key challenges encountered during the development of the frameworks and the implementation of the pilot phase. Chapter 5 details the institutional framework that was developed to guide the LTR programme implementation, defining each institution's mandate and how they interacted with each other as well as how the capacity of these institutions was built to apportion responsibilities accordingly. Challenges at the institutional level are also discussed. Chapter 6 explains the whole process of rolling out the land tenure regularisation process countrywide and the key steps that were involved, as well as the implementation process. It describes the systematic land registration (SLR) process at each step, and the outcome of implementing each phase. It also details the LTR donors' forum coordination and working

arrangements and outlines the quality assurance process carried out during the land registration campaign. It also describes challenges encountered during the SLR process. In chapter 7, the key ingredients required to ensure that what has been achieved by the LTR would be properly maintained are assessed. The chapter looks at factors that need to be considered in order to have a sustainable land administration information system and how to deal with emerging issues.

The last part of the book (Part 4) assesses the impact of the LTR programme by discussing the socio-economic benefits in chapter 8 where testimonies from various stakeholders and LTR beneficiaries are also presented. Chapter 9 concludes the book and a set of key success factors and lessons are also outlined for other countries wishing to follow a similar route as Rwanda in terms of land tenure reform.

## 2

# Historical Context of Land Tenure Systems in Africa and Rwanda

## 2.1 Introduction

The previous chapter emphasised the importance of good land governance as well as the role of the State as a landholder and regulator of other land holdings. There is, therefore, the need to understand how the land holdings operate and, as noted in the same chapter, 1, a dual land tenure system exists in most African countries: the traditional tenure systems that originate from indigenous societies, and the State tenure systems, which are based on real property law of the respective African countries' colonial masters.

In this chapter, the next section describes the land tenure systems that existed prior to the advent of colonial rule. The issue of land tenure security is then considered, after which the perception of the customary tenure systems regarding land ownership security is discussed. The chapter also provides a historical context for the land tenure systems in Rwanda.

## 2.2 Development of Land Rights among African Ethnic Groups

A historical account of indigenous and pre-colonial settlement of African ethnic groups and the evolution of land rights among such ethnic groups has been comprehensively described by Iliffe (1995), whose work has been reviewed by Abdulai (2010), Abdulai and Antwi (2005) and West (2000). Generally, the treatise shows how attitudes towards land as both a living space and a recognisable corporate resource originated and subsequently developed among African ethnic groups. The various ethnic groups across Africa originally acquired land rights via two main modes: first settlement, where they had to toil and sacrifice in the initial clearance of primeval forest; or conquest, where immense labour was exerted during wars fought against other ethnic groups. Thus, first occupancy of land through clearance and settlement via conquest engendered closer relationships within the various ethnic groups and through succeeding generations over a period of time; these descent ethnic groups coalesced into clans and broader ethnic groupings, clinging to their birth right of access to land for sustenance (West, 2000).

As the population increased, land became less plentiful and gained more economic importance as the essential source and basis of their food security, and hence the primary safeguard of family cohesion and continuity. Individual access to land for any purpose depended on membership of a particular community, which held the land corporately under a family head, ethnic group head or chief (West, 2000). These corporate heads allocated land rights to members of the group or non-members, often referred to as “strangers” (Abdulai, 2010; Abdulai and Antwi, 2005). Traditionally, no cash payment was made for such rights; instead, a token payment was often made (Payne, 1997). This token payment is referred to as “drink money” in Ghana and “cattle or beer money” in some other countries in Africa. However, as pressure on traditional property rights in land increased with population growth and urbanisation, this token payment tended to increase to the extent that it approximated to the open market value of land (Abdulai and Antwi, 2005).



These regimes have survived up to the present time via inheritance and, as noted by Chauveau (1998), today the common threads in customary land tenure concepts across Africa include the fact that rules governing access to land are an integral part of the social structure, land tenure being inseparable from social relationships, and that the use of land confers certain rights. Thus, land is vested in communities represented by chiefs and families who hold the allodial interest or title<sup>2</sup> in land and are the first level suppliers of land in the traditional land sector (Abdulai, 2010; Abdulai and Antwi, 2005). The distribution of land rights is based on the socio-political system – the political history of the area from which the alliances and hierarchical relationships between lineages are derived (Berry, 1993) and the leader of the land-owning group would be in a fiduciary position and responsible for the management of the land as a trustee on behalf of the community members. As the head, he would account for his stewardship to the community members (Abdulai, 2010; Abdulai and Antwi, 2005; Woodman, 1996). Based on the way indigenous land holding systems have evolved, traditional land law is, by nature, procedural and not documented in any form. Therefore, land ownership is not recorded in writing but it is usually well known, accepted and recognised by community members, particularly adjoining owners (Abdulai, 2010; Abdulai and Antwi, 2005).

In Ghana, for example, the allodial land rights are vested in chiefs and families, and in some communities, the families are called tendamba. As the first-level suppliers of land, they allocate land to other families and individuals (Abdulai, 2010; Abdulai and Antwi, 2005). In South Africa, Lesotho, Botswana, Namibia, Zimbabwe and Swaziland, land is traditionally vested in tribes headed by chiefs who control the distribution of land and allocate it to prospective acquirers for various purposes (Adams *et al.*, 2000; Mathuba, 1999). In Ivory Coast, traditional landowners are village communities and families. Community or family heads therefore control the allocation of land (Delville, 2000). With respect to Niger, customarily, land is vested in canton and village chiefs (Toulmin and Quan, 2000; Delville, 2000). In Nigeria, even though land has been nationalised, the traditional landowners are families (Famoriyo, 1979).

Abdulai (2010) and Abdulai and Antwi (2005) have used two philosophical theories to underpin the acquisition of allodial land rights or title, which are first occupancy and labour theories. As they explain, the first occupancy theory awards ownership of an unappropriated object to a person who occupies such an object first, with the intention of appropriating it to himself. The notion is that being there first somehow justifies ownership rights. Kant (1887, p. 82) describes the theory as the Principle of External Acquisition, and in his words: “*What I bring under my power according to the Law of External Freedom, of which as an object of my free activity of Will I have the capability of making use according to the Postulate of the Practical Reason, and which I will to become mine in conformity with the Idea of a possible united common Will, is mine.*”

According to Abdulai and Antwi (2005), the first occupation undoubtedly played an important role in property conceptions, in that the occupation of unappropriated territory was one of the recognised modes of establishing sovereignty. The occupation of a territory through discovery by the first settlers was an epoch-making event, which became the basis of attributing ownership of the land in question to the ancestors, and the first act of

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<sup>2</sup>In the traditional scheme of interests in land, the allodial interest is the highest proprietary interest beyond which there is no other superior interest. It is variously referred to as paramount, absolute, ultimate, final or radical interest. It is different from usufructuary interest in land, which simply refers to use and enjoyment rights. Usufructuary interest, also called customary freehold interest, is the next-highest proprietary interest after the allodial interest and derives from the allodial title. A person who holds a usufructuary interest is often referred to as the usufruct.



appropriation was consecrated by later generations and solemnly invoked whenever others challenged title to land. Thus, the claim by people that their ancestors established first occupation over a tract of land had emotive and religious connotations as well as legal significance, since such land thereby became a tangible link between the ancestors, their descendants and future generations (Meek, 1946, p. 183).

The other theory (labour theory) invests an individual with the ownership of property for which he has incorporated his labour (Abdulai and Antwi, 2005). Locke (1765, p. 25) propounded this theory as follows: *“Though the earth and all the inferior creatures be common to all men, yet everyman has a property in his own person. This, nobody has any right to, but himself. The labour of his body and the work of his hands, we may say are properly his. Whatever then he removes out of the state that nature has provided and left it in, he hath mixed his labour with and joined to something that is his own and thereby makes it his property. It being by him removed from the common state of nature placed it in, it has by this labour something annexed to it, that excludes the common right of men. For this being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to at least where there is enough and as good left in common for others.”* As far as Locke is concerned, the investment of labour stamps the object with an element of a person’s personality in which he has exclusive property, and thus so invested with an individual’s personality, the object assumes a quality of such personality where it becomes the private property of that individual. That is, Locke proceeds from a premise of a utopian nature where an individual could be credited with the creation of an object through the investment of his labour (Abdulai and Antwi, 2005).

This theory is also applicable in the African context: even though the first occupation principle was important, it did not exhaust the theory of land acquisition in traditional law and so wherever first occupation was admissible as a basis of ownership, the labour principle was an inevitable concomitant. Consequently, the two theories are inextricably linked – the forefathers who established sovereignty by first occupation invested their labour in the process of reducing the land into their possession through clearing and hunting, and the ancestors also established sovereignty by fighting and conquest (Abdulai and Antwi, 2005).

According to these authors, the two theories actually help to explain how clans, families, chiefs or tribes acquired land rights. As they note, where a tract of land was acquired through invasion and conquest or through first occupation by discovery by an ethnic group led by a king or chief, the land was vested in the king or chief and the chief and his family therefore became the land-owning group as well as the royal family, from which subsequent chiefs were selected for administrative and political purposes. Thus, according to them, in this regime, the chief played two roles: (a) the political and administrative role (who managed the ordinary affairs of the community and dealt with the governance of the area); and (b) the head of the land-owning group (land chief) who fulfilled the functions that were religious (conducting sacrifices and other rites linked to the agricultural calendar), allocation of land and settling of land disputes. However, if a family or ethnic group first occupied a place through discovery, the family or ethnic group became the land-owning group, and in such a regime, a chief was subsequently selected to play only the political and administrative role as the community grew.

The evolutionary trajectory that indigenous land tenure systems in Africa have trodden is analogous to developed countries. Abdulai and Antwi (2005) have used two countries as examples to support their point. The first example is England, where they reviewed the work of Killingham (1993) on the historical origin of the land ownership system in England, which

is encapsulated as follows. The reason that the allodial interest in land in England is vested in the Crown is traced back to the 11th century when Duke William of Normandy invaded and conquered England in the year 1066. Normandy was a separate state from England, which was ruled by a duke who owed homage to the King of France. To William, there was no distinction between conquest of a country and the acquisition of land of that country and therefore, following the conquest, he declared all land forfeited to him as his own. William was so pleased with the conquest that in order to reward his subjects or supporters (the Normans) who fought for him, he handed out parcels of land to them, but consistent with the notion that conquest of a country and land ownership in that country were inseparable, they were granted occupation and use rights over the land. The subjects thus held the usufructuary interest, whilst the Crown remained the ultimate owner and held the allodial interest.

The Crown is still the absolute owner of land in England, but there is complete family as well as individual ownership of land rights: once an individual acquires the land, it becomes private property and the ownership of that particular property by the Crown is jurisdictional, notional or ceremonial (Abdulai and Antwi, 2005). However, the Crown owns unacquired landed properties like forests, mountain areas, waterways and pasture lands, and thus there are communal or group rights for such areas. Consequently, any member has the right to use such areas, but the Crown is in a fiduciary position and holds the land in trust for the citizenry (Abdulai and Antwi, 2005).

The other example used by Abdulai and Antwi (2005) in the advanced world to illustrate how the evolution of the land tenure systems in Africa are similar to those of the advanced world is Rome where, in citing Asante (1975), they observe that first occupation of land was a recognised mode of establishing allodial title in Roman law, which persisted throughout legal history as a foundation of landed property. Thus, the above philosophical theories also apply in the developed world.

## **2.3 Land Tenure Security**

Land tenure security is an issue in the customary land tenure systems, as will be seen in the next section, and so it is expedient to first consider its meaning and importance. Land tenure security is the degree of clarity and certainty that a person's ownership of land rights will be recognised by law and by members of the community, especially adjoining owners, and will be protected when there are challenges to it. That is, it is about legal and societal recognition and enforceability of land rights (Abdulai and Ochieng, 2017; Abdulai and Owusu-Ansah, 2016; Van Gelder, 2010a, b; FAO, 2005; Sjaastad and Bromley, 2000). Therefore, according to Toulmin and Longbottom (2001), land tenure security involves two forms of validation: (a) State validation by legal recognition; and (b) validation at the local level through recognition of one's land rights by his neighbours and other persons. Roth and Haase (1998) describe security of land tenure as a kind of perception held by individuals regarding their ability to exercise land rights now and in the future in a manner that is devoid of interference from others and which allows them to benefit from any investment made in the land. Based on these definitions, this book considers land tenure security as either the degree of clarity and certainty that someone's land rights are, in reality, recognised by the community members (societal recognition) as well as the law, and protected whenever there are challenges (legal recognition), or as the perception held by landowners that there is clarity and certainty in their land rights which are recognised by the society and law that enables them to exercise the land rights devoid of interference.

As rightly observed by Abdulai and Ochieng (2017), the important role that land tenure security plays in the economies of nations has been well documented. According to the United States Agency for International Development (USAID, 2005) and Andre and Platteau (1998), insecurity of land tenure in the form of land disputes provides fodder for conflict entrepreneurs, who normally use them to manipulate the emotional, cultural and symbolic dimensions of land for personal, political or material gain, thereby fomenting civil strife. It is self-evident in war-torn countries in Africa and the developing world in general, that civil strife normally reverses the clock of progress or economic development as many people are displaced and impoverished, human resources are lost via deaths, children are orphaned, a country's infrastructure base is destroyed and assets worth billions of dollars are destroyed (Abdulai and Owusu-Ansah, 2014).

Abdulai and Owusu-Ansah (2014) also note that land disputes negatively affect infrastructure and land or real estate-related development projects and other economic activities, and argue, for example, that when a dispute arises over a plot of land where a development project is to be carried out, the development cannot proceed until the land dispute is effectively settled, and this constitutes a source of major risk to investors. As they assert, the negative impact is even more pronounced where there are delays in settling the land dispute in courts, and such protracted litigation often stifles land-based economic activities since court injunctions are normally issued against any use of the land until the cases are decided by the courts.

Reinforcing this, the International Fund for Agriculture Development (IFAD, 2008) and Deininger (2003) have observed that land tenure security is critical in establishing a structure of economic incentives for investing in land-related activities leading to poverty reduction and economic growth. The World Bank (2007) has identified insecurity of land tenure, together with poor governance, as a major factor inhibiting economic development in the developing world, whilst land tenure security has been identified by the United Nations Human Settlement Programme (UN-HABITAT, 1999) as one of the most important catalysts in stabilizing communities, improving shelter conditions, reducing social exclusion and improving access to urban services. The Millennium Development Goals (MDGs), which were launched in 2000 and expired in 2015, gave prominence to the role of secure land tenure in helping to reduce poverty and achieving economic development. The MDGs appear to have been replaced with Sustainable Development Goals (SDGs), which were launched after the expiry of the MDGs (Abdulai and Ochieng, 2017). As mentioned in the previous chapter, one of the SDGs' objectives is to ensure that by 2030 *"all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources..."* (UN, undated). The positive impact of tenure security on investment in rural areas is well documented in countries like China (Jacoby *et al.*, 2002), Thailand (Feder *et al.*, 1988), Latin America (Bandiera, 2007) and Eastern Europe (Rozelle and Swinnen, 2004).

The preceding discourse shows that the importance of land tenure security cannot be underestimated, which has precipitated the search for a better system that would effectively secure land tenure security. According to Feder and Nishio (1999), the need to secure land tenure can be traced to several centuries ago: they make reference to the books of Genesis (ch. 23) and Jeremiah (ch. 32) in the Bible, where they observe how Abraham and the Prophet Jeremiah sought for secure ownership of different land parcels some 40 centuries ago.

Land registration is often embraced as the solution to insecurity of land tenure and it is based on the perception that there is land tenure security in the developed countries because such countries have comprehensive land registration systems (Abdulai and Ochieng, 2017). Consequently, efforts at securing land tenure have often concentrated on the implementation of land registration policies and programmes, as the next section will show.

## **2.4 Security of Customary Land Tenure Systems**

As noted earlier, in the African customary land tenure systems, traditionally, proof of land ownership by land holders is by physical possession and occupation, and the recognition of that fact by the community, especially adjoining owners as well as traditional chiefs. There is therefore a general perception that African customary land tenure systems are insecure, thereby creating disincentives for investing in land-based economic activities, which negatively affects economic development and poverty alleviation. This perception is based on the fact that such land tenure systems are not formally documented, recorded or registered in a central system controlled by the State (Abdulai and Owusu-Ansah, 2016).

This perception of insecurity inherent in the African customary land tenure systems, due to non-registration of landownership and, for that matter, the prescription of land registration to secure land ownership, dates back to the colonial era. In Ghana, for example, the British colonial administrators first introduced land registration by enacting the Land Registration Ordinance 1883 (No. 8), which was followed by the Land Registry Ordinance of 1895 (Cap 133), which was revised in 1951. They were both deed registration systems that were supposed to eliminate land disputes and guarantee security of land rights in the rapidly growing land market, especially in the coastal areas of the country (Abdulai, 2010).

Land registration was first introduced in Kenya in 1908 through a Land Registration Act, which was later replaced by the Registered Land Act of 1962, and the Kenyan land registration laws were designed to bring about security of title in the coastal strip – the old and original Protectorate of Kenya leased from the Sultan of Zanzibar (McAuslan, 2000). According to McAuslan, the legal framework created in Kenya via the Registered Land Act was the first piece of land registration in English-speaking Africa that was consciously and deliberately modelled on the 1925 British Land Registration Act, suitably adapted and simplified for the circumstances of Kenya. In Uganda, land title registration was first introduced via the promulgation of the Registration of Title Act 1922, which provided for registration of, among other things, mailo and native freehold land with dealings thereafter having to comply with statutory code rather than traditional rules (McAuslan, 2000).

After independence, the policy of land registration continued to be advocated in order to secure the African customary land tenure systems. In Ghana, the Land Registry Ordinance of 1895 (Cap 133) enacted during the colonial era remained the land registration law until 1962, when the first post-independent government passed the Land Registry Act (Act 122) and another land registration law, the Land Title Registration Law (PNDCL 152), which was passed in 1986. The Act provides for the compulsory registration of titles to land and it would gradually replace the Land Registry Act of 1962 (Abdulai and Owusu-Ansah, 2016). In Kenya, the Land Adjudication Act of 1968 has reinforced the Registered Land Act of 1962 enacted during the colonial era (McAuslan, 2000), which has now been replaced by the Land Registration Act of 2012 and amended by The Land Laws (Amendment) Act 2016, No. 28. Land registration was introduced in Uganda in the colonial era with the enactment of the Registration of Title Act 1922 and this remained the land registration law until the Land Act of 1998 was passed (Quan, 2000) as amended by the Land Amendment Act (2010). There



was a land registration bill in 2013 (Registration of Titles Bill), but it is yet to be passed into an Act.

Malawi provided for the adjudication and conversion of customary land ownership through registration as far back as 1967 (Registered Land Act 1967), whilst the Zambian Land Act of 1995 provided for the conversion of traditional use and occupation rights through registration into leases of 99 years (McAuslan, 2000), now replaced with the Lands and Deeds Registry Act (Cap 185). For Cameroon, the Land Ordinance of 1974 provided for land title registration (Egbe, 2002), whilst in Mauritania, the development objectives of the private irrigation scheme in the Senegal river valley led to the enactment of a Land Law in 1983 (amended in 1990), clearly favouring private ownership and based on the concession system, which for political reasons is centralised and retains cumbersome colonial registration procedures (Crousse, 1991).

The perception about the traditional land tenure systems being insecure and the advocacy of land registration as the panacea to the insecurity problem, or land registration as the tool that guarantees land tenure security, gained momentum in the 1970s when the World Bank (1974) commenced to recommend registration of customary land rights (in order to secure such rights) as a critical precondition for investment in land-based activities and modern economic development in Africa (Abdulai and Ochieng, 2017). Since then, various commentators, for example, Wannasai and Shrestha (2007), MacGee (2006), Bloch (2003), Feder and Nishio (1999) and Larsson (1991) have supported the 1974 World Bank pronouncement. However, as noted by Abdulai and Ochieng (2017), the support for the World Bank's pronouncement gained greater momentum in 2000 when De Soto published a book on "dead capital", attributing the undercapitalised nature of the economies of developing countries and the existence of poverty in pandemic proportions to underdevelopment due to lack of registration of land ownership.

According to de Soto (2000), capitalism has triumphed in the West and made it an economically advanced world because of land registration. He argues that in the developing countries, unregistered landed property cannot be traded or used as collateral to obtain loans from financial institutions and thus the capital in such property is "dead". In effect, unregistered land cannot be used as collateral to access formal credit for investment purposes and therefore it does not contribute to poverty reduction and economic development. De Soto's "dead capital" thesis has been supported by authors like the FAO (2012), Singh and Huang (2011), World Bank (2003) and Derban *et al.* (2002). In 2008, the International Commission on Legal Empowerment of the Poor, an independent international organisation hosted by the United Nations Development Programme (UNDP), asserted that land registration is a necessary aspect of poverty reduction in developing countries (Bromley, 2008).

However, the above school of thought has been disputed by other commentators, who argue that land registration is incapable of guaranteeing land ownership security as well as assuring access to formal capital. Regarding authors who have disputed the security function of land registration, see Bromley (2008), Toulmin (2006) and Fitzpatrick (2005). For authors who have disputed de Soto's thesis see Abdulai and Hammond (2010), Benda-Beckmann (2003), Bromley (2008) and Gilbert (2007).

Thus, there is ambivalent literature on the role of land registration, which makes the need for the documentation of Rwanda's LTR programme (the preoccupation of this book) more compelling, since land registration was the main thrust of the programme. The book purports to establish, with empirical evidence, whether or not in the Rwandan case there is a nexus

between land registration on the one hand and security of land rights and access to formal credit for investment on the other.

## **2.5 Historical Context of Land Tenure Systems in Rwanda**

As the case study country, it is expedient first of all to provide an overview of the geography and economy of Rwanda before considering the historical context of its land tenure systems.

### **2.5.1 Geographical, demographic and economic context of Rwanda**

Rwanda is often referred to as *le pays des mille collines* (the country of a thousand hills) due to its geographical location between two mountain ranges. The terrain is mountainous, yet well-irrigated by several rivers and lakes, supporting varied wildlife. It is a land-locked country with an area of 26,338 sq. km, and its capital is Kigali. The country is located to the south of the equator and bounded to the north, south, east and west by Uganda, Burundi, Tanzania and the Democratic Republic of the Congo, respectively, as shown in Fig. 2.1. Rwanda is considered to be one of the least urbanised, although one of the most densely populated, countries in Africa (415 inhabitants/km<sup>2</sup>), where most Rwandans live in rural areas (NISR, 2014). The current level of urbanisation is 19%, compared to an average of 42% for sub-Saharan Africa and over 50% globally (Mathema, 2015).

According to the 2012 national population census, Rwanda has 10,515,973 residents, of which 52% are women and 48% are men, with an annual growth rate of 2.6%. Based on United Nations (UN) estimates, this population has grown (as of March 2017) to 12,070,200 (Worldometers, 2017). The population of Rwanda is young, with 50% being under 20 years old, of which 41% are under the age of 14, and the vast majority of the population is largely rural (83% of the population) (NISR, 2014). The government has been conscious of the problems presented by the high rate of fertility and therefore has successfully applied family planning policies and brought down the population growth by a third over the last decade. Overall, 53% of married women are using a method of contraception and 48% use a modern method, whilst only 6% of currently married women are using a traditional method (NISR, MOH and ICF International, 2015, p. 11).

The economy of Rwanda is largely agrarian, where more than 80% of the population depend on agriculture. This contributes 34% to national gross domestic product (GDP) (Muhinda, 2013) and employs more than 70% of the labour market. However, almost 80% of the country's land is classified as agricultural, with approximately 11% of the land being permanent crop land (USAID, 2010). The remaining agricultural land is covered with forests and marshlands, or is marginal land in the hillsides where permanent and routine cultivation of crops is not tenable (Kathiresan, 2012). Out of the total arable land, 1,735,025 ha are cultivated with food and cash crops (NISR, 2011), whilst the remaining land represents pastures and bushes (Kathiresan, 2012). The GDP per capita in Rwanda was last recorded at US\$690 in 2015, but averaged US\$384 from 1960 until 2015. The 2015 was an all-time high. A record low of US\$202 was recorded in 1994 (*Trading Economics*, 2017).



**Fig. 2.1.** Map of Rwanda.



(Source: Land Management and Use Authority, 2017)

Traditional food crops continue to be dominant, although farmers have begun to shift slightly towards higher value food crops, such as fruit and vegetables, rice, sorghum, maize, groundnuts and soybeans. Despite the potential contribution of livestock to income, livestock numbers have remained relatively low. Coffee and tea remain the key traditional cash crops, with a transition to horticultural cash crops, domestically, while rice remains the major food security crop (World Bank, 2016; UNECA, 2015; USAID, 2014; Alinda and Abbott, 2012).

Despite the large percentage of the labour market being involved in agriculture, land for agricultural purposes continues to be scarce. Land holdings are very small (50% cultivating less than 0.5 ha and more than 25% cultivating less than 0.2 ha) (REMA and UNEP, 2009). The high population growth rate of 2.6% (NISR, 2014), inheritance practices and the rapid economic development stimulate a high demand for land, the value of which is rapidly increasing. This has led to intensive land use, with marginal land under intensive cultivation and subdivision into smallholdings becoming increasingly prevalent. Further, limited land area and a rapidly growing population have resulted in almost all areas of land in the country outside of the conserved areas and national parks being cultivated. Undeniably, however, Rwanda has made remarkable progress in various sectors despite its turbulent past. Progress has been recognised in education (86% net attendance rates [NARs] focus on the official school age range for primary (7–12 years)), health (70% of the population has health insurance), information technology, infrastructure and agriculture (NISR, 2015). In terms of gender equality, women have also been granted an important role in the political arena. For example, women occupy 61.3% of seats in Rwanda's Parliament (IPU, n.d.).

### 2.5.2 Rwanda's land tenure systems

As indicated earlier, African countries have generally been subject to colonisation and therefore a dual system of land ownership exists in such countries – Rwanda is no exception. Indeed, in Rwanda: (a) unwritten customary law governs almost all the rural land and promotes parcelling out of plots through the successive father-to-son inheritance system; and (b) written formal law governs mostly land in urban districts and some rural lands managed by churches and other natural and legal persons. This law confers several land tenure rights to individuals, such as land tenancy, long-term leases and title deeds, especially in towns (National Land Policy, 2004). Regarding the evolutionary trajectory that Rwandan land tenure systems have trodden, it can mainly be categorised into three: pre-colonial period, colonial era, and post-independent period. The land tenure systems in these three periods have been described by the National Land Policy (NLP, 2004) and are reviewed in the sections that follow. Thus, unless otherwise stated, the information is sourced from the NLP.

#### *Pre-colonial land tenure system*

In the pre-colonial era, the land tenure system was characterised by collective ownership of land, where there was complementarity between agriculture and livestock. This promoted economic production and was a factor of stabilisation and harmony in building social relationships. Families were grouped in lineages, and such lineages were, in turn, grouped in clans represented by their chiefs. Therefore, land ownership relationships were based on free land use and on the complementarity of the modes of production. Land rights within this customary land tenure system were: (a) clan rights called *Ubukonde* that were held by the chief of the clan, who was the first land clearer or settler. The chief could own vast tracts of land on which he would resettle several families, known as *Abagererwa*, who enjoyed land rights, subject to some customary conditions; (b) grazing land rights known as *Igikingi* that were granted by the king or one of his chiefs called *Umutware w'umukenke* to any family that reared livestock. *Igikingi* was the most common land tenure system, particularly in the central and southern parts of the country; and (c) custom or *Inkungu* that enabled and authorised the local political authority, on his own or on others' behalf, to own abandoned or escheated land. These lands were considered as a type of land reserve that the ruler of the time could grant to anybody who needed one. Another aspect of the land tenure was *Gukeba*, which was the process of settling families onto the grazing land or fallow land. *Gukeba*, or *Kugaba*, as it was sometimes called, was an exercise within the province of the local authority.

As the socio-political and administrative structure became stronger and better organised, land resources also became more important and there was the need for good management of these resources. Thus, there was a chief in charge of the land called *Umutware w'ubutaka* and another chief in charge of livestock known as *Umutware w'umukenke*. Both were considered to be at the same level as the chief of the army referred to as *Umutware w'ingabo*. Land ownership was more community-based and land rights were enjoyed under the supreme protection of the King, the guarantor of the well-being of the whole population. These land rights were respected and passed on from generation to generation according to Rwandan custom.

#### *Land tenure system during the colonial era*

Rwanda was first colonised by Germany. German colonisation started after the end of the 19th century and lasted till 1916. The German colonial authorities recognised the King's authority over land and, for that matter, the customary land tenure system. For example, the first Catholic and Protestant missions bought land from the King and became landowners.

The Germans were defeated by the Belgians in 1916 during World War I and therefore left the country. When the Belgians took control of the country, they introduced a new legal and administrative system. Although political management in pre-colonial Rwanda was based on the control of the economic system, which was founded on three pillars in order to guarantee prosperity – namely land ownership for agricultural purposes, livestock, and security – the Belgians introduced deep changes in the management of the country, which were later to destroy the traditional system. The traditional trilogy that represented a system of national social balances was dismantled and transformed into a centralised administration. A reform was introduced in 1926 that divided the country into chieftainships and abolished the system by which a chief could own landed properties in different parts of the country that characterised his importance in the country's hierarchy, albeit such form of the management of the country had been a factor of national unity and cohesion. The abolition of these traditional structures for the purpose of exercising better control of the country and to get colonial orders accepted caused a lot of disturbance to Rwandan society.

Another change in the customary land tenure systems was the enactment of a decree on land use which stipulated that: (a) only the colonial public officer could guarantee the right to use the land taken from indigenous Rwandans. 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; and (b) land use should be accompanied by a title deed and the natives should not be dispossessed of their land. Vacant land was considered state-owned land.

All occupied land remained subject to customary law, and only settlers and other foreigners, including Catholic and Protestant missions, owned land. Urban districts, as well as trading and business centres, could benefit from the new written law system, which had the sole aim of guaranteeing land tenure security. This was, however, criticised as being selective since it did not benefit ordinary Rwandans. The decree therefore introduced the duality of systems and the customary land tenure system continued to be the dominant tenure system where land activities were dominated by agriculture and livestock.

Owing to the high population density and the need to exploit new areas, the colonial administration also introduced the system of grouped homesteads called *paysannats*, which was similar to the traditional system of *Gukeba*. This system was developed in those regions with grazing land and other land reserves and consisted of giving each household two hectares, mainly for cultivating cash crops such as cotton and coffee. This practice was introduced after the abolition of the *Ubuhake* system and the distribution of cattle in grazing areas (*Ibikingi*), which promoted the extension of cultivated land to the detriment of livestock. Therefore, a new aspect of national development was introduced, putting emphasis rather on agriculture and disrupting the balance that had always existed between agriculture and livestock. Although this system of agriculture had domination over livestock, there were no open conflicts between the government and the local population. However, real tensions were nevertheless felt at that time. This resulted in large sections of the population (among cattle breeders) migrating to Umutara (a region of Rwanda), Uganda and Congo.

Between 1952 and 1954, King Mutara III Rudahigwa abolished the system of *Ubukonde* and decreed that all the *Abakonde* would henceforth share their landed property with their tenants, known as *Abagererwa*. From 1959 onwards, the land tenure system became a factor of real conflict among the population and it was during this period that, with the eruption of the political crisis, the first-ever wave of refugees went into exile, leaving behind their properties.

### ***Post-independent land tenure system***

Even though Belgian colonial rule introduced changes in the political administration and government institutions, as well as the operation of the customary land tenure system, the customary land tenure system continued to be the dominant land tenure system after independence, and so the situation did not change much in comparison to what was obtained during the colonial era. Consequently, most of the country's arable land was still governed by customary law and the written land law applied to a small number of people, especially in urban areas, business communities and religious congregations.

Following full independence in 1962, the new Rwandan government gave an important role to the "communes" in the administration of land where, through the *Loi communale* of 23 January 1963, the protection of rights relating to registered land under the customary law became the responsibility of the commune. However, the provisions of this law were virtually nullified by Decree no. 09/76 concerning the purchase and sale of customary land rights or land use rights.

It was the desire of the government to abolish the system of *ibikingi* and to put *ibikingi* under the authority of the "communes", as well as to recover the land abandoned by the 1959 refugees to acquire new agricultural land. The 1970–1980 decade was characterised by intensive migration from the already densely populated regions of Gikongoro, Ruhengeri, Gisenyi and Kibuye to the semi-arid savannas of the east (Umutara, Kibungo and Bugesera) in search of vacant land. It is during this period that the government attempted to transform the existing human settlement system into one of grouped homesteads (*paysannats*) alluded to above. The aim was to make more rational the occupation and use of land that was becoming more and more scarce. Decree no. 09/76 of 4 March 76, which concerned the purchase and sale of customary land rights or the right of soil use, was enacted, authorising individuals to purchase and sell customary land after application to the competent authorities, and subject to retaining at least 2 ha of land. The buyer was also to justify that he did not have property equal to at least 2 ha of land. The government recognised only the right of ownership based on land registration and became, therefore, the eminent landowner.

From the 1980s, there was no more new land, and problems like reduction of soil fertility and of the size of land for cultivation, family conflicts stemming from land ownership, and food shortages, began to emerge. By 1984, the average area of a family's cultivation plot had reduced from 2 ha to 1.2 ha. The country found itself in a land-related deadlock from the beginning of the 1990s. Problems included insufficient agricultural production, increasing population pressure on natural resources, a growing number of landless peasants and conflict between agriculture, livestock and natural reserves. Through agricultural projects, particularly forestry and grazing land projects, the government strengthened its role as the owner of vast stretches of land. Reforestation became an important factor in land accumulation by the State and private individuals. Forests extended even in lands fit for crops, as well as marshlands. Thus, reforestation became a simple form of long-term land ownership.

The 1994 genocide against the Tutsi introduced another dimension to land occupation and ownership, but this is appropriately considered in chapter 3 as part of the socio-political and economic justification of land tenure reform in Rwanda.

## 2.6 Conclusion

This chapter has discussed the evolution of customary land tenure systems in Africa from the period of pre-colonisation to the present, which helps to explain the existence of the current dual land tenure systems in African countries, where the customary land tenure systems operate alongside formal systems imposed by African colonial administrators. It also reviewed Rwanda's land tenure systems. The chapter has used two philosophical theories to underpin the acquisition of allodial land rights, and such theories are applicable not only to Africa but also to the advanced world and countries like England and Italy. There is the perception since the colonial era that the African customary land tenure systems are insecure because such rights are not recorded in a central system controlled by the State and, therefore, the panacea to this insecurity problem is land registration.

However, the role of land registration in guaranteeing land ownership security has been disputed, and therefore the existing literature on the security function of land registration is ambivalent. Rwanda initiated a land registration programme in 2007 with the main aim of registering and allocating an estimated 7.9 million land titles, akin to the British Domesday survey of 1085, which was ordered by William the Conqueror (William I). The Domesday survey, also known as the Norman survey, was a highly detailed survey and valuation of all the land held by the king and his chief tenants, along with all the resources that went with the land in the late 11th century. It was a large-scale undertaking and the record of the survey in book form in 1086 was a significant achievement (National Archives, 2017). Under the Rwandan LTR programme, over 11 million parcels were demarcated, adjudicated and registered in less than five years (GoR, 2015). The next chapter is devoted to the groundwork that was carried out in preparation for the programme.



## 3

# Preparing the Ground for Land Tenure Reform in Rwanda

### 3.1 Introduction

Chapter 2 provided an overview of African land tenure systems, the importance of land tenure security, perceptions about the African land tenure systems regarding security, and the divergent views on the role of land registration in guaranteeing land tenure security. The chapter also looked at the history of land tenure systems in Rwanda and how they have evolved over time. The discourse in chapter 2 has laid the necessary foundation for the preparatory work that was carried out prior to the design and implementation of Rwanda's LTR programme to be considered in this chapter.

Chapter 3 focuses on the key exercises that were carried out as part of preparing the ground for the LTR programme. Given the importance and scale of the programme, a lot of preparatory work was undertaken and it is therefore necessary to devote a chapter to it. To intimate what follows, the socio-political and economic justification for the LTR programme is discussed in the next section (section 3.2). Section 3.4 provides an overview of the public consultation process that took place mainly between 1996 and 2001 whilst section 3.5 describes the importance of strong government leadership and vision in the LTR programme, and, for that matter, in preparing the ground and paving the way for the programme. The penultimate section looks at planning ahead with stakeholders. A chapter summary follows.

### 3.2 Socio-political and Economic Justification of Land Tenure Reform in Rwanda

The genocide against the Tutsi of April–July 1994 decimated over one million lives and these tragic events led to the displacement of millions of people, both inside and outside the country, leaving behind many widows and orphans (National Land Policy, 2004). In the aftermath of the genocide, the country was faced with a socio-political and economic crisis. There was total devastation and complete breakdown of the State and its structures, including those for land management. The situation was exacerbated by the influx of Rwandans returning to the country. These returnees were not only those who had fled during the genocide but also included those who fled the country in 1959, 1963 and 1973 (Daley *et al.*, 2010; Republic of Rwanda, 2001; van Hoyweghen, 1999). The first batch of an estimated 700,000 refugees, often referred to as “1959 refugees” (since many of them fled the country in 1959), “old case returnees” or “old caseload”, who were mainly Tutsis, returned from Uganda, Burundi, Zaire and Tanzania in 1994 (Bruce, 2007). At the same time, a large number of Rwandans, mainly Hutu (between 2,000,000 and 3,000,000) including the genocide regime functionaries, fled Rwanda for Zaire and Tanzania, some fearing retribution for the genocide, others forced to flee with retreating militia and remnants of the former army (Bruce, 2007). Thus, the second batch of refugees (2,000,000–3,000,000), known as the “new caseload” or “new case refugees” were those who fled in 1994 and returned largely in 1994–1997 (Bruce, 2007).

These large-scale migrations into Rwanda had an enormous impact on land tenure (Marara and Takeuchi, 2009) and the pressure on land became intense (Daley *et al.*, 2010; Republic of Rwanda, 2001; van Hoyweghen, 1999). Due to this demographic surge, land scarcity



increased and housing for this population influx remained a critical and challenging issue for the government (Daley *et al.*, 2010; Republic of Rwanda, 2001; van Hoyweghen, 1999). Reinforcing this, Bruce (2007) notes that in Rwanda, where intense competition for land was a factor in the events leading to conflict, refugee return and land access was an extraordinarily complex matter that had to be resolved by the government.

The return of the 1959 refugees gave rise to a real land problem (National Land Policy, 2004). The huge inflow of these old-case refugees was concentrated in the eastern part of the country: many of them had lived in Uganda and Tanzania, and so for them, eastern Rwanda was the nearest and easiest destination (Takeuchi and Marara, 2009). To ensure that returning Rwandans did not cause much disruption to those already in the country (so as to avoid friction at a time when efforts were focused on peace and reconciliation), various measures were undertaken by the GoR to resettle returning Rwandans.

As a provisional measure to resettle the old-case refugees, some of them had to occupy land that had been abandoned by those who fled the country in 1994 (National Land Policy, 2004). Other measures involved releasing land that was originally government or public land and thus the other old-case refugees were given plots on public land as well as vacant land, on which they could resettle and produce. As a result, the following became realities: (a) Umutara Game Reserve, two thirds of the Akagera National Park and the Gishwati Mountain Forest, as well as land belonging to certain State-owned projects, were parcelled out and distributed to the refugees; (b) communal land, woody areas found on good soil, pastures and areas near the shallow sections of marshlands were allocated to old-case returnees; and (c) in some provinces, namely in Kibungo, Cyangugu, Kigali Rural, Ruhengeri (now Musanze) and Umutara, many family plots were parcelled out and redistributed between the owners and the returning 1959 refugees. Some of these areas of spontaneous resettlement required continuing government attention, and so, for example, an estimated 8000 displaced families who settled within Gishwati Forest in north-west Rwanda had to be relocated later for environmental reasons (UNHCR, 2000).

In order to deal with the large waves of new-case returnees, the government introduced a land sharing policy in 1995. This policy stipulated that houses occupied by old-case returnees should be returned to their new-case returnee former owners, with the caveat that the land was to be divided equally between the two parties (Takeuchi and Marara, 2009). With no legislation or law to provide a legal basis for the policy, local administrators or authorities simply requested farmers to divide their fields and to make the second part of their land available to returnees with no payment or other kind of compensation (Des Forges, n.d.). Surprisingly, in most cases, the policy was carried out without significant turmoil (Takeuchi and Marara, 2009). There were no major conflicts that resulted in the land sharing policy's implementation, partly because some of the new-case returnees knew that some of the old-case returnees had their own land before they were chased away and their land ended up being allocated to other Rwandans. This created, to a certain degree, a sense of mutual support.

In addition, in 1996, other measures like the Tent Temporary Permanent (TTP) programme and the imidugudu policy (villagisation) were introduced in the urban and rural areas, respectively (Bruce, 2007; Musahara and Huggins, 2005). The government adopted a National Habitat Policy that stated that dispersed patterns of homesteads in the countryside were an inefficient use of land, and called for the regrouping of all inhabitants into villages. The implementation of the villagisation programme involved land expropriation, and a zoning policy was introduced to make more efficient use of scarce lands. Farm and grazing

lands were clearly separated from residential areas and building new houses outside these designated areas was prohibited.

The above responses to the refugee crisis brought their own problems. Regarding the land sharing policy, 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 (Payne, 2011). In terms of the policy of allocating government or public land to returnees, it has been claimed that some people used the opportunity to acquire large estates that they were holding on to for speculative purposes (van Hoyweghen, 1999) and in response to this, a Presidential commission was established in 2007, with the responsibility of redistributing these estates amongst landless people of the region.

As noted above, the implementation of the government's National Habitat Policy involved expropriation of land. However, land appropriation in general (not necessarily for the villagisation programme) had its own problems regarding compensation, which have been summarised by Sagashya and English (2010) as follows. Before 2005, land belonged to the State, and citizens only had rights to improvements made on the land. None of the land was formally registered, and rights to land (other than the rights to the improvements made on the land) were not formally recognized for occupants. For land expropriation, a list of occupants was prepared and compensation provided only for the improvements made on the land. In the immediate period following the 1994 genocide, the State was able to easily expropriate individually occupied land to expand and provide settlement areas, and was only required to compensate for improvements on the land against a list of gazette values for buildings and crops. Using these provisions, the government was able to resettle many internally displaced people and returnees. For example, in Kigali City, in particular, the land expropriation methods applied in the post-1994 period to acquire land for investments usually resulted in displacing informal settlements and individuals on land that had been allocated by the government in the post-war period, or land that they had inherited. Compensation was given only for the improvements made on the land and no replacement land was provided, leaving insufficient funds for displaced families to purchase alternative land in the informal land market. No dwellings for displaced people were provided either. This system, against a background of rapidly developing urban areas in Rwanda, resulted in considerable insecurity of tenure. In rural areas, land was expropriated and land boundaries were redrawn for the land-sharing schemes and villagisation programme, and there was also implementation of radical terracing, which resulted in loss of land and reorientation of field boundaries for individual land holders.

It is, thus, not astounding that in spite of the above initiatives, there was tenure insecurity, many families were still landless and land given to orphans and widows was mismanaged: these compounded the already existing problems such as excessive parcelling out of plots, deforestation and gradual soil impoverishment. For those who owned land, the parcels were small: more than 60% of landowners had less than one hectare in total with different plots scattered across a community (FAO, 2015). Moreover, land conflicts were escalating; for example, in 2001, more than 80% of court cases involved disputes over property (Ministry of Lands, Human Settlements and Environmental Protection, 2001, cited in Wyss 2006), and in that same year, Rwanda's National Unity and Reconciliation Commission reported that land disputes represented the greatest factor hindering sustainable peace (Musahara and Huggins, 2005). Thus, the risk of escalated land conflict was not lost on the President, as wherever he travelled he saw that the vast majority of people's complaints were about land conflicts (Diamond, 2005). Consequently, the government was obliged to tackle the problem since, if

not addressed, it could create more serious land conflicts or tenure insecurity amongst the citizenry (National Land Policy, 2004). Also, a majority of the initiatives considered were primarily used as emergency responses to the problems the country was facing at the time, and issues of resettlement and land for sustenance were tackled in a legal and institutional vacuum.

This, therefore, necessitated the need for the GoR to gravitate towards a system that would establish or guarantee tenure security, where the government had to move away from concentrating on emergency measures to a developmental thinking, with land governance and land tenure security taking centre-stage. Thus, the emergency phase lasted up to the late 1990s when the government started channelling its efforts towards building new institutions to consolidate whatever had been achieved, as well as driving the country towards an ambitious development path.

Existing systems of land administration and planning under old laws were deemed insufficient to meet the challenges the country was faced with. The colonial laws had left a legacy of inequality between urban and rural land with an incomplete cadastre system (Sagashya and English, 2010). The country had only two registrars of land titles, one being in the Ministry of Lands for all rural land and urban land outside Kigali city, and another registrar being the Mayor of Kigali city for land located within Kigali city boundaries, but this framework could not handle the increasing demand for land governance and better service delivery.

Land-related responsibilities were scattered in different ministries such as the Ministry of Infrastructure and Housing, Ministry of Agriculture, Ministry of Rehabilitation and Refugees, and Ministry of Lands, Water and Forestry. Land was always mixed with housing, urbanisation and infrastructure under a department known as Unite Terre, Urbanisme, Habitat et Infrastructure (UTUHI) (Payne, 2011). Despite the *loi communale* (see chapter 2), all land-related work was done at a central level with limited involvement of local government in land issues, even though these were closer to where land issues were taking place. At the provincial level, there was no institution or department to deal specifically with land, nor was there one at district level.

Thus, in the aftermath of the 1994 genocide against the Tutsi, there was no clear policy, legal or institutional framework that would have allowed the overhaul of an outdated land administration system. The legal system then in place was not able to develop land policies quickly enough, improve the legislation and provide the effective means for their implementation<sup>3</sup> (Sagashya and English, 2010). All these issues emphasised the need for a comprehensive far-reaching policy and legal and institutional changes to overcome a history of land-related conflict and inequity, end gender discrimination in land access and provide a framework for optimum use of available land resources to promote economic development. There was, therefore, the need first to establish the necessary policy and legal framework (which will be considered in chapter 4). However, the next section explains how the need to reform started through organised public dialogue and consultations prior to the consideration of the policy and legal framework.

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<sup>3</sup> According to GoR (2014) "Apart from a few scattered land regulations, most of which dated back to the colonial period, Rwanda had never had a proper land policy nor did it ever have a land law, a situation that enhanced the existing duality between the very restrictive written law and the widely practiced customary law, giving rise to insecurity, instability and precariousness of land tenure."

### **3.3 1996–2001 Public Consultations for an Inclusive Land Reform Process**

Given the socio-political and economic situation the country was in, it was imperative to solicit public views on land reform and ensure that whatever policies and laws were finally formulated were informed by the public, since the importance of public participation in policy or law formulation processes cannot be over-emphasised regarding the effective implementation of the eventual policies and laws. Thus, as captured in the words of Eugene Rurangwa (former Director General of the National Land Centre and Registrar of Land Titles): *“National workshops were organized and most importantly a lot of local consultations were organized in all districts with impressive turn out.”* Given their role in the country’s reconstruction process, it was also important for aid agencies to provide any financial support needed, as the country’s coffers were empty.

In 1996 the Ministry of Agriculture and Livestock held various meetings and workshops on land issues with the idea of developing a new land law. This was widely supported, and during these meetings, participants stressed that a land law was of prime importance to ensure that the country developed a thriving agriculture sector (Musahara and Huggins, 2005). This was followed by financial support from the Food and Agriculture Organization (FAO) to the Ministry to conduct a study on land reform. The study recommended, amongst other things, the need for land policy and suggested that land subdivision should be avoided and the villagisation policy promoted as a way of increasing agricultural productivity. The study’s results became very influential in the design of the new land law. For instance, Article 20 of the 2005 Organic Land Law (to be considered in the next chapter) that was finally enacted, stipulated that a parcel of land which is below one hectare must not be subdivided (Payne, 2011).

These discussions happened in parallel with a national consultative process that took place in Village Urugwiro (President’s office) between 1998 and 1999. This national consultative process discussed, amongst other things, how Rwandans envisaged their future, what kind of society they wanted to become, how they could construct a united and inclusive Rwandan identity, and what transformations were needed to emerge from a deeply unsatisfactory social and economic situation. The process also enhanced the desire to reform land governance, land-use management and land administration. There was generally a broad consensus on the necessity for Rwandans to clearly define the future of the country (GoR, 2000).

### **3.4 The Importance of Strong Government Leadership and Vision**

Having a strong, visionary, responsible and inclusive government was not only a need but rather an imperative in the aftermath of the 1994 genocide against the Tutsi. Issues and challenges the country was faced with required more than one would wish for. Responding to emergency needs was not enough to keep the country safe and united and act as a spur for development. The country’s macro-economic indicators were alarming. For example, the inflation rate was at 48.2% in 1995, at 13.4% in 1996 and at –2.4% in 1999, the budget deficit with grants was –13.3%, –5.7% and –3.8% for these three years, respectively, while the GDP per capita was \$185.6, 204.3 and 252.5 during those three years, respectively (GoR, 2000), with an annual population growth of 3.1% (Liversage, 2003).

The government was pressured to have a vision that would bring social unity, prevent further conflicts and spur economic growth in all key developmental sectors. In terms of land, irrespective of how it was degraded, it was still the most valuable asset in the predominantly agrarian Rwandan economy, but its scarcity relative to a large population had huge potential to produce incessant land-related conflicts if nothing was done. Furthermore, as noted earlier,



existing systems of land administration and planning under the old laws were deemed insufficient to meet these challenges, and the colonial laws had left a legacy of inequality between urban and rural land with an incomplete cadastre. Thus, a proper vision of how land should be held, governed, used and administered was very important for the country's social economic stability and growth in the long run. For the first time in Rwandan history, in February 1999, the GoR created the Ministry in charge of land as a sign of a strong political will and commitment to reforming the way land was held, used and managed. The President himself was very supportive and provided all the support the sector needed.

The national consultative process outlined in the previous section resulted in a broad consensus on the necessity for Rwandans to clearly define the future of the country. Based on this need, this process provided the basis for what became known as the Rwanda Vision 2020. The Vision provided the main long-term development path for the country by outlining key objectives the country needed to achieve in each sector by the year 2020. Out of the six pillars of Vision 2020, there is one on infrastructure development under which a land tenure reform was envisaged. It stipulates that in order to deal with severe shortage of land, a land-use plan is needed to ensure optimisation of land that exists for both urban and rural development. It also stresses the importance of putting in place a land law that would provide security of tenure, whilst ensuring efficient and sustainable use of land. The Vision 2020 stresses also that in order to create viable farming, land will be reorganised and consolidated. In terms of urban development, it states that: *"each town will have regularly updated urban master plans and specific land management plans. The country will develop basic infrastructure in urban centres and in other development poles, enabling the decongestion of agricultural zones. The proportion of those living in towns and cities will increase from 10% in 2000 to 30% in 2020 (from 5% in 1995). The income differential between towns and rural areas should remain within reasonable proportions due to the decentralization of economic activities to the country"* (GoR, 2000, p. 17). All these objectives and many more, as outlined in the Vision, were meant to be transformed into programmes and strategies to be implemented. Thus, although Vision 2020 was a very important step in recognising the importance of reforming land and ensuring that it is given priority in the country's long-term development vision, it was very important to turn the Vision 2020 objectives into concrete programmes via a legal, policy and institutional framework. When the time came for some of the needed instruments to be put in place, the leadership and visionary role of government was crucial.

For example, the government, from central to local level, had to accept and promote the Organic Land Law enacted by Parliament and abide by the provisions in the orders and regulations. This needed to be consistent with the implementation of other laws. In addition to accepting the laws and the land policy when it came into force, the government and its representatives at all levels had to understand the policies and laws with regard to land issues to ensure they were implemented equitably in all areas, and needed to be fully aware of the consequences and implications for the way they must operate.

Furthermore, it was important for the government to create an environment that would allow the needed reform to take place and, as indicated earlier, the next chapter provides a detailed description of how the policy, legal and institutional framework was established to support and guide the land reform process. Even when some of the reforms had been put in place, continued strong governance and leadership were still needed to ensure that reforms that were introduced were fully implemented. This was the case, for example, with the principal implementing agency, the National Land Centre (NLC) under the Ministry of Lands. This agency had to provide a strong vision and leadership for the reform. Within the NLC, the



Registrar and Deputy Registrars were key in their political role, as leaders charged with administering affairs of land, and were required to be free from interference. There was a risk that reforms could have stalled if this leadership and guidance under the laws and regulations was not to be recognized and allowed to develop (Sagashya, and English, 2010).

The importance of land reform was also stressed in a 2002 Poverty Reduction Strategy Paper (PRSP), which set out a short-term strategy for poverty reduction and economic development. Unlike Vision 2020, PRSP was a short-term strategy that set out priority areas and priority actions needed in various sectors, which were to form the basis for the country's planning effort. The PRSP also defined public and private sectors, NGOs and other donor organisations, and the community's role in implementing priority actions. In terms of land, the PRSP stressed the importance of a national land policy and land law to guide the land reform (at this stage, both the land law and the national land policy were still at the drafting stage). Amongst the key actions envisioned was the allocation of formal ownership rights through a cost-effective, participatory and locally accessible system, including the consideration of a systematic titling programme (GoR, 2002).

### **3.5 Planning Ahead with Stakeholders**

Designing and implementing the Rwanda land reform agenda required the support of many, including public and private sectors, NGOs and donor communities. Turning Vision 2020 and PRSP's land-related goals into concrete actions required more than a dedicated government with a clear vision. The land reform was proposed at a time when the country needed more support financially. The British Department for International Development (DFID) took the lead in supporting the government's ambitious reform programme. An international advisor was hired to support land policy development and land law drafting processes and once the policy and law were in place, DFID continued to support the main part of the land reform through an established project within the Rwandan ministry responsible for land, the then Ministry of Lands, Environment, Forestry, Water and Mining (MINITERE). The project was known as "Support to Phase 1 of the Land Tenure Reform Process (NLTRP) in Rwanda" and its main aim was to assist the ministry to develop a Strategic Road Map (SRM) for land reform in the country, by implementing both the land policy and land law. The NLTRP was managed and implemented by HTSPE, a UK-based consulting firm (HTSPE has now been acquired by DAI) under the supervision of MINITERE's leadership. The SRM was required to *"set out a framework for a land reform process that secures the rights of all citizens, including the poor and vulnerable, whilst also supporting national economic development and promoting environmental sustainability"* (DFID, 2009).

The DFID Phase 1 programme mentioned above started in 2005, immediately after the Organic Land Law (OLL)'s approval, and concluded in April 2009. The project was consciously designed to support the GoR in the first design phase of implementing the new Land Policy 2004 and OLL, and envisaged the following outputs: (a) a road map for implementation, developed in consultation with all stakeholders, including the testing of various options/features; (b) ensuring that all actors have the necessary mandates, resources and capacity to proceed with the road map; and (c) the establishment of mechanisms for complementary support from other donors, including preparations for support for subsequent phase(s).

Under the Phase 1 programme, DFID provided around £3,000,000. This programme was preceded by an initial assistance that had funded the hiring of a land policy specialist between 2002 and 2004 to assist the MINITERE with the preparation of the 2004 National Land

Policy (Gillingham and Buckle, 2014). DFID's support at this Phase 1 was paramount and contributed immensely to the design of the entire land reform programme from inception to implementation. Further details on how DFID and other development partners supported the land tenure reform programme are provided in chapter 9, which discusses stakeholders' engagement.

### **3.6 Challenge**

During this phase, the main challenge was awareness-raising and bringing everyone concerned on board. Many people were more concerned about land-use planning and environmental management. Very few understood land administration. It was important to think outside the box to ensure that people understood not only the importance of land administration but also the challenge of having a combined land use–land tenure reform programme.

### **3.7 Conclusion**

This chapter has discussed the preparatory groundwork that was carried out to support the land tenure reform programme. It has been established that the total devastation and complete breakdown of government and its structures, including those for land management, following the genocide against the Tutsi in 1994, which was compounded by the influx of Rwandan refugees returning to the country, providing the socio-political and economic basis for land reform. The influx of refugees, in particular, had a telling effect on land tenure due to mounting pressure on scarce land and, therefore, housing became a very crucial and challenging issue for the GoR to resolve. Various measures were introduced to resettle the refugees but they were fraught with problems and some of them were considered as emergency responses that were temporary in nature. Thus, despite the interventions by government, landlessness amongst many families and land tenure insecurity remained a real challenge for the GoR.

The government had to, therefore, move towards a developmental thinking with land governance and tenure security taking centre-stage. Consequently, the government commenced directing its efforts at developing a new and clear policy, and legal and institutional framework, since existing systems of land administration and planning under old laws were deemed insufficient to meet the challenges the country was confronted with, as there was no such framework to ensure an overhaul of an outdated land administration system. However, the need to reform commenced with organised national public consultations prior to the consideration of the policy, a legal and institutional framework where workshops and consultations were widely organised across the country to ensure public participation in the process, and acceptance of the outcomes thereof. Whatever was proposed during the national consultative process was widely supported. Two of the offshoots of this process were Vision 2020, which provided the main long-term development trajectory for the country by specifying the objectives to be achieved by the year 2020, and 2002 PRSP that set out a short-term strategy for poverty reduction and economic development as well as defining the role of the public and private sectors, donor agencies (including NGOs) and the community in the implementation of priority actions. DFID, at this preparatory stage of land reform, played a critical role by funding various activities. The next chapter is devoted to a consideration of the policy and legal framework that was put in place following the preparatory work carried out, and related in this chapter.

## 4

# Policy and Legal Framework to Support Land Tenure Reform: Preparatory Public Consultations and Land Tenure Regularisation (LTR) Trials

### 4.1 Introduction

The previous chapter identified and examined the key exercises that were carried out as part of preparing the ground for the land tenure reform programme in Rwanda. Following this preparatory groundwork, there was the need for a policy and legal framework to guide and drive the programme to ensure its successful implementation, since executing such a programme in a policy and legal vacuum could create enormous problems. The preoccupation of this chapter is, therefore, to discuss the framework that was developed to underpin the land tenure reform programme.

The chapter is organised as follows. The next section (4.2) looks at the National Land Policy, formulated in 2004, followed by section 4.3, which considers Organic Land Law, which was enacted in 2005. Sections 4.4–4.8 are devoted, respectively, to: discussions on preparation of secondary legislation and operations manuals; public consultations that were Phase 1 of the national land tenure reform programme; land tenure regularisation trials; a strategic road map for land tenure reform; and challenges. There follows a conclusion.

### 4.2 National Land Policy (NLP) to Enhance Land Tenure Security

Rwanda has been characterised by land-related issues. However, as indicated in chapter 3, such land-related issues escalated in the aftermath of the genocide against the Tutsi in 1994. These issues include: scarcity of land and land resources resulting in strong pressure on the already spatially limited land resources by a rapidly growing population; a dual land tenure system dominated by customary law that favours land fragmentation, a practice which reduces further the size of the family farms that are already below the threshold of the average economically viable surface area; a land tenure system that is unfavourable to women; inappropriate farming methods; inadequate soil conservation techniques (GoR, 2004); tenure insecurity (land disputes and land conflicts); weak land administration systems; inequitable distribution of land; land use competition; poor management of land and other natural resources; and the disastrous and negative effects of the war and genocide.

To ensure that land issues are given adequate priority, the Constitution of the Republic of Rwanda (which was adopted by a referendum on 26 May 2003 and came into effect on the date of its promulgation in the *Official Gazette*, 4 June 2003) recognises the right to private ownership of land and other rights to land which are granted by the State. 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. The right to property may not be interfered with except in public interest, in circumstances and procedures determined by law and subject to fair and prior*

*compensation”, whilst according to Article 30, “Private ownership of land and other rights related to land are granted by the State. The law specifies the modalities of acquisition, transfer and use of land.” Article 31 defines government property as: “The property of the State comprises of public and private property of the central Government as well as the public and private property of decentralized local government organs. The public property of the State is inalienable unless there has been a prior transfer to the private property of the State” (Republic of Rwanda, 2003).*

In this regard, having a land policy was seen as one way of setting an appropriate framework that would help resolve the land-related issues as well as implement the constitutional requirement of the right to private ownership of land. In other words, the panacea to the above-mentioned problems required a coherent land policy that would direct and harmonize land management and land administration and reduce land-related conflicts by resolving them as soon as they surface. Thus, in February 2004, an NLP was endorsed by the GoR and it was also part of achieving Rwanda’s National Development Strategy by 2020 (Vision 2020), which ranked the need for a land policy among the country’s vital and key policies. It was anticipated that land tenure reform would achieve social growth and development as well as economic growth and development. The NLP, therefore, provided a general framework for land reform where legal, regulatory and institutional reform was to be implemented (GoR, 2004).

In the perspective of the harmonious and sustainable development of Rwanda, the overall aim of the NLP is to establish a land tenure system that guarantees tenure security for all Rwandans as well as gives guidance to the necessary land reforms with a view to good management and rational use of national land resources. A key provision in the policy is the establishment of a single statutory system of land tenure that vests land ownership in the State and provides users with long-term usufructuary rights that can be passed on to heirs, mortgaged, leased or sold (GoR, 2004). The specific objectives of the policy as outlined in the NLP are to:

- Put in place mechanisms that guarantee land tenure security to land users for the promotion of investments in land. It seeks to develop a land administration system which guarantees security of tenure to all landholders in order to increase the productive use of land. Thus, it seeks to establish mechanisms that facilitate giving land its productive value in order to promote the country’s socio-economic development;
- Promote good allocation of land in order to enhance rational use of land resources according to their capacity. The policy strongly lays emphasis on the optimum use of available land resources;
- Avoid the splitting up of plots and promote their consolidation in order to bring about economically viable production;
- Focus land management towards more viable and sustainable production by choosing reliable and time-tested methods of land development;
- Establish institutional land administration arrangements that enable land to have value in the market economy: that is, to make land a marketable asset that could be traded in a fair and transparent market place, thereby creating a liquid market for land with the potential for aggregation in a land-scarce country;
- Develop actions that protect land resources from the various effects of land degradation;

- Promote research and continuous education of the public in all aspects of duties and obligations with regard to land tenure, land management and land transactions;
- Establish order and discipline in the allocation of land and land transactions in order to control and/or curb pressure on land, inappropriate development, land speculation and land trafficking;
- Promote the involvement and sensitization of the public at all levels in order to infuse land use practices that are favourable to environmental protection and good land management. The policy seeks to contain urban sprawl to ensure density and ease of infrastructure service provision. It provides for measures to discourage disorderly growth of squatter areas and unplanned settlements as well as recommends an improvement of protected areas, and their management; and
- Identify and recognise ownership of land and issue land titles as well as promote conservation and sustainable use of wetlands. Issuance of land titles is to encourage agricultural practices that are compatible with improving soil quality and water availability

(GoR, 2004).

Thus, the NLP provides a framework for: an inventory of all landed assets; securing of land tenure for the owners; efficient and sustainable use of scarce land resources; and efficient land management and administration. The policy further classifies environmental assets including lakes and rivers, natural reserves and natural parks and marshlands as the State's public lands and recommends an improvement in their management and protection. It recognises and appreciates the diversity in soil characteristics, water availability, terrain and accessibility, and highlights the need for appropriate use of different categories of land, for example rural lands, natural reserves and marshland, while respecting land-use master plans (GoR, 2004). To ensure harmonization and complementarity, the national environmental policy was also adopted at the same time. This facilitated stakeholders' consultation process and ensured that that both policies were aligned.

The NLP recognised that: (a) of all the resources, land is the most precious due to the fact that it is an irreplaceable support of all forms of life, particularly in Rwanda where it constitutes the most important factor of production and survival; and (b) at the same time, land is a very fragile asset by its very nature, has spatial limitations, and strong man-made and climatic pressures, which it endures. Thus, the mode of land management, land use and land development will determine the development of the national economy and the well-being of the entire population of Rwanda. It envisaged that the implementation of the NLP should be guided by the following clear and concerted general principles as outlined in the NLP:

- Land is a common heritage for past, present and future generations, which implies a legal framework that integrates a series of rights on land and renewable resources. However, the rights should be correlated to a number of obligations in order to guarantee the development of the land, and the management of such a heritage should involve every citizen where the duty of the government should be to prompt and support the ecological and economic dynamics by guiding the behaviour of all landed property users. The government, therefore, becomes the guarantor of the country's land and environmental heritage and must ensure its good management while taking into account the needs of the present and future generations.



- According to the constitutional principle of equality for all citizens, all Rwandans enjoy the same right of access to land, without any discrimination whatsoever. Thus, women, whether married or not, should not be excluded from the process of land access, land acquisition and land control, and female descendants should not be excluded from the process of family land inheritance.
- Land tenure and land administration should guarantee land tenure security for all holders of title deeds and should promote optimum development of land and, therefore, the urgent need of land registration throughout the country that will ensure that land is given its real value.
- Land management and land use should take into consideration different land categories as represented by the various master plans, land classification and land development maps.
- The modes of land management and land use will differ, depending on whether they apply to urban or rural land – the latter comprising hilly land, marshlands and natural reserves.
- Proper land management should include the planning of land use, on the backdrop of the organisation of human settlement and the enhancement of consolidation of plots for a more economical and more productive use of the land. And existing fragile zones that are of national interest should be protected.
- The process of land transactions improves the value of land and leads to a more productive land use. It attracts investment in land development and enables various land users to look forward to better times ahead.
- Large-scale cadastre plans and maps are the best means of obtaining, recording and analysing comprehensive and accurate land-related information.
- An appropriate land registry system is essential in order to really understand the land situation of a country and, thus, plan for any measure of land reform.
- A well-defined legal and institutional framework is an indispensable tool for the establishment of a national land policy. In order to lay a solid foundation for the new land policy, land law will assist in putting in place the necessary administrative structure for finalising land reforms

(GoR, 2004).

The 2004 NLP is currently under review as required by the policy itself, but also because some of the key policy objectives have been achieved. Some of the key issues under review include those related to land-use planning and restrictions such as: (i) weaknesses in preparing and implementing master plans for land use and development; (ii) expropriations in public interest; (iii) land-use consolidation; (iv) group settlements in rural areas; (v) confiscating and managing unused and abandoned land and property as well as land considered degraded or poorly managed; (vi) prohibiting sub-division of agricultural land that would generate parcels below one hectare; (vii) land-related challenges in urbanization and housing; (viii) allocating and leasing of marshlands; (ix) taxes and fees on land and land transactions; (x) determination of lease durations and conditions for renewal; (xi) aligning and harmonizing the NLP with other policies and programs; (xii) concerns over land rights of

women in informal or polygamous marriages; and (xii) sustaining land administration services (Byamugisha, 2015).

The key policy objectives that have been achieved include: the flagship national land tenure regularization programme completed at a pace and cost that are globally impressive; the impact of the land tenure regularization programme, even based on observations made two-and-a-half years after the field demarcation exercise was found to be significantly positive in improving tenure security and women's access to land as well as increasing land rental market activities; and a legal and institutional framework for land administration was established and a national land use master plan also put in place (Byamugisha, 2015).

#### **4.2.1 How the policy was prepared**

The preparation of a policy document, especially a land-related one, requires time, resources, and consultations with various stakeholders and the public. This process helps the policy to be more representative and inclusive and, therefore, its implementation becomes possible. For the case of Rwanda, consultation was not only necessary but essential. The country's history and the problems that the country faced required a more comprehensive and inclusive approach to the policy preparation to ensure all issues were properly addressed in the policy.

A team of Rwandans experts from MINITERE and MINIJUST was established to carry out the consultations with MINITERE leading the whole process. Three key elements characterised the preparation of the National Land Policy: (i) the organisation of a National Conference on land policy, involving all sectors at national and local levels (Presidency Office, Office of the Prime Minister, Ministries, Parliament, Districts, NGOs, international organisations, Development Partners etc.) to exchange views and gather comments and recommendations; (ii) consult other national land policy documents of some countries in Africa including Tanzania, Zambia, South Africa with their green and white papers on land policy; (iii) with the support of DFID, USAID and UNHABITAT study visits were made to Tanzania, Ethiopia, South Africa, Mozambique United Kingdom and Sweden, to name but a few. Study visits focused on land policy development, land tenure, land management, land-related conflict resolution, expropriation, and gender considerations. With all this, MINITERE was well-equipped to engage with other stakeholders. As a result, MINITERE nominated a local NGO (Rwanda Initiative for Sustainable Development) to carry out several consultations on land policy at grassroots level, while MINITERE continued to engage at national, provincial and district levels, asserted Eugene Rurangwa, former Director of Lands in the MINITERE and Director General of National Land Centre and Registrar of land titles.

All the countries visited by the Rwandan experts were very instrumental in helping Rwanda shape its land reform. Each country had strengths and weaknesses. For example, it was clear that countries such as South Africa and Ghana had a clear vision of what they wanted to achieve in the land sector. Burkina Faso, for example, was a good destination for agriculture lessons concerning how dry land is used for agriculture development. Mozambique was an example of a well-established land commission. Thus, on the return home, delegates from Rwanda focused on the strengths and weaknesses of the countries visited in designing the land tenure and land-use reform programme in the country.

According to Musahara and Huggins (2005), the first land policy consultations were organised by the ministry responsible for lands in November 2000 with the objective of exchanging views and considerations of the first draft of the policy document: it was recommended from the meeting that more consultations should be done with NGOs working

on land, local leaders and the public at local level in the rural areas. The authors, however, argue that at the provincial level, land policy consultation meetings involved administrators at the district level rather than members of the general public. In spite of poor public participation, the authors suggest that the draft land policy was almost complete by 2001 and was disseminated for comments to organisations such as the Rwanda Institute of Sustainable Development (RISD), the Rural Development Institute (RDI), Oxfam GB, and others. These comments were incorporated to varying degrees in the policy document. In this vein, Palmer, cited by Payne (2011, p. 28), states that: *“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 prefectures 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 prefectures, which better reflect people’s views.”*

#### **4.3 Organic Land Law (OLL) 2005 and how It Facilitated Land Tenure Reform**

After developing the NLP, consultations were done to establish a land law that would help implement the policy. The enactment of an Organic Law that will deal with the use and management of land was proposed as the mechanism for facilitating the implementation of the NLP and having land users comply with it (Sagashya and English, 2009). Thus, in 2005 an OLL was passed to determine the use and management of land. This became the main tool regulating land in Rwanda.

The salient and relevant features of the law have been described by the GoR (2005) and Sagashya and English (2010), which are summarised as follows. Based on the NLP, the overall aim of the law is to improve tenure security through land registration to ensure proper land management and administration as well as facilitate the development of an equitable land market and use of land in Rwanda. The OLL enables wide-ranging and radical reforms in land administration and planning in order to eliminate the duality of tenure systems and establish one unified legal and administrative tenure system<sup>4</sup>, and such radical reforms represented a paradigm shift in land legislation and administration in Rwanda that provided the basis for subsequent reforms (Sagashya and English, 2010).

The law provides for the establishment of a national cadastral system, linked to a registry which will record and guarantee the integrity of subsequent land transactions. The key strategic principles of the law as described in the OLL (GoR, 2005) are: (a) a clear recognition of rights and obligations of both the State and the individual to land. This means that landowners now have rights beyond the exploitation and use of the land but also an

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<sup>4</sup> As indicated in chapter 2, before the passage of the OLL, a lot of Rwandans held land under a customary or a system of informal rights, while a minority held land title issued under the Civil Code introduced in the colonial era. Thus, the government’s first priority with the introduction of the OLL was to eliminate this division so that all Rwandans hold their land under one unified legal and administrative tenure system defined by the OLL and its associated orders and laws.

obligation to use it well and sustainably; (b) a nationwide land registration and titling system accessible to all citizens and previously open to only a few mainly urban-based land holders, registration will now be extended to all land holders; and (c) a system for land planning and development control. The law also requires: allocation of State land through open competition; land expropriation in the public interest; establishment of land commissions at different levels; special conditions for conservation and exploitation of land; obligations related to protection and promotion of land use through master plan and reserve areas; and prohibition of sub-division of agricultural land parcels that are less than one hectare.

Echoing the principles of the 2004 NLP, the OLL begins with eight general provisions that provide the foundation for the specific measures that are detailed in the subsequent chapters of the law, and five of them are: *Article 3* declares that land is the common heritage of all Rwandans, past, present and future, and that, notwithstanding the recognized rights of people, the State has supreme powers to manage all national land, is the sole authority with the power to grant rights of occupation and use of land and has the right to expropriate private land for public purposes, on prior payment of fair compensation; *Article 4* provides for equality with respect to the land rights to be enjoyed by individuals (natural persons) and corporations (legal persons), prohibits discrimination by gender or origin and provides for spouses to have equal rights to land; *Article 5* stipulates that all persons in possession of land acquired under customary law or by virtue of authorisation granted by government or by purchase, who are recognised as the owners of that land, are entitled to documentary title to the land in the form of an emphyteutic (long-term) lease; *Article 6* provides for the grant of absolute title to land to Rwandans or foreigners who invest in Rwanda by carrying out works of a residential, industrial, commercial or similar character on land; and *Article 7* provides equal protection to rights over land resulting from custom and written law and specifies the classes of persons who, in the context of the OLL, are recognised as customary landowners (GoR, 2005; Sagashya and English, 2010).

Under the OLL, there are three classifications of land, namely: private land; State land; and Local Government Authorities (districts, towns and municipalities) land, which are described below.

#### **4.3.1 Private land of individuals**

As stipulated in various articles of the OLL (GoR, 2005), this refers to land acquired under customary or written law via purchase, gift, exchange or partition and it includes land to be held under emphyteutic leases that create property rights analogous to full ownership during the term of the lease, and by virtue of absolute title. Land title registration is compulsory under the law. Even though rights based on land are freely transmissible upon death and transferrable via sale or gift, and land may be leased, rented out, encumbered or mortgaged, the law provides that no transfer, mortgage, emphyteutic lease, rental agreement or servitude is binding on third parties unless recorded on the register. Under the law, where there is joint ownership, the prior consent of specified family members is required for the lawful transfer or mortgage of land, long-term rental agreements and creation of servitudes.

Thus, although the OLL explicitly recognises customarily acquired land, it makes first-time registration and recording of follow-up transfers mandatory (article 30 of the OLL). The law also seeks to maintain and strengthen landowners' rights beyond those that have been held in the past, including rights that go beyond the exploitation and use of the land, including wetlands and parks to ensure efficient use of land. The law requires a nationwide land registration that will convert existing land title instruments to a new form of tenure thereby

formalising customary rights<sup>5</sup>. The law recognises two types of private land instruments, namely: (a) long-term, renewable leases of between 3 and 99 years, depending on the type and use of land, which will remain under grant from the State; and (b) absolute title or full ownership of land, with criteria for allocation still undergoing clarification. The starting point is the establishment of a national transparent, accessible land registration and titling system combined with a system for land planning and development control, which represents a giant shift in land legislation and administration (Sagashya and English, 2010).

#### **4.3.2 State land**

According to the law, State land is comprised of land in the “public domain” and “private domain”. Land in the public domain is land reserved for organs of the State or for environmental protection, including: land and buildings dedicated to public use, service and administration; State roads and road reserves; and national lands reserved for environmental conservation that includes national forests, national parks, reserved swamps, public gardens and tourist sites and the foreshore of lakes and rivers. All other land that does not belong to private individuals or local (district, town, municipality and Kigali city) authorities and is not comprised in the public domain is classified as State land in the “private domain”, which include: any vacant land (defined as land which is without an owner and land confiscated under Article 75 of the OLL); land expropriated for public purposes or purchased by or donated to the State; land occupied by State forests; swamps suitable for agricultural use; and land previously part of the public domain that has been reclassified in accordance with the law. The basic distinction between these two types of State land is that land in the “public domain” does not have commercial properties and is immune from inadvertent alienation by prescription, whilst land in the “private domain”, even though it belongs to the State, is analogous to private property and is susceptible to prescriptive acquisition by squatters (GoR, 2005; Sagashya and English, 2010).

#### **4.3.3 Local Government Authorities (districts, towns and municipalities) land**

Lands under district, town and municipal authorities is categorised as land in the public domain or land in the private domain. And this may be the case because land transferred to the local authorities by the State may be allocated to the public or private domain. Under the law, the local authorities may also acquire land by purchase or donation from private persons and corporations for incorporation into either its public or private domain (GoR, 2005).

In 2013, the OLL was amended to cater for new developments and challenges that had emerged. The challenges are considered in section 4.8 but some of the new elements incorporated in the new law included, for example, procedures of land management on islands, removal of land commissions and introduction of sector land managers.

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<sup>5</sup> It was envisaged under the law that the GoR will make legal land title instruments easily obtainable for all citizens of Rwanda, which will be: (a) *Certificat d'enregistrement d'une Propriete Fonciere* – a full ownership certificate or absolute title; (b) *Contrat d'Emphyteose* – an emphyteutic lease of varying years depending on use but with a basic term of 99 years for all individual land as defined under the OLL; and (c) Interim Land Certificates (ILCs) will be issued to meet immediate requirements for land documents and proof of ownership, which will be converted to registered emphyteutic leases.



#### **4.4 Preparation of Secondary Legislation and Operations Manuals**

The above OLL above provided the legal framework or enabling environment for land tenure reform, but to implement the law there was the need for other legal and administrative instruments. Thus, the OLL made provisions for secondary legislation (including laws and orders) that were required to operationalise land administration systems and procedures at both the central and local levels.

Thus, various laws like Expropriation law, Valuation law and a Law establishing the institution of the National Land Centre (NLC) were enacted and over 20 Presidential and Ministerial Orders were passed; for example: Ministerial Order determining the content and procedures for land allocation and lease; Ministerial Order determining the content and procedures for the extension of full ownership rights; Presidential Order determining the length of the lease for different categories of land in line with what such land is intended for; Ministerial Order determining the modalities of land registration of title to land; Presidential Order determining the structure, powers and functioning of the Office of the Registrar of Land Titles; Ministerial Order determining the structure of land registers and the responsibilities and the functioning of the District land Offices; Ministerial Order on the use, management and tenure arrangements for cultivated wetlands; Presidential Order determining the organisation, responsibilities, functioning and composition of Land Commissions; Ministerial Order on land sharing; and reviewing Orders establishing critical institutions like the Office of the Registrar of Land and District Land Bureaux as well as National and District Land Commissions and the mandates of the Sector and Cell Land Committees (Sagashya and English, 2010).

Prior to the drafting of the above laws and orders by the NLC, and later by Rwanda Natural Resources Authority (RNRA), consultations and research were conducted to ensure that all the laws and orders drafted were evidence-based. This process helped to build the capacity of the staff of NLC and, subsequently, RNRA in legislation drafting using evidence from consultations and research results. Also, various operations manuals and document templates were prepared for use in the training at both national and local level, but also used to implement the land law. These include mainly the land tenure regularisation operations manual, land administration manual, expropriation procedures training manual, family law manual and templates for land register. Details of these manuals are provided in chapter 6.

#### **4.5 Preparatory Public Consultations – Phase 1 of the National Land Tenure Reform**

Once the policy and legal framework was put in place, Phase 1 of the National Land Tenure Reform Programme (NLTRP) funded by DFID was established in the MINITERE to develop the required institutional capacity and prepare a “Strategic Road Map” for the effective countrywide implementation of land tenure reform. The project goal for Phase 1 specified a land reform process that secures the rights of all citizens including the poor and vulnerable, whilst also supporting national economic development and promoting environmental sustainability. The purpose reflected the need for capacity building to enable MINITERE to lead the process of implementation of the land policy and land law (DFID and GoR, 2007).

Field consultations were organised in order to gather landholders’ views and knowledge of the NLP and OLL that had just been formulated and passed, respectively, and the land reform envisaged therein. In this regard, four districts (Gasabo in Kigali city, Kirehe in the east, Karongi in the west and Musanze in the north) with distinctive characteristics were selected to host those public consultations. There was the need for detailed field consultations with

district and sector authorities and with members of the public in each of the four trial districts on the most appropriate way forward for the trial interventions in order to understand local land tenure practices and issues and devise a feasible consultative and participatory approach to the registration of land holdings. The main objectives of the preparatory field consultations were, thus, to engage fully at district, sector and cell level in order to build confidence in the overall land tenure reform process, design both the scope and content of the trial interventions and ensure that the drafting of decrees was supported by factual evidence from the ground (DFID and GoR, 2007, p. ii).

The field consultations started in 2006 and were carried out in three different phases with a specific group of stakeholders targeted in each phase: Phase 1 focused on consultations with sector-level authorities, Phase 2 dealt with the public, while Phase 3 covered trial interventions and cell reconnaissance. In all, *“2,500 people were consulted in rural, urban and peri-urban settings through 229 focus group discussions with members of the public and 139 structured interviews with local authorities and other local and national stakeholders”* (DFID and GoR, 2007, p. ii). Issues investigated during the consultations included means of land acquisition or access to land, State expropriations, inheritance, boundary demarcation methods, formal and informal documentation practices, land fragmentation, nature and number of land disputes, land consolidation and parcel size, functioning of informal land markets, and overall status and strength of local tenure practices (Sagashya and English, 2010). In total, 17 types of land users were interviewed including: local officials, land users (including tea, coffee and pyrethrum, commercial, subsistence farmers, large farmers, livestock farmers, urban commercial and residential users, developers and the Church) and sociological groups like women’s groups, orphans and genocide survivors. Local and international NGOs and Civil Society organizations were also consulted (Sagashya and English, 2010; DFID and GoR, 2007).

Key findings from the preparatory field consultations are summarised as follows by DFID and GoR (DFID and GoR, 2007, p. iii; Sagashya and English, 2010, p. 16):

- Increasing land scarcity and population pressure was encouraging the continuing growth of a thriving land market in Rwanda, albeit often involving sales and rentals of very small parcels of land, and in most cases land sales were informally documented, whereas rentals were largely verbally agreed. The increasing land scarcity and population pressure were also reducing the availability of land for young people to inherit.
- There were grounds for cautious optimism that the implementation of the OLL will reinforce the positive impacts of the Succession Law on the land rights of women and girls. However, increasing land scarcity and population pressure were also reducing the availability of land for young people to inherit from their parents and constraining their ability to meet their traditional obligations to give *iminani*.
- Multiple land holdings – often widely dispersed – were the norm in many parts of the country diversifying the livelihood base, and rights over land were perceived to have improved since the Organic Land Law was enacted making it easier to buy and sell land legally even though there was a strong demand for statutory regulations on sales.
- The growth and extensive nature of land sales involving very small parcels of land and the continuing socio-economic importance of land inheritance – traditionally always involving subdivision – suggested that land fragmentation was possibly a

continuing trend in Rwanda. The OLL sought to reduce land fragmentation by restricting subdivisions of agricultural land of one or less than one hectare.

- The majority of people seemed to be generally accepting what were largely “general boundaries”, principles based on their existing demarcation methods, and they wished to continue using natural boundaries wherever possible.
- People were increasingly reliant on, and demanding, written proof of land ownership to increase their tenure security, which may be formal from local sector offices or informal through agreement.
- The main causes/types of land disputes in the four trial districts were inheritance, boundary encroachment, polygamy and land transactions, and the overwhelming majority of land disputes appeared to be within extended families rather than between people of different social groups. Other, lesser, causes of disputes included past land-sharing problems and trespassing of livestock on neighbours’ land.
- Most people expressed great confidence that land tenure regularisation leading to land registration and titling would help to reduce and resolve the vast majority of land-related disputes in the longer term, through a “once and for all” recognition of the owners of each and every parcel of land.
- The majority of people consulted and, especially, those within vulnerable groups saw the government and statutory law and not “custom” as the best guarantor of their tenure security. They considered that government and statutory law could protect and formalise their existing rights to the land they already had, and thus bring desirable improvements to their current levels of tenure security. On the other hand, there was little current awareness or understanding of the OLL on the part of most people consulted and they had a limited understanding of the exact nature and legal status of their existing land rights. This added to the strong demand for an overall improvement in land tenure security through the regularisation of rights.
- Urban land users, particularly those in informal settlements who expressed the greatest concerns about expropriation, urgently needed improvements in their tenure security.
- Commercial food crop farmers and people renting land and/or residential and commercial premises expressed a strong demand for statutory rental market regulations whilst marshland and livestock farmers using private State land sought clarification of their status, and most of them wanted to be given the opportunity to retain access to land. Long-term tenure security was particularly important to tea and coffee farmers while the land rights of pyrethrum farmers on SOPYRWA land in Musanze District specifically needed to be clarified.
- Orphans and widows wanted the government to protect their land rights from relatives, guardians and in-laws and expressed confidence in formal land registration to help achieve this.
- Low awareness and understanding of the OLL such as with regard to the nature and legal status of existing land rights.
- Women in general were aware of the importance of legal marriage in securing their land rights but there were, nonetheless, many women who were potentially vulnerable during the implementation of the OLL and especially during land registration.

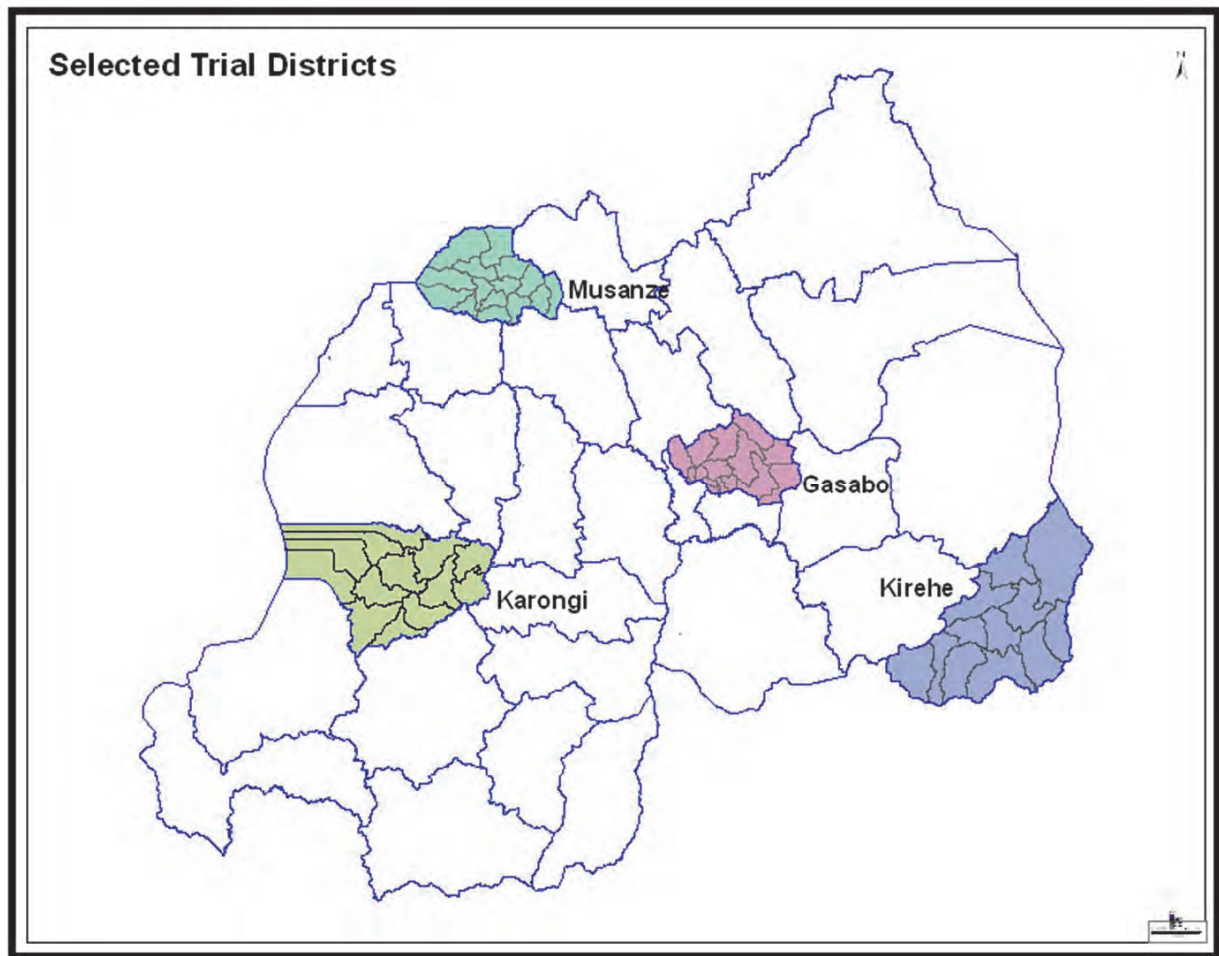
- Most new-case returning refugees consulted in the south-east, Kirehe District, wanted registration of their land holdings (post land sharing) in order to improve their overall security of tenure, whilst the old-case refugees said they would be willing to put aside any unresolved claims to their former land in return for increased security of tenure on the land they held.

As can be seen above, one of the recommendations from the field consultations was that land users consulted wanted their land rights clarified and have landownership documents through a land registration programme. Thus, the GoR through the NLTRP embarked on a field trial land registration exercise. The section below describes how the trial land registration programme was carried out.

#### **4.6 LTR Trial – What Is the Best Approach for Registering Land?**

As mentioned above, the field consultation results indicated that landholders wanted a formal registration of their land and the issuance of land documents. However, there was no clear guidance and approach on how systematic registration needed by the landholders would be done, nor was there an example of a successful systematic land registration programme that was available for Rwanda to learn from.

Following the completion of field consultation, the Ministry of Lands carried out a trial land registration programme in the four selected districts (Karongi in the west, Kirehe in the east, Musanze in the north and Gasabo in Kigali city). The map of the selected districts is shown in Fig. 4.1. The main objectives of the trial were to: (a) test the land law and the main issues related to implementation or procedures and methods for formal and systematic land registration using low-tech, local-level methods based on active public participation, and to carry out fact-based assessments supported by primary data; (b) inform the secondary legislation (laws and decrees) to reflect the issues on the ground; (c) identify unforeseen issues that may arise resulting from implementation; (d) quantify more specifically the resources required at various land-governance levels including district, sector and cell in order to inform the design and development of local institutions dealing with land and requirements for capacity building; (e) inform the preparation and design of locally based land administration and planning procedures; and (f) understand more the public requirements and test their response (DFID and GoR, 2007). Broad principles and detailed methodologies for what became known as LTR were prepared with regard to field approaches and procedures (Sagashya and English, 2010).



**Fig. 4.1.** Map of selected trial districts. (Source: RNRA, 2015).

Trials work began in March 2007 and ended in December 2007, and during this period, claims were made to some 14,908 land parcels in all the four districts (three diverse rural districts: Musanze, Karongi and Kirehe and one urban district: Gasabo). All regularised land was registered and titled to claimants in accordance with the law. Table 4.1 provides a summary of the trial areas completed. Low-tech methods were applied based on “general boundaries” principles, incorporating existing accepted parcel boundaries on the ground, which were mostly clearly demarcated by walls, fences and vegetation, using simple methods of boundary demarcation marked on aerial photography and/or satellite imagery. Boundaries were, therefore, incorporated as “social” rather than “technical” boundaries. This came from the field consultations’ findings where the majority of landholders consulted seemed to be generally accepting what were largely “general boundaries” principles based on their own existing demarcation methods and wished to continue using natural boundaries wherever possible (DFID and GoR, 2007; Sagashya and English, 2010).



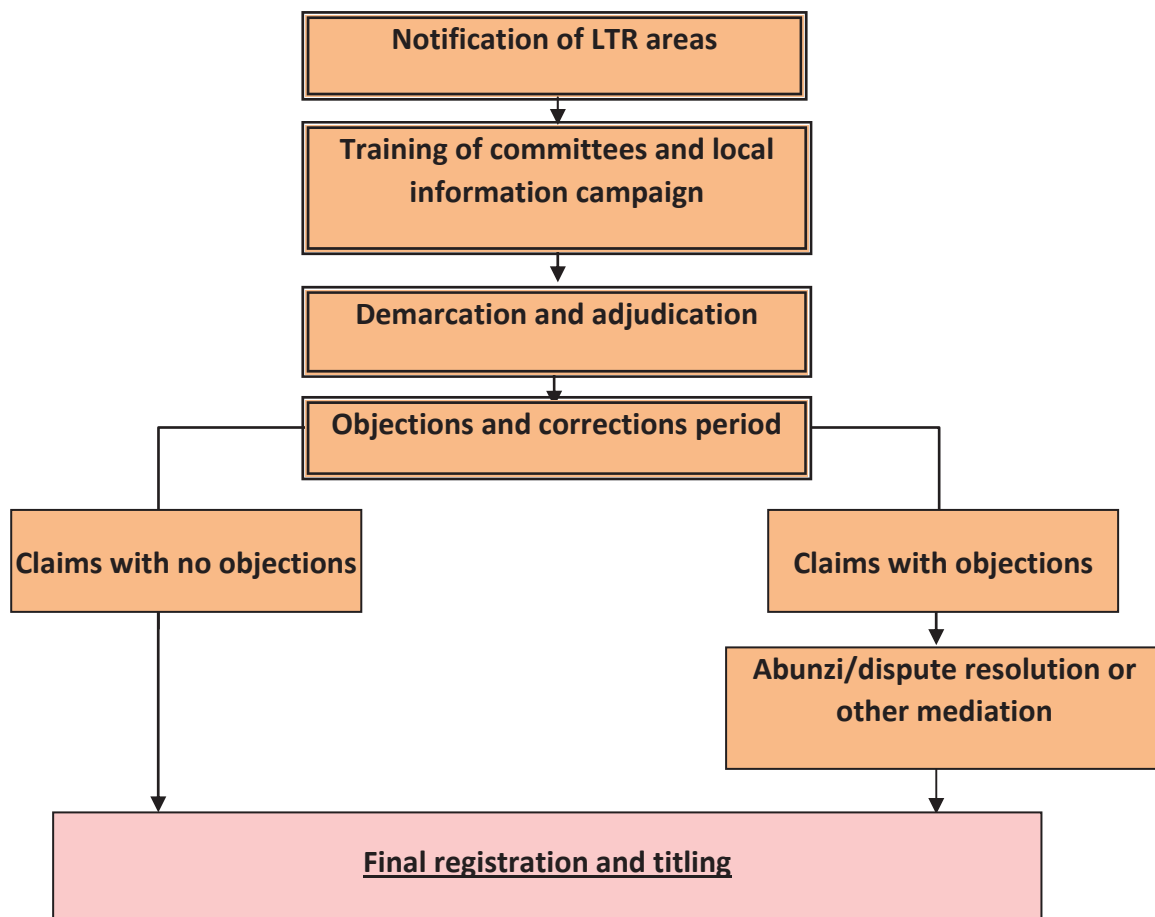
**Table 4.1.** LTR trials work completed.

District	Sector	Cell	HH (no.)	Umudugudu (no)	Parcels (no.)	Ha
Karongi	Ruganda	Biguhu	358	8	3019	740
Musanze	Rwaza	Kabushinge	1118	8	7432	584
Gasabo	Gatsata	Nyamugali	1200	5	1562	66
Kirehe	Muhama	Mwoga	837	5	2895	2058
Total			3513	26	14,908	3448

(Source: MINIRENA Fieldwork, 2007, cited in GoR, 2009b)

Ownership information was recorded for each parcel and the parcel boundaries recorded on a satellite image. All of the work was undertaken by the community with para-surveyors at village level. Data on the land tenure situations were collected and formal tenure regularisation procedures and processes that would lead to simple registration of land were tested. 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. Disputes over land were recorded separately for subsequent resolution by village committees (mediators commonly known as Abunzi). Demarcation, adjudication and, where possible, registration was undertaken transparently at the lowest administrative level, “the cell”, with maximum public participation, working systematically through each village or *umudugudu* in the cell – parcel by parcel. Local Adjudication Committees oversaw the examination of evidence of claims, adjudication and demarcation that would lead to final registration and titling. The system relied on community attestation and recording and allowed sufficient time for clarification, objection and, where necessary, correction of records (DFID and GoR, 2007). Other types of data collected and analysed were how land was acquired, the nature of land and rental markets, land parcel sizes and profile of land claimants in terms of gender. A summary of the trial LTR process is provided in Fig. 4.2.

The trials served to ensure that all of the issues were properly tested to inform the legal and institutional development process. The trial exercise demonstrated that “the capacity, discipline and enthusiasm of the local leadership at the Cell level in particular was very evident and provided a strong basis for optimism. Both local institutions and individual households participated fully and expressed confidence that they would serve to clarify the rights and obligations of both the individual and the State. The procedures proved to be relevant to needs and were simple, replicable, robust, transparent and cost-effective. The trials demonstrated that the public were receptive to change and that implementation was not only feasible and simple, but necessary (DFID and GoR, 2007, pp. 3–4).



**Fig. 4.2.** LTR trial Process. (Source: LTRRP).

Other main conclusions of the trials as set out in the field consultations report (DFID and GoR, 2007; Sagashya and English, 2010) included:

- *The need to use local capacity:* It was evident during the trials that land tenure reform will be built on the strong sense of community participation at Cell and *Umudugudu* levels while the Ministry will provide some management support, basic technical training and guidelines required to complete the tasks.
- *Public awareness:* In order to attain the LTR's objectives and maximise public participation, it was established that the public must understand how the service works and actively use and maintain it.
- *Informing development of legislation and procedures:* Although the OLL had been enacted, it provided for the establishment of more than 20 implementing orders and laws that would facilitate its implementation. Thus, the outcomes of the field trials served to inform development of secondary legislation (orders), regulations and procedures. These were kept as simple as possible and tailored to what users need and can afford. Where possible, the orders, regulations and procedures took account of past practices.



**Fig. 4.3.** During a public meeting, parcel demarcation techniques and maps of demarcated parcels were shown so landowners could identify their parcels. (Photo: LTRRP).

- *Use of aerial photograph and satellite images for land demarcation:* The trials demonstrated that local communities with simple basic training could use these tools to systematically identify and demarcate land parcels on the ground and mark these on the image to make a simple index map. This map is based on “General Boundaries” principles that allows each land holding to be measured from the map without the expense of physically measuring boundaries or surveying on the ground. This information can also be captured in a database and provides details on land use, ownership and size of parcels with consistent geographical control.
- *Determining work rates and resource requirements:* The field trials enabled the Ministry to project, with some accuracy, what was required to implement the law on the ground in terms of time required to complete registration of an area through LTR, including technical inputs, basic training, local personnel requirements, equipment and associated costs (DFID and GoR, 2007).

With the trial results, the GoR realised that it was possible to acquire tools that would not only support the land administration reform initiative but also the development of a national land-use master plan. Thus, the commissioning of high-resolution aerial photography and ortho-photo base maps. This was a key strategic decision, which resulted in the production of well-elaborated and technically high-end land-use planning products and an efficient tool to carry out land registration at a very low cost.

In 2008, field trial evaluation and baseline studies were carried out after the completion of the field trials. The studies included a quantitative survey in and around the four trial areas and control locations in order to provide impact assessment information on reactions to the field trial intervention activities as well as measure the perceived effectiveness of the communication approach employed during the field trials. It was established, among other things, from an analysis of the data collected that:

- *Participation and awareness:* raising awareness and communication around the land reform programme was high across the four trial area cells at over 90%, but with variation across the four cells. There was consistency between male- and female-headed households and across claimants and persons of interest, but generally higher in the three rural cells in comparison to the urban cell in Kigali.
- *Property ownership and registration:* ownership patterns reflected considerable diversity across the four trial area locations, but with consistency across ownership

patterns for each plot. Involvement in the registration process was very high with about 86% indicating that all claimants were present at demarcation – the household head was always present to sign the registration with the Adjudication Committee.

- *Land markets:* the majority of the respondents felt that the land tenure reform process would enhance their land values and expand land market activity. They felt that economic activity would be stimulated by the issuance of land title.
- *Knowledge about dispute resolution processes:* for those who had been involved in disputes over landholdings, generally, they understood the dispute resolution processes even though there were concerns about the transparency of the process.
- *Expropriation and compensation:* about 66% of the respondents felt that registration and land titling would help secure better compensation in the event of expropriation but most of the remainder were not certain of the impacts.
- In general, the survey participants felt that the impacts of registration and land titling on various land issues would be positive.

(DFID and GoR, 2007; Sagashya and English, 2010).



**Fig. 4.4.** State Minister Patricia Hajabakiga and Rodney Dyer of DFID visiting field operations. The young lady (para-surveyor) is explaining to the Minister and other officials how parcel demarcation is done. (Photo: LTRRP).



During the trials, a set of LTR procedures were designed and an operational manual subsequently developed to guide the national LTR exercise. Generally, given the successful results of the LTR trials, the acceptance of LTR at local and national levels and the positive impact that LTR would have on various land-related issues as established by the field trial evaluation and baseline studies, following the completion of the field trials, the MINITERE felt the need to develop a road map for the regularisation of land (an estimated 7.9 million parcels at that time) across the country with an intention to complete the task in two years (2009–2010) (DFID and GoR, 2007). The main principles of the strategic road map for land tenure reform in Rwanda are explained in the next section.

#### **4.7 Strategic Road Map for Land Tenure Reform**

Once the trial LTR exercise and field trial evaluation and baseline studies were successfully completed, the GoR, through the NLTRP funded by DFID, embarked on the design of a national strategic road map (SRM) to inform the requirements for the LTR roll-out and establish a clear framework within which complementary donor support could be provided. Thus, building on the trial and post-evaluation of trial results, the SRM set out detailed proposals and costs for implementing the new arrangements as well as providing a full time-bound programme with costs. The broad strategy (2009–2013), which was approved by the Cabinet in April 2008, covered the following five interrelated elements: (a) *development and refinement of policy and legislation* – this included the drafting of priority orders, regulations and operational manuals central to implementing the NLP and OLL; (b) *a framework for the development of a land administration systems and procedures for Rwanda* – with provision for land administration, registration of all related transactions at central and district levels; (c) *a national system and programme for regularisation of land tenure* – to systematically bring land to first registration and to allow all citizens equal access to the new systems; (d) *developing the land management organisations* – principally the establishment of a National Land Centre under a separate law, the District Land Bureaux, Land Commissions at national and district Levels, and land committees at sector and cell levels; (e) *a national system and programme for land planning and development control* – to ensure rational use of land and effective development as well as environmental protection; and (f) *National Framework for Monitoring and Evaluation of the Reforms* (DFID and Government of Rwanda, 2007, pp. 2–3).

The roll-out of the reforms was anticipated in two phases: Phase I, Preparatory Phase – 2006–2008; and Phase II, Full Implementation 2009–2013. The central component of the programme was the implementation of LTR that will serve to clarify rights, develop land administration services and the rule of law with regard to the administration of land, develop capacity in the institutions and further refine policy and law. In every sense, the clarification of rights and obligations through implementing a programme of field LTR for first registration was expected to be the driver of the reform process in other components (Sagashya and English, 2010).

#### **4.8 Challenges**

Regarding the NLP and OLL, although the MINITERE was able to do some study tours in other countries and review legal and policy materials related to land tenure reform from other countries, none of those countries or documents consulted could prepare the MINITERE well enough to deal with land tenure reform in Rwanda and formulate adequate policy and legal tools. Rwanda was unique given its socio-political situation following the consequences of



the genocide against the Tutsi. Formulating a land policy and a land law to respond to such a unique situation with limited professionals was a real challenge. The MINITERE had just been created in February 1999 and it did not have all the required and qualified land professionals at that time; this made it difficult to embark on the journey of preparing the NLP in a more comprehensive and holistic way. There was a lot to learn for the team before implementing all the reforms needed including the preparation of the NLP and, subsequently, the enactment of the OLL. This led to unnecessary delays in setting up the framework required to ensure all reforms envisaged were catered for adequately.

In terms of the trial land registration exercise, during the trial exercise a number of challenges were also encountered. There were challenges which related to legal issues; for example, it was not clear how land belonging to polygamous families would be registered. The Rwandan Constitution recognises one legally married woman. However, during the registration, it was not clear who amongst the wives should be registered on the land titles, especially when there was no legally married wife amongst them.

In some areas, the satellite images used initially were not clear because of low resolution and cloud cover. This became even more apparent because of the parcel sizes, which are very small. Thus, this made boundary visibility difficult until satellite images were replaced with high-resolution aerial photography. Also, parcel density, accessibility and the local terrain constituted challenges, particularly in the rainy season. Parcel demarcation in the rainy season was not possible because the rain would damage the field materials including aerial photos used to capture boundaries and the register's books used to record claimants' information. Chapter 6 provides other challenges faced during the entire LTR programme.

## **4.9 Conclusion**

In order to develop an appropriate legal framework that would prop up the land tenure reform, the NLP was formulated in 2004, after which the OLL was passed in 2005. The formulation of the land policy was considered to be the first step in developing a framework that would resolve land-related issues that characterised Rwanda but which had escalated following the 1994 genocide against the Tutsi by guaranteeing land tenure security; to ensure that the constitutional requirement of the right to private ownership of land was implemented; and to partly help in achieving Rwanda's Vision 2020. However, to facilitate the implementation of the NLP, there was the need for law to be enacted and this gave birth to the OLL with its overarching aim being to enhance land tenure security through land registration for proper land management and administration and to facilitate the development of an equitable land market and sustainable land use. The implementation of the OLL also required the enactment of secondary legislation and, consequently, various other laws and Presidential and Ministerial Orders were passed.

After the development of the policy and legal framework, public consultations were organised in order to garner public knowledge and gauge views regarding the NLP and OLL. These public consultations showed (amongst many other things) that Rwandans wanted their landed property ownership to be clarified and protected via land registration, but because there was no clear approach in terms of how registration was to proceed, a pilot land registration exercise was carried out in selected districts. It was established from the pilot land registration exercise that, in general, Rwandans were receptive to change, but there was need for public awareness of LTR and the need to use local capacity, among other things, in the full implementation of the LTR programme. Following the completion of this pilot exercise, field trial evaluation and baseline studies were carried out which demonstrated that,

generally, Rwandans felt the impacts of land registration on various land issues would be positive. Based on the results of the pilot land registration exercise and field trial evaluation and baseline studies, a strategic road map was formulated to inform the requirements for the full LTR roll-out and establish a framework within which complementary donor support could be provided.

The development of the policy and legal framework and the implementation of the pilot land registration exercise were not without challenges. The main challenge regarding the framework development was lack of qualified land professionals, whilst in terms of the pilot registration exercise, it related to how to register land belonging to polygamous families. The above broad-strategy road map that was formulated covered, amongst other things, the development of land management organisations; thus, the next chapter is devoted to a consideration of such an institutional framework for LTR.

## 5

# Institutional Framework for Land Governance and Implementation of the LTR Programme

### 5.1 Introduction

In chapter 4, the policy and legal framework to support land tenure reform, preparatory public consultations and land tenure regularization trials were considered, on which premise a broad strategy road was formulated. One of the themes of the strategy was the need to develop land management organisations for the successful implementation of LTR. This chapter, therefore, looks at such institutional framework and land governance. The next section (5.2) provides an introduction to decentralisation and territorial governance structures. It is followed by section 5.3, which considers land tenure reform institutional arrangements. Section 5.4 is devoted to challenges. A chapter summary follows.

### 5.2 Decentralisation and Territorial Governance Structures

Since 2001, the GoR embarked on a decentralisation policy with the view to ensuring that local communities participate fully in planning, implementing and monitoring decisions and policies that concern them taking into consideration their local needs, priorities, capacities and resources by transferring power, authority and resources from central to local government and lower levels. The decentralisation policy also aimed to strengthen accountability and improve service delivery at the local level (Ministry of Local Government and Social Affairs, 2001).

The decentralisation policy was viewed as an efficient way of strengthening local government responsible to implement various government reforms such as LTR. This has been associated with the establishment of performance innovations and platforms for community mobilisation, accountability and participation, such as the *imihigo* – a performance-based assessment approach whereby officials have to sign performance contracts to deliver in their respective entities and are publicly held accountable for their performance. Under this system, ministers, civil servants and local government officials may sometimes be dismissed from their duties when they do not perform as expected in relation to policy targets. This performance contract produces powerful incentives from the cabinet downwards to deliver on agreed commitments. For example, during LTR, *imihigo* was used for title issuance as explained later in the book.

In 2006 a new local government territorial administration reform was introduced where four provinces and the city of Kigali, 30 districts, 416 sectors and 2100 cells across the country were created. The land institutional framework is built based on a territorial governance structure, which is meant to facilitate service delivery at grassroots level.

### **5.3 Land Tenure Reform Institutional Arrangements**

With a new land policy, land law and a new government administrative reform in place, there was an urgent need to put in place a land governance institutional framework that would support the land tenure reform the country had embarked on. The new land institutional framework that was needed was then supposed to be part of Rwanda's wider programme of public sector reform and decentralisation. Thus, following the decentralisation and public reform policies, the OLL set out the structure for the governance of land management by proposing the following institutional arrangement at both central and national levels – it is structured around three separate functions in each sector: (a) a sector ministry responsible for policy making, coordination, budgeting and accountability; (b) service delivery at decentralised level; and (c) specialised agencies providing technical and professional functions (GoR, 2005).

At the central level, the OLL proposed a ministry responsible for addressing issues of policy, especially through drafting and revising laws, ministerial orders and procedures for the administration, management, planning and allocation of land. The OLL made provision for the establishment of Land Commissions at national, Kigali city and district levels: however, with the review of the OLL in 2012, such a provision was removed since the Land Commissions had already been established in 2006 under a Presidential Order with the principal responsibility for overseeing the implementation of the OLL (see section 5.3.1 below). The OLL also provided for the establishment of the office of the Registrar of Land Titles supported by five deputy zonal registrars covering each of the four provinces and Kigali city and district land office. Under the NLP, a law was passed to establish a National Land Centre (NLC) as the main institution to implement the OLL. The NLC was later changed to Lands and Mapping Department of RNRA with key mandates like spatial planning, survey and land administration under a single management framework.

#### **5.3.1 Responsibilities of land institutions during LTR**

##### ***Task force in charge of land reform and management***

In 2006, a Prime Minister's order No. 17/03 of 9 October established the Task Force in charge of land reform and management in Rwanda that was mandated to: (a) prepare the establishment of the NLC including the elaboration of the bill governing its creation, structure and functioning as well as to mobilise necessary funds for its launching in 2007; (b) elaborate a detailed programme for the implementation of the NLP and OLL; (c) finalise the elaboration of all the bills and orders governing land use so as to enable their application; (d) prepare for the creation of land commissions at the national level, Kigali city and district levels as well as land committees at the Sector and Cell levels; (e) monitor the elaboration of the land use and management master plan in Rwanda; (f) monitor the activities carried out by technicians working on services related to land use and allocation, especially the completion of about 25, 000 land application files; (g) collaborate with specialists that assist the Ministry responsible for lands in the land reform programme; and (h) carry out any other duties necessary for the implementation of the NLP and OLL determining the use and management of land in Rwanda (GoR, 2006a).

##### ***National Land Commission***

It was established by a Presidential Order No. 54/01 of 12 October (GoR, 2006d) that determined the structure, responsibilities, functioning and composition of land commissions. The Commission was tasked to: (a) oversee the implementation of land administration and

land- use management in the whole country; (b) approve and monitor implementation of land administration and land-use procedures and guidelines; (c) supervise the functioning of the NLC; (d) advise the Minister responsible for lands on land confiscation as provided for by the law; (e) monitor and recommend land expropriation at national level; (f) participate in the design and development of a national land-use plan (NLUP) and specific land-use plans; (g) oversee the implementation of land administration and land-use management in the whole country; and (h) approve and monitor implementation of land administration and land-use procedures and guidelines.

The Presidential Order No. 54/01 (GoR, 2006d) also established Kigali City Land Commission and District Land Commissions. The Kigali City Land Commission was mandated to: (a) oversee the implementation of land administration and land-use management in the city of Kigali; (b) monitor and advise on the implementation of the land policy in Kigali; (c) monitor the development of Kigali city master plan; (d) ensure that land in Kigali city is properly maintained and productively utilised; (e) monitor the functioning of District Land Commissions in Kigali city; and (f) supervise preparation of settlement policy strategies at the level of the city of Kigali.

The District Land Commissions were established to perform the following functions: (a) land-use monitoring; (b) preparing reports on unused or under-utilised land; (c) participation in the development and implementation of district master plans; (d) monitoring the implementation of the land-sharing programme; (e) advising the Minister responsible for lands on transfer of land from State public domain to private State-owned land; (f) evaluating and recommending land expropriation; (g) monitoring of land registration and allocation; (g) monitoring the preparation and the implementation of rural settlement programmes; (h) following up the technical performance of the land bureaux; and (i) approving land bureaux' annual action plan.

### ***Ministry Responsible for Lands***

The Ministry Responsible for Lands was established to oversee and guide all land-related activities mainly in terms of: (a) policy formulation on land administration, land-use planning and land management; and (b) setting out laws, ministerial orders and/or orders that set out procedures for the administration, planning, management and allocation of land.

### ***National Land Centre (NLC)***

The NLC was established by Law No. 20/2009 of 29 July 2009 with the following responsibilities, functioning, organization and competence: (a) land management and coordination of all activities related to land administration, land-use planning and land management; (b) contribute to the preparation of policy and strategies related to land management; (c) carrying out land registration and issuance of land titles through the office of the registrar of land titles; (d) designing and overseeing the implementation of land-use plans; (e) land mapping, surveying and cartography; (g) providing training to local land institutions; (h) providing land-related information; (i) supervision and monitoring issues related to land management in Rwanda; (j) establish geodetic reference network control system and maintain it; (k) establish and update topographic maps and cadastral surveys in relation to land and water resources; (l) prepare, disseminate and publish various maps and master plans relating to land management using the most appropriate scales; (m) define standards for land administration, land surveys, the geo-information, spatial information and land information data collection and all cartographic representations of geographic features, national spatial data infrastructure and others that may be defined by the National Land



Commission; (n) coordinate all land information network for both national and district land registration systems; (o) advise and provide support to District Land Bureaux in the implementation of the NLP and the OLL determining the use and management of land in Rwanda; (p) receive and evaluate proposals to purchase or lease private state-owned land and to issue on behalf of the government, long-term leases and permits to occupy such lands in accordance with the OLL; (q) monitor and enforce the execution of terms of conditions of land lease and to recommend amendments of the terms of the contract; (r) cooperate with other agencies and international organisations responsible for land use and land administration; and (s) keep and maintain the National Land Registry.

### ***Office of the Registrar of Land Titles***

It was set up by the Presidential Order No. 53/01 of 12 October 2006 (GoR, 2006b), which determined the structure, powers and functioning of the Office of the Registrar of Land Titles. The office was embedded in the NLC under the Department of Lands and Mapping. It is headed by a Registrar of Land Titles and has five zonal offices that cover the whole country. Each zone is headed by a Deputy Registrar of Land Titles who generally oversees around six districts or slightly more. The main responsibilities include: (a) maintenance of land register and cadastral database; (b) certification of property transfers; (c) ensuring that citizens are aware of land rights; (d) certification of land transactions; (e) land management and land-use planning of respective zones; (f) land registration and signing certificates of land titles and long-term leases; (g) certification of land that has been allocated on freehold terms and land that is leased under a long-term contract; (h) registration and deletion of mortgages on immovable property and certification of the deletion of mortgages on immovable property; (i) supervision of auction sales provided for in mortgage contracts; (j) transfer of mortgages; and (k) certification of loss of a landlordship certificate on the basis of a judgment issued by a competent court.

### ***Land Tenure Regularisation Support Project (LTRSP)***

The LTRSP was made of a consultancy company (HTSPE) hired by DFID to support the NLC to implement the systematic land registration programme. The LTRSP was embedded in the NLC and had the following main responsibilities (MINIRENA, 2007): (a) coordination of the LTR programme nationally; (b) providing the Registrar with guidance on the tenure situation in the field and regularisation policy; (c) training of local staff in detailed procedures for LTR in the form of an LTR operations manual and all supporting documentation, and arranging for the training of district land staff, to be able to prepare and issue titles; and (d) assisting the District Land Bureaux to plan and manage their cell-by-cell programmes of LTR, in particular: (i) supporting procurement, centrally, of all materials and services needed to support LTR, for example standard registers and other paperwork, technical consultancy; (ii) collecting data, maps and other materials and maintaining comprehensive archives; (iii) quality checking the adjudication records and cadastral index plans; and (iv) assisting the Registrar to manage the titling and registration of land rights adjudicated through LTR.

### ***District Land Office (DLO) and Sector Land Office (SLO)***

The DLO was established to: (a) maintain land-related records and archives; (b) providing land notary services; (c) authorise and initial approval of land surveys and plans; (d) prepare and implement land-use plans for districts, municipalities and towns; (e) monitor use and management of land resources in the district and report on unutilised/unoccupied land; and (f) train Sector and Cell Land Committees (SCLCs) and other stakeholders within the district. The SLO is headed up by the Sector Land Manager who is responsible for: (a) land notary

service including certification of land transactions; (b) overseeing land management and land-use planning in the sector; (c) capacity building of SCLCs; and (d) supporting the district in monitoring land use at the sector level.

All the above institutions are supported by SCLCs, which operate at sector and cell levels. Their main responsibilities are focused on the implementation of the NLP and land laws as guided by the SLOs and DLOs. Members of the Committees are elected by the residents.

### **5.3.2 Discussion**

Section 5.3.1 above describes each institution's major responsibilities in implementing the LTR programme. As discussed in chapter 4, the NLP sets out growth-oriented goals for better management of land resources for the country while the OLL aims to ensure that the population will enjoy greater security of tenure combined with better planning and utilisation of land resources. Thus, an efficient land management and administration as an essential prerequisite to achieving these policy and legal objectives requires a comprehensive institutional framework with clear responsibilities and adequate resources. It is, therefore, expedient to assess the operationalisation of the land institutions, their effectiveness, interaction and capacity to support the LTR process as well as the impact various public sector reforms have had on the LTR institutional framework and challenges faced by these institutions.

After the passing of the OLL, a technical task force was established and mandated, amongst other things, to prepare for the establishment of the NLC. The NLC was then supposed to spearhead the implementation of the LTR process. The task force was set up in 2006 and was operational until 2007. The task force comprised four members including someone dealing with urban land management, an agricultural specialist, a lawyer and an environmental specialist who was also the task force coordinator. The diversity of the task force members meant that they would ensure that areas they represented would be catered for. Apart from carrying out all the groundwork for the establishment of the NLC including drafting the law establishing the NLC, the task force participated in various workshops and meetings to explain the overall goal of the LTR as set out in the NLP and in the OLL, how the reform would impact various development sectors and how those sectors could contribute to the reform. At this stage, it was important to prepare various stakeholders about the land reform that was already underway through the OLL and related decrees.

#### ***Recruitment of non-professional staff***

In order for the LTR institutions to operate, they needed various resources, mainly the staff that would implement the institutions' mandates and objectives. Since most of the institutions were new, they needed to recruit qualified staff in order for the institutions to function. For the Land Commissions and Land Committees, there was the need to appoint members of these organisations in a non-permanent capacity. Thus, for the Land Commissions, members were appointed by the Council of Ministers (following advice from the Ministry of Lands), whilst members of the Kigali City Land Commission and District Land Commissions were appointed by the Kigali City Council and district councils, respectively. There were seven members of the National Land Commission including representatives from government institutions, private sector, civil society organisations and bankers' associations, and at least 30% of the members were women. The members of the National Land Commission included a President, Vice President and a Secretary of the Commission. The Secretary of the Commission was always the Director General of the NLC.

While members of the National Land Commission and Kigali City Land Commission were appointed quickly, appointment of members of the District Land Commissions in some districts was slow. It was noticed, however, that some district councils took a long time to appoint members of the District Land Commissions because they had to wait for their scheduled council meetings to appoint the Commission members and this was even the case for some sector and cell land committees. In some cases, the Minister of Lands had to write several times to District Councils requesting them to appoint the Commission members and facilitate the establishment of land committees at sector and cell levels.

In some cases, district and sector councils could not meet because the required quorum was not available. In some cases, they did not understand the urgency of appointing Land Commission members mainly because they did not understand what the Commission's mission and responsibilities were. Where explanations were given about the roles and responsibilities of Land Commissions and Committees, district and sector councils were prompt to appoint the members. Delays in appointing members of the Land Commissions and Land Committees meant that some districts took a while to embark on the LTR agenda. However, progressively, all members of the Land Commissions and Land Committees were in place despite the delays experienced in some districts and sectors.

### ***Recruitment for professional full-time positions***

The National Land Centre and DLOs needed skilled staff that could help with the LTR implementation. At NLC level, all five zonal Deputy Registrars of land titles and the Director General of the Centre were already in place as they were all cabinet appointees, but needed additional senior-, medium- and junior-level staff. At the district level, a District Land Officer position was created and, therefore, 30 incumbents for all 30 districts were needed. This meant that a mass recruitment was needed to ensure all key positions were filled. It was relatively quick to hire all 30 District Land Officers, as the qualification and skills required for this position were not too high and were available in the local market (people with legal and geographical backgrounds). However, it was difficult to fill some of the NLC's positions, which are considered under the section "Challenges" below.

### ***How the recruitment was done***

Various means were used to recruit the required staff. These included: general advertisements in the local papers of all the required specialisations (this was the most common way through which staff were recruited); encouraging skilled Rwandans working in the Diaspora to return home; and external practitioners were hired through the LTR support projects and through the Land Administration Reform Project (by Kadaster International) to facilitate internal courses/workshops. Also, Rwandan professionals who were in the country doing other types of work were encouraged to join the land institutions that had just been set up.

Regarding field staff (para-surveyors and members of the adjudication committee), they were recruited locally in their respective sectors. Announcements were posted at the sector and cell offices and interested people were invited to sit for a test. Written and oral exams were administered and successful candidates were retained for various positions. Candidates for the role of para-surveyors were tested on map reading whereas members of the adjudication committee were members of the cell land committee and members of the *umudugudu*. Since *umudugudu* leaders and members of the cell land committee were already known, they were informed of their role and were asked to participate in the training on how to use various templates and registers that were used in collecting claimants' details.

### ***How the recruited staff were trained***

With staff training, it was deemed important to know which areas they would need to be trained in. Although most of the recruited staff for technical positions had university degrees, there was still the need to train them to ensure that they could perform in their new positions. Thus, the NLC had to undertake rapid training programmes in order to meet the short-term goals of achieving the LTR objectives. Moreover, training interventions needed to be proactively managed to ensure that the investment in training was translated into actions that would have a positive effect on performance. Thus, proposed trainings were systematic, demand-driven and cost-effective.

Training requirements were different from one institution to another. Members of the Land Commissions (National, Kigali city and District Land Commissions) did not require specialised training in land-related disciplines. They, however, needed a strong understanding of the OLL and all its implementing orders and laws. This was very important considering that they were the government “watchdog” on how the laws were being implemented at the grassroots level and the reactions of communities from different districts. Furthermore, they required training in awareness creation and dissemination of information, the duties and responsibilities attached to the structures they were supervising, as well as community mobilisation, conducting meetings and understanding government policies, procedures and regulations. The sector- and cell-level land committees also required all the above skills as well as skills on handling grievances, dispute resolution and community mobilisation.

Training provided to all staff involved in LTR implementation varied according to their roles. Mass training was carried out especially for members of Land Commissions at the district level and members of the Land Committees. The NLC staff who had been recruited and trained on land laws took the roles of training members of the Land Commissions and Land Committees. They travelled around the country training all concerned people. District Land Officers were trained on land-related laws and their roles and responsibilities as provided for by the law. Regular workshops were organised at regional and central levels where all District Land Officers met to receive the training. The training also focused on their roles during the systematic land registration and how they were to support Land Committees and Land Commissions. NGOs working on land issues also provided training on land laws to members of the Land Commissions and Land Committees. They were trained on land-related laws and on the LTR programme and their role during the systematic land registration programme. Training of trainers was carried out with para-surveyors and members of the adjudication committees who were then used to train others.

At the NLC level, on-the-job, short- and long-term training was provided and continues to be provided. In-house senior staff trained middle- and junior-level staff on various subjects. They involved training on how to use various analogue land registers that were in use before the development of the digital land register. Describing how new the LTR was and the need for training, a trainee observed as follows: *“Vincent was our trainer. He was the only one who knew how to register or de-register a mortgage, etc., he was the one trainer we had for administrative procedural issues when we started. Rightly or wrongly, all staff including senior staff members believed in Vincent and we wouldn’t question the way he did things even when there seemed to be better ways of handling the work. This shows how everything seemed new to everyone. Everything seemed new and everyone at some point needed to be trained to ensure that we all understand our roles, said one respondent. LTR was a programme in a hurry and we all needed to be on top of things to ensure good delivery of the programme.”*



One trainee had this to say: *“LTR was a fast-moving programme and ambitions were very high. Sometimes you wondered whether the objectives of the programme would be met in the set time frame. Everyone involved was in a hurry and I personally felt that if I do not train properly I may even lose my job. Trainings on the job were really helpful because they were tailored on our day-to-day responsibilities and therefore new skills gained were used to the maximum. The dynamic of the programme was fantastic. Young and old were all immersed in the programme. Looking back, I can now see how all our effort paid off. I am happy to have been part of this journey.”*

Deputy Registrars of land titles were also trained on their roles. They were all new to the task and did not understand what it involved. All Deputy Registrars were lawyers and had been serving in other government departments. Two experts from Netherlands Kadaster who had worked as Registrars in The Netherlands came to provide some introductory training to the newly appointed Deputy Registrars. The training focused on a registrar’s responsibilities. This training continued through a land administration reform project known as the land registration reform project (LRRP<sup>6</sup>) implemented by Netherlands Kadaster (Kadaster International) and it focused on notary services and land laws. Thus, under the project, Kadaster International also provided a lot of training for District Land Officers and the NLC technical staff. The Swedish government also provided money for capacity building and this money was used to fund long-term university degrees abroad. In addition, training was undertaken through awareness seminars and workshops.

Study visits were organised locally across the districts and international study visits were undertaken in countries like The Netherlands, Sweden, UK and Botswana to see how things were done and to learn from good practices. Long-term university training was also undertaken by the NLC and District Land Office staff. Most of them completed master’s degrees in land administration related studies at ITC in The Netherlands. Considering the need for land administration professionals, the NLC worked closely with the National University of Rwanda (now University of Rwanda) and ITC to start developing curriculum for relevant courses in land skills. The aim of this arrangement was to establish programmes and curriculum in all the required skills to ensure that the local demand for these skills is supplied. Although this arrangement took a while to start, it is now underway and land administrators are trained locally at various local universities.

Training programmes continued even after some public sector reforms took place including the introduction of one-stop centres (replacing DLOs) at district level, the introduction of sector land notaries (also known as sector land managers) at sector level, change from NLC to Lands and Mapping Department of RNRA and the subsequent change to Rwanda Land Management and Use Authority (RLMUA). Refresher training for new staff (sector land managers) and other technical staff are prepared and provided on a regular basis – the Director of Physical Planning at RLMUA describes the situation in the following words: *“Our training programmes are continuous. There are new staff every now and then and the systems we use are dynamic; therefore, we need to make sure everyone working in this sector is well equipped”*. There is strong management eagerness to adopt effective systems, leading to regular reviews of the relevant laws and policies. This encourages new development and addresses emerging issues. There is also an increasing focus on the quality of education,

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<sup>6</sup> LRRP was financed by the Investment Climate Facility for Africa (ICF) with the objectives of streamlining land registration procedure, convert existing titles into the newly created land administration system and provide capacity building to the Office of the Registrar of Land Titles.



and on the delivery of vocational and tertiary education, which addresses sustainable quality management in the work of future professionals in both the public and the private sector.

### ***Effectiveness of the land institutional framework***

The LTR implementation in Rwanda required the establishment of relevant land institutions to support the implementation. Expectations were very high and the programme timeline was very tight. The main objectives of the LTR programme, which included the systematic land registration and drafting and passing new legislation, all required a well-functioning, equipped and skilled land institutional framework. Considering that everything was new, it is fair to say that all the LTR institutions were working well beyond everyone's expectations. There were regular meetings where issues of coordination were discussed to ensure everyone's role was clear.

Apart from Land Committees, Land Commissions and DLOs, every other structure involved in LTR was embedded in NLC. Having the LTRSP, the Office of the Registrar of Land Titles (ORLT) and, at some point, the LRRP all housed under one roof was very important and strategic to ensure that everyone's activities were well coordinated. Project management meetings with the LTR support project and the LRRP were held on a weekly basis. For the systematic registration, Zonal Operations Managers who led field operations of land registration in the field were housed in the ORLT at the zonal level to ensure smooth coordination among all people involved in LTR. Uniform reporting templates and reporting timelines were designed and decided, respectively, to ensure that field managers overseeing land registration exercises in different areas reported in a uniform way and at the same time. This allowed all levels (DLOs, Zonal Operations Manager, LTRSP and NLC) to be informed about the progress on the ground and challenges faced. Specific cases and issues that required management attention were then discussed during the management meetings between NLC and LTRSP.

The ministry responsible for land ensured policy guidelines were followed through LTR work but was never involved in the actual implementation of LTR, especially the systematic land registration. The NLC had the responsibility to update the ministry and other government institutions on the progress and where necessary seek the support of the ministry especially in mobilising funds needed and raising awareness amongst other key stakeholders. Land Commissions were independent but were supported by District Land Offices and NLC in their awareness campaign and during the monitoring of land use.

Thus, the bulk of the LTR work was carried out by NLC and its supporting organs, mainly the LTRSP, the ORLT and the District Land Offices and Land Committees at cell and sector levels. Given that the NLC provided the technical guidance in LTR to all its supporting organs, this made it possible for the institutional framework to work. Nevertheless, there were challenges that are worth noting.

## **5.4 Challenges**

The main challenge faced by the LTR institutional framework was the staff capacity. By the time the LTR programme was launched, there were few relevant skills available on the market in Rwanda in most of the land-related disciplines. Critical skills such as land administration and management, land valuation, land surveying, mapping, photogrammetry and other related disciplines such as records management and documentation were lacking at both the central and decentralised governmental levels. For example, as earlier alluded to, it was difficult to fill some of the NLC's positions. This was because, historically, there has

been little organised training for personnel in land-related disciplines in the country. In the words of a former Deputy Director General of the NLC: *“It was not easy to get the required technical personnel. I remember staff from other government departments were asked to join the NLC because we could not find the right profile of people we needed”*. Through the LTRSP, professionals such as surveyors from regional countries like Kenya and Uganda had to be recruited to lead some survey work on the ground because by that time, the programme had only one Rwandan surveyor operating at field level. Albeit these foreign professionals were also responsible to train local staff especially during the LTR implementation, some positions remained unfilled including land valuation and photogrammetry.

This meant that some areas of the programme suffered because there were no relevant skills to deal with them or more resources were used to cater for the skills vacuum. For instance, in the early days of the systematic registration, all parcel digitation work was done in Nairobi because there was no local capacity to deal with that. Even more critical, during that time, there were no training institutions in Rwanda to impart land administration skills to staff apart from the postgraduate diploma course in land administration that was being designed at the National University of Rwanda in 2010. There were no (higher) technical education institutions specialising in land administration and land-use management to produce the required technicians and mid-level cadre administrators. This constituted a real challenge to the implementation of the programme as some key technical positions remained vacant.

Another challenge was related to the mindset of people. With a programme as fast as LTR, flexibility was extremely important. However, some people (high- and medium-level management) were used to handling things differently and everything was analogue based. Thus, when technology was introduced that brought new ways of working including new sets of procedures, there was some indirect resistance to change, and in some ways it required a lot of effort to make people believe that changes introduced were not only important but were possible and essential. In some areas, changing the mindset of people was required.

Furthermore, frequent public service reforms, although important, in some instances did not deliver the best solutions for LTR implementation. For example, District Land Officers who had been trained and who were already familiar with the LTR programme were transferred to other jobs and this meant recruiting new staff for vacant District Land Officer positions and the need to train them again. Also, because District Land Officers reported to various institutions, their efficiency in terms of land administration could have been better should they have been only focusing on land administration issues. However, this was not the case as they had to do a lot of other things requested by the district administration.

## **5.5 Conclusion**

This chapter considered the institutional framework for land governance and LTR implementation, which shows that various land organisations had to be established and entrusted with various responsibilities in order to ensure the smooth and effective implementation of the LTR programme. These institutions performed creditably, beyond expectations, despite challenges encountered, the main one being lack of capacity in terms of staff. The next chapter describes the process of systematic land registration.

## 6

# Systematic Land Registration (SLR)

### 6.1 Introduction

The previous chapter discussed the institutional framework that was required to support the implementation of LTR. The establishment of the relevant land institutions paved the way for SLR to be carried out, which is the preoccupation of this chapter. Section 6.2 considers the preparatory work that was done for the SLR roll-out, while section 6.3 describes the full SLR roll-out. Section 6.4 is devoted to quality assurance issues, and challenges are discussed in section 6.5. A summary concludes the chapter (section 6.6).

### 6.2 Preparing for SLR Roll-out

As mentioned in chapter 4, the pilot land registration exercises resulted in the development of the strategic road map document that outlined resources and the timeline needed to register all land in Rwanda. Although the public had indicated the need for registration of their land during the pilot exercises, it was also paramount to get all relevant government departments and ministries to buy into the programme in order to ensure that the programme got all the support it needed for its successful implementation. In addition, it was important to continue to engage with the donor community that had already been supportive of the programme and those interested to ensure that the financial resources needed were raised.

Hence, in 2007 during the Rwanda leadership retreat, the Ministry responsible for land was given an opportunity to present the strategic road map (SRM) for land tenure reform and a short film on SLR to the entire country's leadership that had gathered together. This was seen as a very important milestone as the entire government was able to understand the magnitude of the task involved in carrying out the registration of all land in Rwanda and they also had a glimpse of what the exercise would look like in terms of implementation. The short film presented the key steps in registration and the tools used as it had been done during the trial exercises. During another leadership retreat in 2009, it was requested that the timeline of the entire project implementation be reduced, especially the time required for fieldwork, even if the issuance of titles was to go beyond the timeline for field operations. The idea to speed up the process was to try to minimise the cost involved in the completion of the entire programme and to ensure that the momentum attained with the trial exercises was maintained. A former Deputy Director General of the NLC described the need to speed up the process in the following words: *"What the government wanted was to see a programme that is cost-effective but also implemented in a short period of time. Having a long implementation timeline as suggested by the initial SRM would have jeopardised the entire programme. Hence the request to review the project timeline set out in the SRM."*

At this stage, the strong political will towards the LTR programme had also attracted the donor community to support the programme. However, when the government requested that the timeline of the project be revised and reduced, some donors were reluctant to commit themselves and between 2009 and 2010, there was no donor money committed or disbursed to support the programme. The donor's reluctance to support the programme at this stage did

not stop the roll-out work to start. In this regard, between 2009 and 2010, under government financial support alone, SLR commenced and claims over one million parcels were made. The above-mentioned former Deputy Director General of the NLC summarised the determination of government to implement LTR in the following words: *“The political will was not theoretical, the government was determined to ensure LTR was implemented in full with or without donor intervention as this exercise was a national priority.”* The registration of over one million parcels in less than a year gave the donor community the assurance and confidence that it was possible to register all land in less time than that provided in the SRM. Thus, various donor organisations led by DFID pledged to support the full roll-out phase. To ensure effectiveness and management of the donor money, a basket fund was set up where all money was deposited and this was managed by DFID, which remained the largest donor organisation in support LTR.

*“The decision to continue DFID support to the programme was motivated by the strong political will and the openness of the government to learn from various technical inputs from a wide range of people. Further, DFID was dealing with government counterparts who understood what they wanted and who were committed to deliver”* This is a remark made by a former LTR SRO, DFID, Kigali.

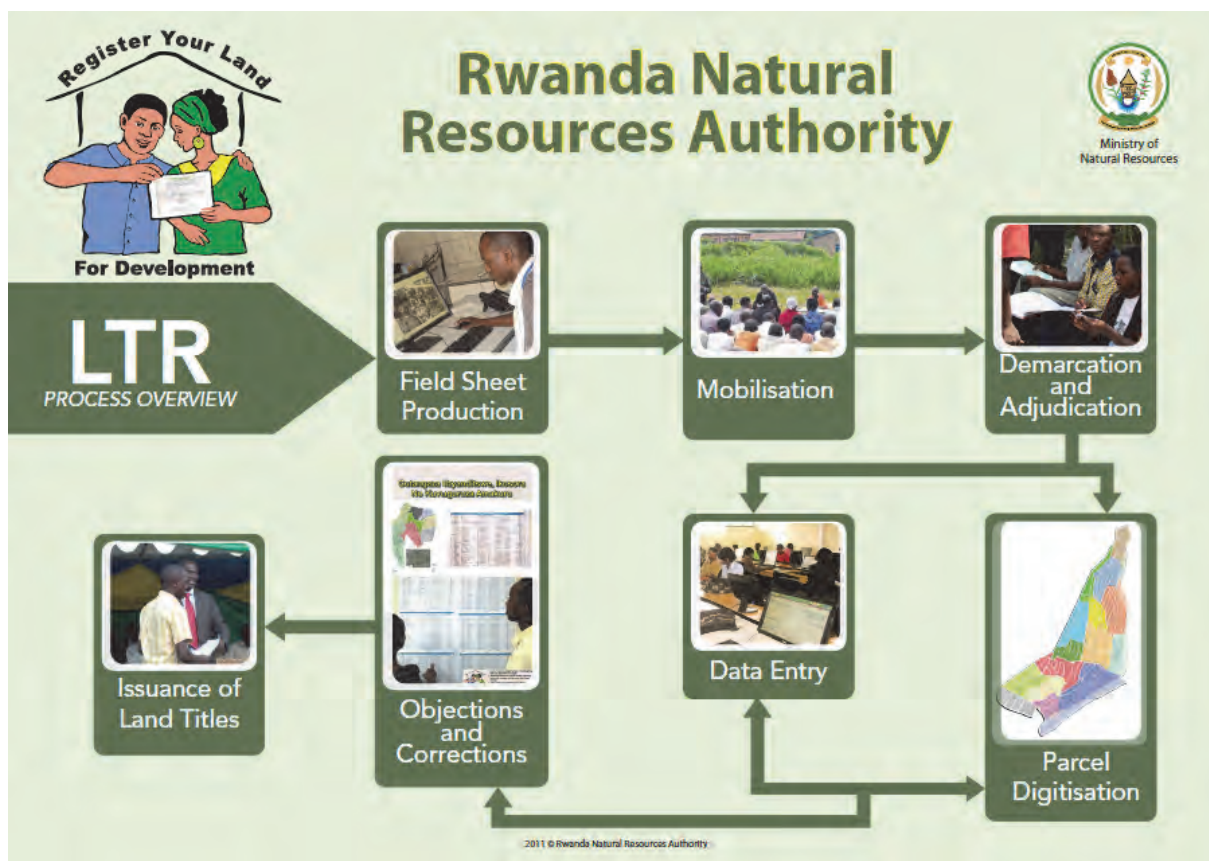
Although it may have seemed a risky undertaking to finance a programme that was costing at least £1 million/month, the good sequencing of building blocks, a sound methodology that had been tested and proved to be working and the overall political will that showed that the LTR programme aimed to achieve a very good cause were enough evidence for donors to believe in the programme’s deliverables. Furthermore, there were safeguards in place to ensure that the money was spent efficiently and effectively. From the donors’ perspective, the economic cost of the LTR was worth the investment.

In order to channel their support to the LTR programme, DFID recruited a support team from a British-based consultancy company HTSPE, which had led the systematic trial land registration exercises from 2005 to 2007 under what was known as “Phase 1” of the LTR programme to coordinate the LTR roll-out work nationally. The roll-out of the LTR programme required a huge logistical organisation and, therefore, a dedicated team was recruited to ensure that all the logistics and technical support needed were provided. Although recruited by DFID, this team was managed by RNRA. Weekly project management meetings were held between RNRA and the LTRSP management team to ensure the smooth implementation of the project.

### **6.3 Full SLR Roll-out**

The full roll-out of SLR involved various stages as illustrated in Fig. 6.1. Each component is distinct but complements the rest of the components. Although LTR was done across the country, its implementation had to follow a certain systematic approach to ensure its effectiveness. All the stages as presented in Fig. 6.1 were followed in each geographical area the programme was implemented in. The stages in the diagram are explained in the LTR Manual (MINIRENA, 2011), which was developed based on the 2008 Ministerial Order on land registration and summarised as follows:





**Fig. 6.1.** LTR's main components. (Source: RNRA, 2017).

### ***Stage 1: Notification of LTR area and local information campaign***

This was the first stage where all stakeholders were notified about when SLR activities were to commence in each cell in the sector. Sector officials and the public were informed that land within their sectors was to be regularised and a standard formal notice was issued to all Sector Offices (SOs) to that effect. This authorised SOs to form Sector Land Committees (SLCs) and advised all the cell authorities to form Cell Land Committees (CLCs) in preparation for the work where it had not yet been done. The notice informed all cells within the sector of the starting date for SLR and training of the committees.

The Registrar responsible for the LTR area and the District Land Officers worked together with the LTRSP team to prepare for the organisation and the launch of the activity in the declared area. Local leaders and the public in the LTR area were all informed in advance to ensure that their full participation. For example, meetings were held at the district level to inform the district authorities about the activity and what was expected of them during the LTR implementation. All LTR processes were explained to the district officials to ensure that they all understood the process. It was only when a person understood the process that they could help in mobilising everyone else. Public announcements were also published at various offices and announced in churches, local meetings, markets and on various radio broadcasts to ensure wide dissemination. Furthermore, a public meeting was organised at cell level to inform the public about the LTR exercise using various posters printed specifically to facilitate the awareness campaign. The public was given a platform on which to ask any question that they had before the programme started. All this was done in advance so that



people could prepare properly. During this phase, field maps and claim registers as well as all the logistics that were needed were prepared.

### ***Stage 2: Recruitment and training of local staff***

Once an area had been declared an LTR area, all local staff needed were recruited and trained on the spot. In addition to the members of the adjudication committee (AC) who were already known at this stage (these were made of five CLC members and five members of the *umudugudu* leadership), para-surveyors were recruited locally. Para-surveyors were men and women who were able to read a map. During the LTR notification meetings, announcements inviting people interested in the para-surveyors' jobs were invited and informed about where to meet for the test. A test was administered to those interested and those who passed were provided with all the necessary training. The training focused on map reading and boundary demarcation on the image.

Also, the members of the AC were trained on how to record claimants' information in the register, how to use the dispute register and how to complete both claim and objection receipts. Both the adjudication committee members and para-surveyors were appropriately trained to carry out their expected duties of demarcation and adjudication. Tests were carried out after training to verify that trainees understood what was expected of them before they started their work. Training was often carried out by members of communities from other areas who had already been trained. The training was practically driven and covered all the tasks para-surveyors and members of the adjudication committees were supposed to perform. After the test, those with the best performance were employed.

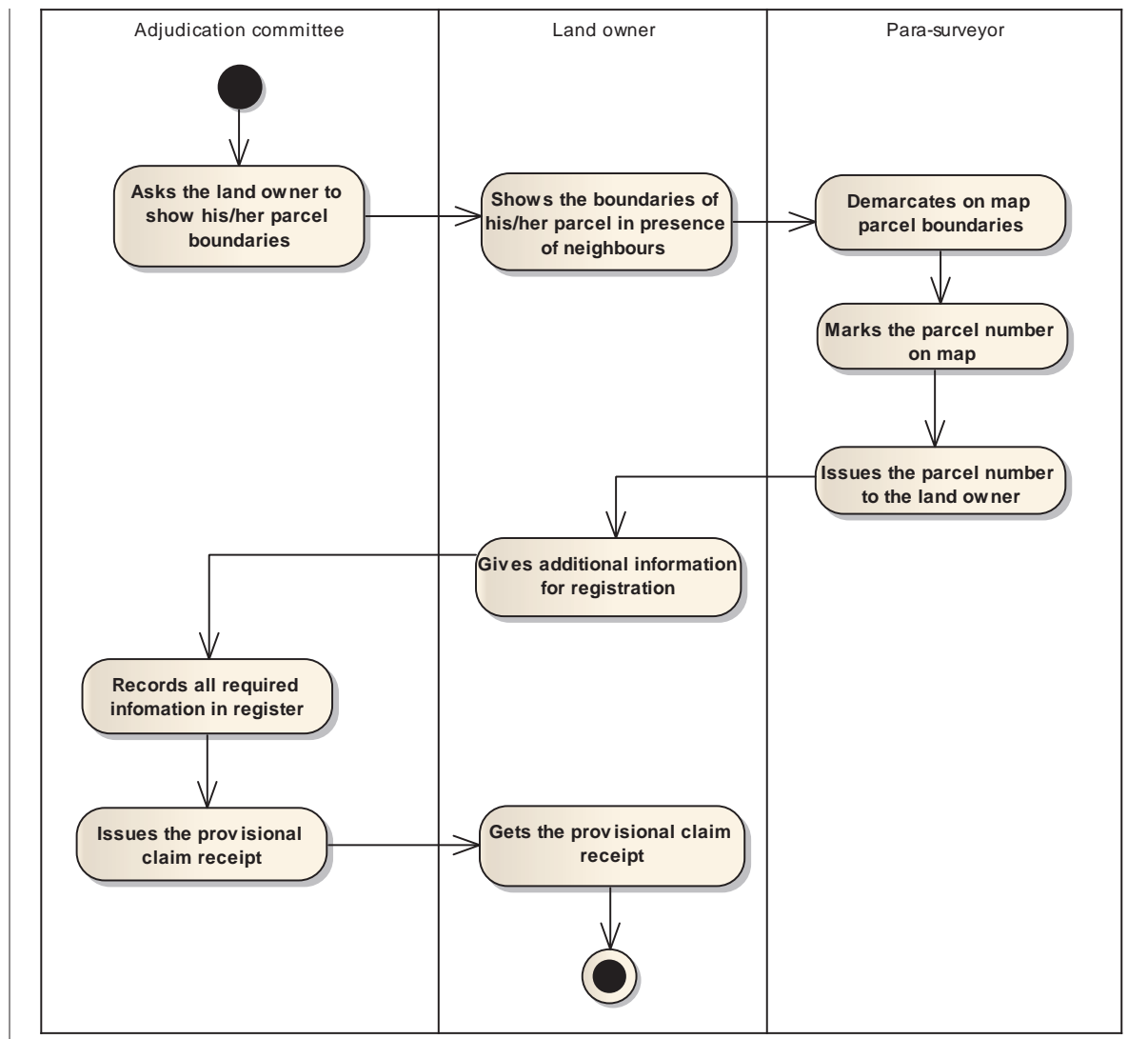
### ***Stage 3: Parcel demarcation***

This process consisted of identifying existing boundaries of a parcel to the satisfaction of the claimants. This process required the owner to be present on/at his/her land and show the boundaries to the para-surveyor(s) who then marked these clearly onto an image or a map in the presence of the owner, neighbours and members of the AC. It allowed each land holding to be measured and drawn on the image without the expense of physically measuring boundaries or surveying on the ground.



**Fig. 6.2.** Landowner and neighbour walking through the parcel boundary and then tracing it on the field sheet. (Photo: LTRP).

Landowners were asked to walk through the boundaries of their land in the presence of the owners of neighbouring parcels to ensure the boundaries shown were correct. At this stage, para-surveyors observed the boundaries being shown. If the neighbours agreed with the boundaries shown and there were no disputes (where there were disputes they had to be adjudicated as explained in the next stage), the boundaries shown were drawn on the parcel maps of the cell and a unique parcel number was given. The pencil boundaries were drawn over in pen once a field manager was satisfied that all boundaries were correct. Field sheets were collated at the end to ensure there was no duplication of parcels. The whole process is summarised in Figure 6.3.



**Fig. 6.3.** Process of parcel boundary demarcation. (Source: *LTR Operational Manual*, 2011).

#### ***Stage 4: Adjudication***

This was the process of recording claims to a parcel and any disputes to that claim that may have occurred. This process followed the demarcation process as explained above. During this process, the public was encouraged to observe all adjudication activities that affected them. On completion of the demarcation, details of the owners/occupants were provided to the AC by the claimant(s). The AC carefully recorded the names and other details of the claimants in the claims register. In so doing they verified that all legally required claimants and persons of interest were recorded. Where there was more than one claimant, the AC also established the shares that each claimant had in the parcel. All details, as far as possible, were recorded under the appropriate columns in the claims register. Once all claimants' details had been recorded in the register book, they were requested to pay the registration fee. The registration fee was 1000 FRW across the country except in Kigali where it was 5000 RWF. If during the demarcation and adjudication process, a counter (rival) claim was made on any portion of the land, the AC and any available local witnesses attempted to resolve it. Examination of evidential documents was carried out where possible. If the committee, claimant(s) and rival claimant(s), and all witnesses agreed within that timeframe, the agreed claimant(s)' details were entered into the claims register. If the claimants produced all the information required and paid the registration fee, then they were issued with a claim and fee receipt. However, if they were unable to provide one or both of the above (including if some information was missing), they did not receive the corresponding receipt. It is important to note that claimants were allowed to pay the fee on the spot or during an objections and corrections (O&C) period or when they collected their land documents. They were also allowed to provide further information or to raise a dispute at any step in these stages.



**Fig. 6.4.** Claim being registered in the claim register and a claim receipt being written. (Photo: LTRP).



During this process, special attention was given to ensure that the counter-claimants' position was heard, especially to those who might have been socially or physically less able to speak up publicly (e.g. where the counter-claimant was disabled, or a child, the AC spoke to them separately, outside the hearing range of the claimant).

The role of the AC was to provide advice aimed at allowing the disputing parties to reach a compromise or agreement. The AC never used its own judgement to resolve the dispute. If the AC considered a dispute and was unable to resolve it from the rival claimants within the time period through examination of evidential documents, speaking with witnesses and/or neighbours, it entered the details of the disputant and reason for the dispute into the dispute register. The disputants were then advised to seek legal redress through Abunzi<sup>7</sup>. The original claimants received a claims receipt, and their information was entered into the claims register with an annotation that there was a dispute and then an objections receipt was given to disputants after their disputes had been recorded in the disputes register. One objection receipt was issued for each disputant on the parcel. The objection receipt was filled out by a member of the AC. The AC remained in the cell for at least two weeks after demarcation had finished to allow any further claimants to provide their information.

Registration fees collected were paid into the Rwanda Revenue Authority bank account at the end of every week by the Field Manager (FM). To ensure accountability, the FM then provided the Zonal Operations Manager (ZOM) with the fee receipt book and the bank deposit receipts for subsequent auditing. Adjudicated claim registers, dispute registers, field sheets, claim receipt books, fee receipt books and dispute receipt books were also handed to the ZOM.

#### ***Stage 5: Data entry and checking***

This process came after claimants' data and parcels boundaries had been collected from the field and were manually checked and digitally stored in a pre-designed database known as Land Tenure Regularisation Support System (LTRSS), a database created for large-scale recording of LTR claims data and high-volume lease production. It consisted of various steps to minimise the errors in entering the data in the database and also to ensure a proper order was followed in entering data from various geographical areas. In this regard, various roles were created to ensure that work was done correctly. The roles involved a Zonal Data Entry Technician (ZDET), Data Entry Clerks (DECs), Checkers and Regional GIS Co-ordinators and their roles are described as follows.

A monitoring sheet was pasted to the front of the claims register by the ZDET for all users to sign. This tracked who carried out each task with regard to entering and checking the data in the claims register. A three-month sector plan dictated which sectors should be entered and when. The whole sector was entered at the same time. All information in the registers was entered into the LTRSS database by data entry clerks. Once a cell was complete, the disputes register for that cell was checked to ensure all disputed parcels were flagged in LTRSS. A reporting mechanism had been built in LTRSS to document the users' work rate every day. The DEC who entered the information in the claims register signed and dated the monitoring sheet of the register in the appropriate column. At the end of every month, the ZDET ran queries for the number of parcels entered and the number with full information. This provided the monthly total number of parcels entered.

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<sup>7</sup> Abunzi are local mediators.

Worksheets were then printed off on A4 paper displaying the data from each cell. The Checkers checked the data against the claims register to see if it matched. If there was a difference, the sheet was annotated clearly with the correction. Each sheet was supposed to be saved and filed. The Checkers then signed the monitoring sheet on the claims register. The Checker submitted the correction lists to the DEC, who entered the corrections into the LTRSS database. The DEC who made the correction signed the checking lists and submitted the lists to the Checker for filing. They also signed the monitoring form on the front cover of the claims register. At the end of this exercise, a list of claimants was printed and was ready for publication for the O&C period. At the same time, the ZDET sent a village list to the relevant Regional GIS Coordinator. This was a list of all parcel numbers (Unique Parcel Identifiers [UPIs]) in the cell and which the village LTRSS team documented them as being in the parcel list. The Regional GIS Coordinator joined this list to the spatial parcel data to produce a map showing parcels coloured according to *umudugudu*. Any outlying parcels that were identified as being in the incorrect *umudugudu*, or recorded without *umudugudu*, were then corrected.

The area of each parcel was calculated in square metres and an Excel spreadsheet containing the parcel number, *umudugudu* name and parcel area was sent by the Regional GIS Coordinator to the ZDET who updated LTRSS accordingly. O&C lists were printed on A4 paper in black and white. These lists displayed all information for parcels with full information. For parcels with partial or no information, all data fields were marked as “None”.



**Fig. 6.5.** Data entry of claimants' information. (Photo: RNRA, 2017).

### ***Stage 6: Parcel digitisation***

Like the data-entry and checking stage, this process was also divided into various roles (scanning, geo-referencing, parcel digitisation, error checking) and each role was performed by a specific group. The roles involved a GIS Manager, Digitisation Technicians (DTs), Geo-

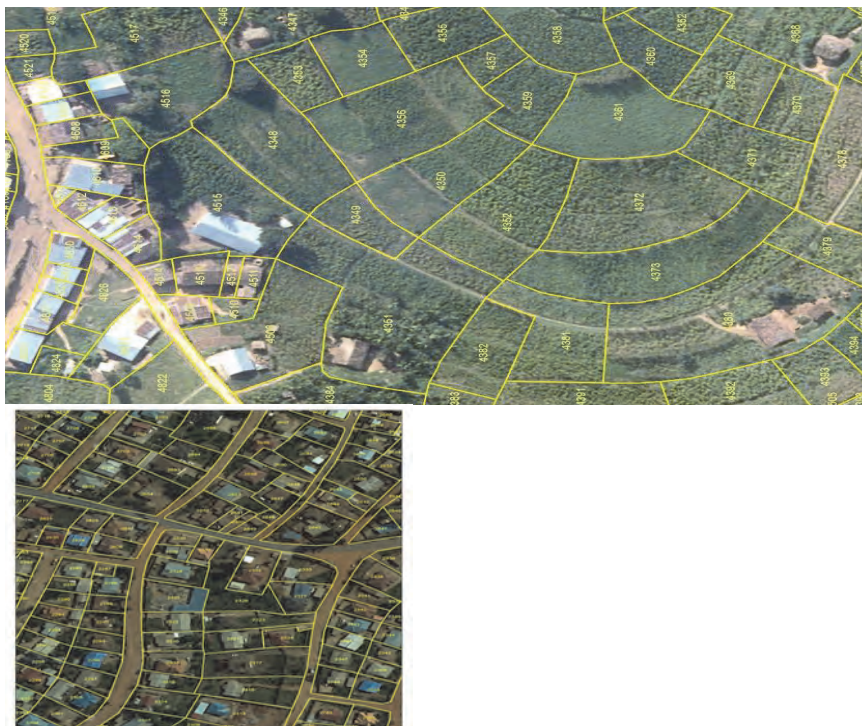


referencing Team and GIS Regional Coordinator. It consisted of converting the geographic features on an analogue map into digital format and involved on-screen tracing of scanned maps. Once the filed sheets had been handed to the GIS unit from the ZOM's assistant, a preliminary check of field sheets was done to ensure they were all there.

The three-month sector plan identified which sectors should be digitised and when all available cells in a sector were digitised concurrently. The field sheets were scanned, cell by cell, using a high-resolution sheet-fed scanner and NextImage software. Scanned field sheets were backed up onto the server so that they could be accessed easily and quickly by DTs. Scanned field sheets were then geo-referenced using the geo-referencing tools in a QGIS software by the Geo-referencing Team. Geo-referenced field sheets were saved on the server for immediate use by DTs. Parcels demarcated on the field sheets were digitised according to the parcel digitisation manual.

Using Heads-up digitisation, the DTs created a digital record of each parcel. They were digitised as polygon features with a yellow boundary and no fill. The parcel number recorded on the field sheet was added to the attribute record associated with each parcel. The DTs were required to keep a daily count of all parcels they had digitised in that day. Once a cell had been digitised, the DTs performed systematic checks for two types of error: (a) digitisation errors – these were fixed by the DTs before the O&C period; and (b) field demarcation errors – these were returned to the cell for correction on-site during the O&C period.

The ZDET sent the relevant regional GIS coordinator, a list of all parcel numbers recorded in the register and their corresponding *Imidugudu*. The DT joined this list to the spatial parcel data to produce a map showing parcels coloured according to *umudugudu*. Any outlying parcels that were identified as being in the incorrect *Imidugudu*, or recorded without *umudugudu*, were then corrected.



**Fig. 6.6.** Digitised parcels. (Photo: LTRP).

The area of each parcel was calculated in square metres and an Excel spreadsheet containing the parcel ID, *umudugudu* and parcel area was sent by the Regional GIS Coordinator to the ZDET. The DT prepared a report listing all errors that required field correction. This report was sent to the ZOM responsible for running O&C in that cell. A cell map was printed. Villages (*umudugudu*) were colour-coded, and parcels numbered with their parcel ID. The map was printed on one or more A0 sheets of paper, depending on the size of the cell and density of parcels.

### ***Stage 7: Objections and corrections***

Objection is the process of airing and registering a dispute against the initial claim captured at the initial adjudication whereas correction is the process of correcting inconsistencies in both the textual and spatial data collected during demarcation and adjudication (D&A). The process of O&C was led by a Field Manager (FM) who was responsible for training the CLC in managing the O&C process along the standards set out in the manual. The O&C team was made up of two members of the CLC, one support staff member, one para-surveyor, the Cell Executive Secretary (part-time), and *umudugudu* leaders (part-time). The *umudugudu* leaders were employed to notify the public in their respective *umudugudus* that O&C were occurring. Posters and leaflets were distributed and more mass-media tools were employed if needed. This occurred at least one week before O&C started. The day before the O&C event, a cell meeting was held by the FM where the public were informed of the O&C phase, its purpose and how long it was to last. The public was encouraged to ask as many questions as possible and were invited to talk to the O&C Committee at any time if they had further questions.

The next day, O&C sessions commenced at the cell office in all the cells within the sector. O&C lasted two weeks. The sheets were displayed on the exterior of the office wall in such a way that they were easy for claimants to read. The cell map was kept inside the cell office in a well-lit room. Field sheets were also made available so that para-surveyors could use them to help claimants who missed out the initial demarcation to identify their parcel numbers or to change boundaries where claimants were not satisfied with the boundaries drawn at initial demarcation. Corrections made to the claims register or field sheets were recorded in red pen to distinguish them from the original data. The use of “white out” was forbidden.

Any additional disputes that were raised were recorded in the disputes register in red pen to distinguish them from the original data. Resolved disputes were crossed out in the disputes register with a red pen. A note was written in the claims register to inform data-entry staff that the dispute was resolved and evidence provided for its resolution. The O&C Committee only accepted a resolved dispute in accordance with legal guidelines. If a claimant’s details had changed and evidence was provided, then the old details in the claims register were crossed out and new ones entered. Receipts were cancelled and reissued accordingly.

Boundary changes were carried out by a para-surveyor in the presence of the claimant and any other interested party (including neighbours and *umudugudu* leaders). When a change was required, the para-surveyor marked the change on the field sheet in red pen and wrote a report for submission to the GIS Coordinator. Corrections that were identified during parcel digitisation were also investigated at this stage.

*Umudugudu* leaders were employed for a maximum of three days over the entire O&C period to encourage participants to come to the O&C office. Each *umudugudu* leader was given a full list of parcel details, which was sorted into alphabetical order to make it easier to find the names of individuals. The *umudugudu* leaders advised claimants to report to the O&C Committee to make any identified changes but made a note of such changes to the claimants’

information on their sheets as changes in the claim or dispute registers could only be carried out by the O&C Committee. They were required to encourage claimants to provide further information, corrections or to discuss any counter claims on the parcel at the cell office.

Transactions could occur between the end of adjudication and the start of the O&C period. These were only recorded if both parties were present and offered written acknowledgement that the transaction had occurred. If this was the case, the original claimant's details were crossed out in red pen and the new claimant's details entered in the claims register. A note was made and the evidence was recorded in the claims register. The O&C Committee provided a field report at the end of every week to the FM. At the end of the O&C period, the CLC signed the register books and handed over all the records, receipts and fees to the FM. Once O&C period was finished, all textual and spatial corrections and changes were made following the same rigorous process to ensure that errors were minimised. The LTRSS and spatial database were then updated accordingly and parcel approval was sought from the Registrar of Land Titles (ROLT).

### ***Stage 8: Lease preparation***

As mentioned earlier (see chapter 4), in Rwanda, most land is held under long-term lease of between 3 and 99 years. Lease contracts were prepared and a complete lease file included four documents: original and duplicate lease contract, which contained rights and obligations of the lessees and obligations of the lessors; certificate of emphyteutic lease; and parcel cadastral extract showing the parcel measurement. Where there were errors or inconsistencies they had to be corrected and once all corrections had been made, the ZDET informed the Registrar of Land Titles that the leases were ready for approval. The registrar would approve the leases through an electronic system which allowed for a bulk approval. The ZDET printed off the leases per sector according to a three-month sector plan.



**Fig. 6.7.** Cross-checking data that what is entered in the database is what is in the claim register. (Photo: RNRA).



The lease contracts were checked against the claims register to ensure the data were the same. If the datasets did not match, the claimant's ID information was checked against the national ID database through a web service connected to the database. If the data did not match, the contracts were marked with the corrections and returned to data entry team for corrections to be made in the database. The corrected contracts were reprinted and rechecked. Certificates and extracts for the sector were then printed off. The lease documents were collated, during which time the claimant's details were checked across the three papers to ensure they were the same.

The documents were collated using a paper clip with the two contracts on top, then the certificate and finally the extract. The certificate was sealed with the emblem of the Registrar for that province, whilst the contract and extract were stamped with the provincial stamp. Finally, they were placed into an envelope with the claimant's name and ID number written on the top. During the checking of leases and the enveloping stage, staff were given the UPIs approval list. This documented all the UPIs, which had been approved by the Registrar for lease. Staff members were required to tick each UPI in the list as they handled the corresponding lease. This was to ensure that no lease went missing during the process. The leases were then packed into a box with a note detailing the sector name, cell name and UPIs of the leases in the box. A tick list showed that all parcels that had been approved had been printed and were ready for handover to the FM.

### ***Stage 9: Lease issuance***

This process consisted of handing legally recognised lease documents to the claimants. Once all lease documents were printed and an issuance list prepared, the ZOM informed the FM to start communications in the cell that lease issuance would occur. The FM used posters, public meetings and leaflets to inform the public that lease issuance would occur. One week before lease issuance, a public meeting was held by the FM and the CLC. The public were informed of the process of lease issuance and that they could provide further information if required. The public was encouraged to ask as many questions as possible and were invited to discuss any issues they had with the CLC afterwards. Lease issuance commenced and lasted for four weeks. The Lease Issuance Committee was based at the cell office. The leases were piled in order of UPIs. The claimant was required to hand over their claim receipt and fee receipt if they had it and they were then provided with their lease. If the claimant had not paid the fee, they were required to do so or they would be unable to collect their lease.

No new disputes could be raised during the lease issuance stage. Such disputes needed to be raised through existing land administration channels. The Lease Issuance Committee reported at the end of each week on how many leases had been collected and how many parcels with new information had been made. Once lease issuance was completed, the FM collected all contract duplicates, uncollected lease certificates and claims registers. The contract duplicates were sent to Kigali for scanning, the uncollected leases were sent to the District Land Bureau, and the claims registers were returned to the Zonal Office. Uncollected lease documents were available for collection at the District Land Bureau.

## **6.4 Quality Assurance**

### **6.4.1 Checks and balances at the community level**

The various SLR processes mentioned above contained different checks and balances stages to ensure transparency and error minimisation. The AC members identified and confirmed

claimants in the presence of neighbours. Claimants' receipts were also issued openly by other members of the AC who could also do additional checks to ensure the claimants were the real owners. The method of identifying and confirming claimants depended substantially on the AC members' knowledge of land claimants and on their integrity in confirming this to the para-surveyors. The village leader who was also a member of the AC was instrumental in identifying possible neighbours and mobilising them to be present during the demarcation work. A study conducted in 2011 concluded that *umudugudu* leaders were operating according to high standards of impartiality and objectiveness, being encouraged to do so as part of their continuous performance assessment by the authorities. Continued investment in supporting local social structures was deemed essential, even more so in the context of the possible further decentralisation of land administration responsibilities.

#### **6.4.2 Checking of errors**

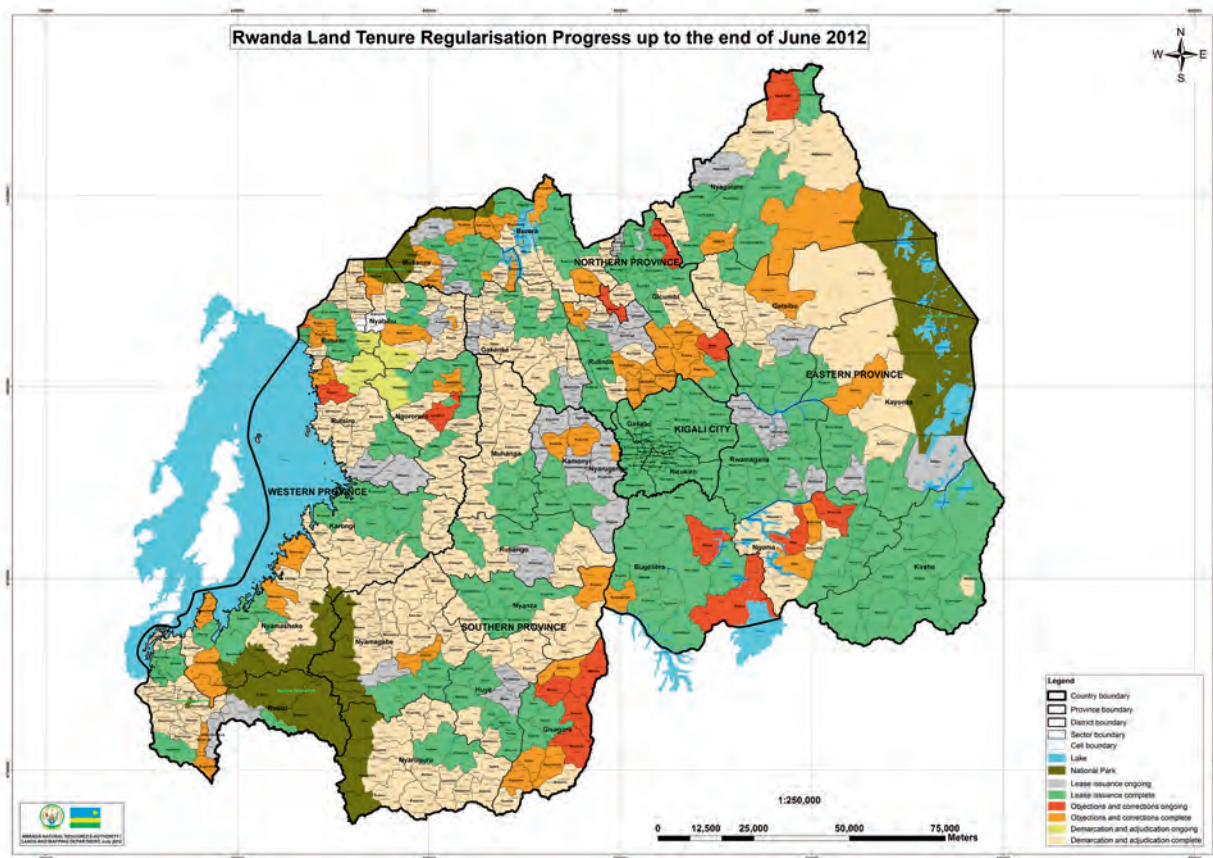
The errors that most often occurred in the register books were: (a) spelling errors of names; and (b) errors in ID numbers. The combination of name and ID number was easily checked by the Zonal or Central Data Entry Team against the database made accessible to RNRA by the National Electoral Commission. If such errors were identified, data entry teams marked these in the register books in pencil as discussed above. The correction itself needed the presence of the claimant(s), which was a good measure to prevent data entry manipulation by the technical and facilitation teams. In principle, each claimant needed to check at least once whether his/her name was spelt correctly, whether the ID card number was correct and whether the relationship between the claimants and their relative's shares in the parcel were well recorded.

Other errors occurred because procedures in the manual were not correctly applied. For example, it was observed at one point that Tippex was used to correct data in the original register books. The procedures prescribed that initial data were to be entered in blue, corrections made in red and last corrections, made after the O&C period, in green. This system allowed for all original data to remain visible and increased the transparency of the registration process. In other cases, for example, a claimant was issued with a wrong para-surveyor receipt, the main reason being that procedures were not followed as they were prescribed in the manual. The fact that the situation was corrected proved that the registration system itself was good, but also that claimants ensured their land was properly registered.

#### **6.4.3 Regular monitoring**

Regular monitoring of work, including weekly, monthly and quarterly reports from field teams, was carried out. Reports included the number of parcels demarcated, number of objections and corrections made, number of land documents (lease, certificate of registration and parcel extract) issued, the amount of money collected and number of parcels digitised, to name but a few. All this was mapped using GIS to increase the visibility of the progress. This was important in tracking LTR progress and ensured that the actual situation on the ground was mirrored in the system. Regular reporting was very crucial to ensuring that challenges faced were resolved quickly. For example, any time that existing staff dropped out, there was a pool of trained staff on standby to fill the gap. This worked effectively and did not hamper the work's progress. Below is an example of the progress maps that were produced. For data entry, both mapping and textual recording in the system was done 24 hours a day (there were one day shift and two night shifts) to ensure the work was done quickly.





**Fig. 6.8.** Example of LTR progress map. (Source: RNRA, July 2012).

## 6.5 Effectiveness of the SLR

There is a number of highly positive elements regarding the whole process of SLR that deserve explicit recognition. The SLR exercise ended with a demarcation, adjudication and registration of over 11 million parcels in June 2012 when first registration phase ended officially, which was significantly more than the 7.9 million parcels that were initially targeted for registration. Demarcating and registering that number of parcels in approximately five years is a remarkable achievement and the entire team that led and executed the work needs to be commended.

By June 2017, the newly created Rwanda land registry had made significant strides in winning cooperation from landowners. Up to March 2012, 924,086 completed title documents had been collected by landowners but this number shot up to 7.16 million by the middle of 2017. The number of formally registered transactions had also increased: during the 2013–14 financial year, only 10,535 transactions got recorded in the land registry but the 2015–16 financial year produced a significant improvement as the number of registered transactions increased more than ten-fold to 148,069, even though the number of annual transactions was about 100,000 short of the target of 250,000. Rwanda continued to improve its ranking in the World Bank’s annual Doing Business Index. On the measurement of the ease of registering property, from 2012 to 2017 the country jumped from 61st to 4th in the world, and during the same period the average amount of time it took to process a transaction improved from 25 days to 12 days. By 2017, the World Bank was giving the overall quality

of the country's registry a score of 28 out of 30 (World Bank, 2017; Schreiber, 2017; DFID, 2016a).

There was a high level of political commitment to the entire LTR programme and there is every indication that this will be maintained throughout the maintenance phase of land registry. The process overall was highly transparent, containing a number of checks and balances designed to prevent land grabs and inequitable outcomes, and with a suitable separation of roles incorporated into the various institutional responsibilities. The process appropriately relied on local participation, involvement and knowledge: it was therefore based on the "living memory cadastre" and as such had a high level of local legitimacy. At all levels, from national to cell level, there was evidence that the process was efficient and being well-managed and well-organised. There were very few opportunities for rent-seeking by local institutions. The target-driven approach that was an integral part of the design and management of the process led to a proactive approach for the programme, which was constantly seeking to achieve the incorporation of landowners. Nevertheless, although the SLR was effectively executed, and therefore widely considered as successful, there were some challenges that are worth mentioning (see section 6.6).

## **6.6 Challenges**

### **6.6.1 Setting up minimum daily output (number of parcels demarcated and processed in the office)**

Staff working on parcel demarcation, data entry and processing parcel boundaries in the offices were required to achieve a certain number of parcels every day. Although this may seem a performance indicator, it did lead to staff committing errors because of wanting to achieve the expected daily output. Quality was compromised for the sake of achieving the target.

### **6.6.2 Paper-based data collection**

During the SLR, paper-based systems were used to collect data. Although this did not seem like an issue, for a large-scale programme like Rwanda's LTR, every small error counts. Furthermore, the long process from demarcation to titling coupled with the daily entry target meant that the likelihood of making errors was high. Today, with available technology, data can be collected electronically to minimise errors and costs and to speed up processes.

### **6.6.3 Communication and public awareness**

Communication and public awareness during the SLR were very important stages. However, despite having great communication materials and tools mainly developed during the pilot phase, communication and awareness, especially of the OLL, was limited during the roll-out phase. The expected targets, cost and speed of the programme meant that some meetings were not given adequate time and some issues were not discussed at length during the awareness meetings as was the case during the pilot exercise (for example, specific meetings with women and what would happen once land was titled were not considered during such meetings). During the pilot phase, communication was very detailed and consultations with the public were given ample time but the roll-out phase lost the detailed attention which had been one of the key success factors during the pilot stage. Awareness campaigns during SLR

did not address questions and/or issues of a cultural nature, including how to deal with inheritance and transactions during land registration.

It would not be wrong to suggest that if communication and awareness had been detailed, as it was during the pilot stage, some issues currently facing the land administration system would not be there. These include, for example, informal transactions occurring because people are not informed about what to do.

#### **6.6.4 Lease issuance**

In some instances, lease issuance was done at the sector level, rather than at the usual cell level. Issuance at sector level brought a bigger impact in a short time and it was also less costly than issuance at the cell level and less tiresome for the FM in charge of O&C. However, these operational decisions took away part of the proximity principle of LTR at the cell level. It is not the operational ease of LTR that is of primary importance, but rather the client's friendly character of the process, making services as accessible as possible.

#### **6.6.5 Legal vacuum**

During the SLR, there was a legal vacuum on registration of islands. The OLL did not provide any clarity on how islands would be registered, and in whose names, they should be registered. This was rather clarified in 2012 in the OLL when it was reviewed, which was after the SLR. Also, matching the legal framework and the reality on the ground constituted a challenge, especially for polygamous families whose legal status regarding registration of their land was not provided for by any law, and this led to the application of some ad hoc solutions to protect their rights; for example, registering them as friends without describing their marital status.

#### **6.6.6 Vagaries of weather**

Extreme weather conditions (rainy and sunny) in some cases made the fieldwork difficult. It was difficult to carry out any fieldwork during heavy rain especially in the hilly western part of the country and, in some instances, the dry season was unbearable for field operation because of the scorching sun.

#### **6.6.7 Inadequacy in data system**

The LTRSS database was not linked to the GIS system and it therefore required a manual transfer of data from one database to the other. Furthermore, it had a few data entry validation procedures, which made it prone to numerous errors, especially when recording claimants' details, i.e. ID and names. This was particularly a challenge because LTRSS was not linked to the national ID system. Linking the LTRSS database to the GIS database could have reduced the waiting time of data extraction and requests from one department to another.

#### **6.6.8 Other challenges**

Other challenges include: (a) absentee landowners led to incompleteness of data. This means that the register has some gaps in terms of completeness of data; (b) there was high staff turnover at the district level which disrupted some of the fieldwork where district staff in charge of land was most needed; (c) reduction of O&C period to 15 days was not a great

move as this may have led to some claimants missing out on making any objections they may have had, given that the O&C period of 15 days was not sufficient; (d) some cells and sectors did not have the necessary adequate infrastructure and facilities (for example, locked cabinet and offices) to allow some of the SLR activities to take place at those offices (i.e. keeping SLR records and files); (e) dealing with transactions during SLR was not clear especially in rural areas. There were no clear, published instructions, standard operating procedures and systems in place to handle daily land transactions at any time during SLR. This could have led to informal transactions; (f) matching the country's development pace including the SLR-set timeline and the donor community's concern about the SLR speed was a challenge – this was mainly an issue at the beginning of the programme's roll-out because the donor community did not understand why the SLR programme was given a short time-line for implementation; (g) due to poor public land management, some claimed ownership of public land including forest land that belonged to the State; (h) pre-printed papers were not processed in-house and therefore proved tiresome when aligning printer settings to the pre-printed formats; and (i) a lot of paper wastage at the point where printing did not fit well into the pre-printed templates.

## 6.7 What Could Have Been Done Differently?

- Setting up clear and detailed policy guidelines before implementation as opposed to learning by doing. At one point there was no clear guidance on how to classify different things and the way data were captured in the registers could have been better with these guidelines in place. For example, there were no clear land-use descriptions to guide allocation, no guidance on how to register state land, wetlands, grouped settlements (*imidugudu*), which later demanded more thinking and work after the project phased out. This led to grouped settlements and wetlands to be re-demarcated once procedures and processes were set.
- Using electronic data collection tools like ID barcode readers, digital field data collection tools linked to a central database to avoid double registration on paper and in the system.
- Identifying and creating potential system linkages with information that has been processed and analysed; for example, the NID systems for validation purposes to help eliminate numerous checking processes.
- Linking the GIS database to LTRSS to speed up processes. Currently, GIS is linked to LAIS.
- Thorough system tests before mass implementation.
- Archiving systems, and stores prepared and put in place before issuance.
- Limiting paper usage and investing in digital procedures, especially during checking and correction (O&C).

## 6.8 Conclusion

In this chapter, the whole process of SLR, from the preparatory work that was carried out to the full roll-out, together with quality assurance issues, has been considered. The SLR exercise ended with the registration of over 11 million parcels by June 2012, which has been hailed as an impressive achievement unprecedented in the African continent, even though it had its own challenges. The next chapter is devoted to a discussion of sustainability of the newly created land administration system.



# 7

## **Sustaining and Expanding the New Land Administration Information System (LAIS)**

### **7.1 Introduction**

Having described the entire process of implementing the SLR, as well as discussing its effectiveness and challenges, in chapter 6, there is the need to examine sustainability of the newly created LAIS, and that is what this present chapter seeks to do. In the section that follows, the need to establish a sustainable LAIS is explained whilst in section 7.3, issues affecting sustainability of the LAIS are discussed. The LTR progress to date regarding sustainability is considered in section 7.4, and following on, challenges and the priorities that need to be given attention next are examined, in sections 7.5 and 7.6, respectively. General remarks on sustainability issues are outlined in the penultimate section, prior to offering conclusions.

### **7.2 The Need to Establish a Sustainable LAIS**

As indicated in the previous chapter, completing the demarcation, adjudication and registration of over 11 million land parcels in approximately five years is an exceptional achievement for Rwanda. However, it is also very clear that the long-term sustainability of the newly created land register is essential if its benefits are to have a lasting impact. It is perhaps worth considering what is meant by sustainability as people interpret it in different ways.

The important aspect of sustainability in the context of LAIS is the ability of the system to keep working over the long term – that is, for many years into the future – after the initial project to establish the system has been completed. The new system should be able to provide tenure security to registered landowners, facilitate future land transactions and be generally accepted by the population that engages in subsequent land transactions as a credible landownership database. Landowners need to believe that the land register will always exist and be credible, is completely secure and that they can have 100% confidence in it. The developing registration and transaction services must be affordable, easy to use and accessible. It is only when this situation is established and the system is in widespread use that longer-term benefits will become visible and begin to produce the positive impacts that were envisaged at the outset; that is: the economic and social benefits of land registration that include security of tenure; increased women's rights to land; providing incentives for additional investment in land (including mitigation against soil erosion and the effects of climate change); and enhancing accessibility to investment loans from banks and other financial institutions via the use of registered landed property as a secure collateral.

As part of the strategic planning for the ongoing development of LTR, a report was produced in 2014 that describes the goals that had to be achieved in order to establish a sustainable LAIS, viz: (a) the services need to meet the needs and requirements of society; (b) high usage levels/penetration levels of the services need to be obtained; (c) the services need to be free of error, available, easy to use, accessible and timely; (d) services and service delivery levels



need to be sustainable; (f) the LAIS is effective and efficient and it should meet needs and requirements at the lowest costs; and (g) the costs for necessary resources are covered and fees are affordable (Magis, 2014).

The emphasis in this list is on meeting user needs and being used in an effective and efficient way. The above criteria can all be met without the system being self-financing and therefore it might need financial support for some or many years. Once again, this points to affordable, reliable and easy-to-use services that people will want to access. It is arguably more important to have a functioning land register that most people will continue to use than to try to recover costs too early and risk the register falling out of use by a critical mass of the population.

There is a risk if sustainability is not achieved. If the new LAIS is not accepted as the default means of transacting landed properties, fewer and fewer people will engage with the formal system and it will become increasingly out of date and eventually will not be used. The consequence will be that the benefits envisaged will not be realised and the considerable cost and investment of first registration will have been wasted; and this could lead to another LTR with resource implications.

### **7.2.1 Financial sustainability**

Long-term sustainability of the LAIS is the goal, but it is often linked specifically to financial sustainability and the ability of the land registration system to become self-financing; that is, with no government funding or any other funding and even the possibility of the system contributing to government funds or being a source of revenue for the State as in many developed countries.

The initial planning for the LTR programme assumed that financial sustainability would be achievable with the assumption that once first registration was complete, recurrent costs were supposed to be covered by land-related revenues from service delivery (GoR, 2009). However, there was also a recognition of the impact of fees on the willingness of people to register. According to GoR (2009): *“land administration fees for services have a direct impact on people’s willingness to register their land and keep registration up to date. If fees and taxes are set too high to be affordable, land administration systems quickly fall into disuse and the public revert to informal arrangements.”*

After observing the early part of the LTR programme, it was noted in the 2011 Mid-Term Review report that there was a very real possibility that the LTR Support Programme (LTRSP) would not prove to be sustainable as it was envisaged to operate (*Terra Firma*, December 2011). In the following year, based on further experience and realistic appreciation of the situation, it was assumed that the land register would be self-sustaining one day, but there was also an understanding that this might not be possible (Orgut, 2012). In the 2016 DFID report, DFID’s key outstanding concern echoed those of many senior officials working on the registry regarding financial sustainability where it was observed that financial sustainability seemed unlikely in the short term even though it might eventually be possible in the long term, and in comparison with its assessments from previous years, DFID concluded that the risk of the new system failing to gain traction had diminished (DFID, 2016a).

A former Director General (DG) of the NLC and the RNRA (cited in Schreiber, 2017) suggested online services as the panacea to the problem of financial sustainability. According to the DG, albeit the appointment of 372 sector land managers had aided in decentralization,

the cost of that administration may be unsustainable. In the words of the DG: *“The question is how you get services to people without always expanding the bureaucracy. Increasingly, we see that institutions like banks have stopped building physical branches. They simply create service points in places like village shops. My feeling is that [the Land Use and Management Authority] could develop something similar that could transmit registry data. The IT infrastructure in Rwanda is good enough.”*

The question of an appropriate financing model for an LAIS is complex and often involves a political decision rather than an economic one. If too much emphasis is put on cost recovery at the early stage, there is a risk that the cost to users will be too high and they will drop out of the formal system. Financial support from government or donors may well be required for some time until a system is fully established, accepted and able to support itself. Cross-subsidisation from urban to rural transactions is of course an option. Pricing and fees have to be decided with great sensitivity in order to find a politically acceptable degree of cost recovery without choking demand and usage. Therefore, establishing a fair and affordable land registration fee structure is very important.

### **7.3 Issues Affecting Sustainability of an LAIS**

According to Magis (2013): *“A land administration not capturing land transactions in the real world will be of no value to citizens, businesses, customers and society. The future revenues out of land information services fully depend on the reliability of the registration.”* The main issues that affect the long-term sustainability of LAIS can be grouped into those affecting the demand for the register (will it be used?) and those affecting the supply of services to users (will they offer more benefit than cost?), but they are of course interrelated. The issue of financing, as noted already, is also very important – the degree to which it is possible to have a system that is self-financing depends on many factors such as national wealth, land and property values, transaction volumes and total cost and expenditure. However, this issue is, arguably, secondary to an ongoing use of a national registration system that has been created.

#### **7.3.1 The demand side**

At the time of writing this book, there was limited evidence to firmly define the level of Rwandan citizens’ take-up of the formal land registration system, although there were some initial indications of the number of transfers/transactions taking place, firstly from the LAIS figures on actual transactions, and secondly in the form of surveys and land week campaigns. The first study to look at this issue was sponsored by the World Bank and conducted by Ali *et al.* (2015): they provided preliminary findings that confirmed early impressions and anecdotal evidence that informality was a real issue in rural areas.

Another study by GCC Ltd (2016), which was commissioned by RNRA and DFID to find out the level of informality, also revealed that there was a significant level of informal land transactions taking place, mainly in rural areas. The findings suggested that people have, historically, transacted their land in this way, relying on neighbours’ and local authorities’ endorsement of these transactions. Some of the main causes leading people to transact informally were identified in the study to include the transaction fees (flat fees of 27,000 FRW for any transaction irrespective of size, location and value), restriction to subdivide agricultural land that is less than one hectare, land subdivision cost, ignorance and lack of awareness, and the tradition of transacting informally. Regarding transaction fees, for

example, a key informant in the study opined: *“How do you expect someone to pay 27,000 FRW on a plot sold at a price less than the transaction fee?”*, and for some this amount constitutes over 25% of their land value (GCC Ltd, 2016; Deininger *et al.*, 2011). In June 2017, the notarization of a sales agreement or other contract, the printing of new title documents and the registration of a transaction cost a total of FRW30,000 (about US\$35), and although the flat fee was affordable in urban Kigali where land values were high, it was usually prohibitively expensive in rural areas (Schreiber, 2017).

In terms of the flat fee, according to Biraro (2015, cited in Schreiber, 2017), it did not even differentiate between different types of transfers. During a sale, it was somewhat easier for people to afford the cost because they could use a portion of the price to cover the fee, but in cases involving inheritances and donations, for example, the parties could not finance the fee that way. In the Biraro study, a respondent observed that *“When my father gives me a piece of land, there is no money in the transaction. If I can’t pay the transaction fees, I will just keep using the land without reporting the change in the registry.”* Biraro notes that the fee structure for subdivisions was also illogical: *“For example, when someone wants to buy half of an existing plot, the current owner first has to pay for a subdivision. The owner has to hire a surveyor, get a cadastral plan approved, and submit an application for subdivision”*, and once the subdivision has been approved, both titles will be in the name of the current owner and only then one can transfer one of the titles to the buyer. Thus, classifying subdivision and transfer as two distinct procedures imposed additional costs on the seller and slowed the transaction.

The evidence relating to ignorance and lack of awareness is, however, mixed: whilst it is also corroborated by the study of Ali *et al.* (2015), which established that 20% of rural citizens felt there is insufficient information, research conducted in the same year by INES (June 2015) concluded that over 80% of citizens knew where to get the appropriate information. There is therefore more work needed in terms of further studies to determine the actual levels of informal dealings and the reasons accounting for that.

However, based on the above findings from GCC Ltd’s (2016) study, there are mitigation measures that can be taken to resolve some of the issues. Even though, as alluded to above, the evidence on not having enough information is mixed, proceeding on the assumption that there is actually ignorance and lack of awareness can be overcome by more targeted public awareness activity and more proactive work at sector level, which will also help with the problem of access.

Regarding the problem of cost, the flat fee structure can be changed to address it: based on the principles of fairness and affordability, type of land transfer involved, land value, use of land, land size and location of land all need to be considered in the fee structure. The GoR recognises this and has already commenced looking at the fee structure. Schreiber (2017) notes that in June 2017 the President’s cabinet began a study of the payment structure in response to persistent complaints about fees by considering two options. The first option was to create a proportional system, wherein the transaction fee would be calculated as a percentage of the sale price. However, the problem with such a proportional fee, identified by the government, is that it would lead to a delay in the processing of transactions because it would involve going through the valuation process, and there are concerns that people would cheat and declare less than what they actually paid for the land. And more so, for a proportional fee structure to work, the country would have to make major investments in improving its capacity to accurately value properties as the valuation profession is currently not all that well developed and professional valuers are limited. The second option was to

charge different flat fees for various transactions: for example, the fee of US\$35 could remain in place for urban areas like Kigali, but if it is a sale of an agricultural plot smaller than two hectares located in a rural area, the fee could be much lower, for instance FRW5000 (US\$6).

The finding relating to the restriction to subdivide agricultural land that is less than one hectare and land subdivision cost is a technical issue. The law managing land in Rwanda prohibits the subdivision of agricultural land which is less than one hectare as a way of encouraging agriculture productivity. Severe fragmentation of land is seen as a negative factor that contributes to soil degradation, which subsequently leads to soil infertility. This is an issue in a country where average land holdings are small and where the culture of inheritance is very common. The GoR needs to help landowners find alternatives to land subdivision to ensure efficiency of the programme, otherwise there is a high risk that without a clear strategy of dealing with this issue, people will subdivide their land and continue to transact informally.

In terms of the issue relating to the tradition of transacting informally, it might be that some people are still not convinced that the new formal system is necessary, which requires attitudinal change as a panacea. The attitude that might have to be overcome is demonstrated in the words of a respondent who took part in a study conducted by Safe Research (January 2014): *“This land is mine and everybody knows that I have been using it for a long time. I know that nobody will deprive me my land. Why should I pay my 1000 FRW to get the land title? What is the purpose of having the land title?”* In some places, especially in rural areas, the informal system currently in operation is considered by many rural dwellers to be perfectly adequate. Handwritten or typed sales and purchase agreements, known as *Icyemezo cy’Ubuguzi* or *amasezerano y’ubuguzi* are used and witnessed by local authorities. These informal procedures for land transactions have a high level of accessibility and a high level of legitimacy and acceptability. They may even co-opt elements and tools provided by the LTR programme in order to underpin locally recognised transactions, with certificates, for example, attached to the *Icyemezo cy’Ubuguzi* and traded as part of an informal deeds system. In this regard, as one other panacea, it might be possible to make use of village chiefs to convert the “informal” registrations held by them and convince the citizens that the formal system is more secure and worth being part of. It needs to be noted that informality is not widespread. However, adequate measures need to be taken to ensure that where it is widespread, it is handled properly.

### **7.3.2 The supply side**

According to Magis (2014): *“Customers expect error free, easy to use, accessible, timely and affordable services. Customers expect services which give them value for money.”* A technical, legal, organisational and financial framework has had to be developed to accommodate and manage the newly created land register and to serve its new users. Developing a user-friendly, accessible and affordable service, while maintaining “business as usual” with a wide range of other responsibilities and capacity constraints is a considerable issue. The task of providing such services is complicated further because it requires something of a change of mindset. For much of the LTR programme, the focus has been on numbers – accumulating more and more parcel titles and entries in the register, which is an operational, even manufacturing, type of outlook. Now the emphasis has to be on serving customers; that is providing services they will want to use and will use again, and recommend other people to use.



## 7.4 LTR Progress to Date Regarding Sustainability

Previous chapters of this book have described how the policy and legal framework, as well as institutional framework, were created in order to establish a foundation for first land registration and then ongoing maintenance of the land register. Much of this was completed before the work began on the ground to register over 11 million land parcels as a specific project. Legal and administrative changes relating to maintenance and sustainability have continued throughout the LTR programme period and are still taking place. For example, although the initial legal changes were made, in order to prepare the way for the implementation of the LTR programme, there has been the need for constant review and amendments in the light of experience and new situations. A legal review was conducted in September 2013 (Landesa, 2013) and a legal assessment was part of the 2013 Annual Review (Orgut, 2013). Devolving part of the operational responsibility to regional and district (later also sector) levels is consistent with the GoR's decentralisation policy.

The issue of sustainability has arisen many times (for example in all annual reviews) and in various reports, for example Corker (2011) and Magis (2014). Indeed, there has been an almost overwhelming amount of reports and reviews. The volume of information, advice and recommendations has become an issue in itself and it was addressed in 2015 with the development of a Knowledge Information Management System (KIMS) designed to archive and make accessible all relevant reports and documentation. From the outset, the LTR programme's specific objectives have been: (a) output 1 – register all land through a land-titling process; and (b) output 2 – set up a sustainable LAIS. However, successive annual reports have highlighted the fact that over the years most emphasis has been placed on output 1 and that output 2 has consistently lagged behind schedule. The GoR's decision to fast-track the LTR programme may have had some impact on this, and the focus on rapidly producing land parcel numbers regarding registration has, arguably, been at the expense of establishing a maintenance system once first registration had been achieved.

In recognition of the above, a range of measures was identified for establishing a sustainable LAIS, and were included in annual work plans and targets, for example: (a) buildings and equipment – new buildings built and procured (new HQ for RNRA, zonal offices) and construction of five district land offices and refurbishment of 23 district land offices; (b) equipment – levels established and plans made to provide all offices with the appropriate items (computers, LAIS software, printers, survey equipment). At the technical level the main focus has been on the development of a secure and comprehensive IT database (LAIS) system to record and store the land data, and in the context of sustainability, to facilitate, record and monitor updates as part of the registration services provided; (c) manuals and operational procedures developed. The day-to-day Standard Operational Procedures (SOP) were developed and recorded in the Land Administration System (LAS) manual, future capacity requirements were estimated and measures taken to design and deliver the appropriate training; (d) training was defined, designed and delivered; and (e) Communication and Awareness-raising – a strategy was designed to support the first registration process (RNRA, 2012) and another designed to encourage ongoing use of the new system (USAID and RNRA, 2014). In 2014, a new communication campaign (land week) was launched to encourage formal registration of land transactions, and such a communication strategy is being reviewed to ensure effective communication.

Additionally, the GoR has addressed the issue of service standards. Land registration service standards are published through a district client charter and are monitored by a task force established by the Prime Minister to ensure services are delivered effectively. To improve the



quality of services further, a “land model office” is being developed. This model office is meant to be a place where all land delivery service procedures are tested and applied effectively. Other land offices’ staff may attend to learn and apply similar procedures and processes in their respective offices. At the local (district) level, services are delivered via a “One-Stop Centre” (see an example of a One-Stop Centre in Fig. 7.1) that deals with land registration, construction permits and planning. Emphasising the need for these One-Stop Centres, the land officer at the Huye One-Stop Centre explained that despite decentralisation to the sector level, people sometimes still had to travel to a sector office many times if there were problems with their applications. Land services have been decentralised further at the sector level and the LAIS is being decentralised at the sector level.



**Fig. 7.1.** Kicukiro District – One Stop Centre Office.

There is a standard set of services that are available with an appropriate set of fees. In time, it will be possible to fine-tune the services on offer, maybe eventually to an online system for those users able to use it, as earlier suggested (some of the online services are already being offered by IREMBO). A wider range of users will gradually be offered more sophisticated services, for example business users. For instance, today, some land services are provided via mobile services (if somebody is interested in knowing if a parcel is under dispute or has an encumbrance, the person needs to only send a text message to a specific number and within seconds some details of the parcel requested will be provided). The emphasis is on getting the basic transaction services optimised for citizens. Land transaction fees are also being reviewed.

Indeed, at the time of writing, a consultant had been hired to address the issue of sustainability. The consultant’s work is supposed to cover technical and policy issues that would lead to having a sustainable LAIS as well as providing advice on how the land registry can become self-financing.

## 7.5 Challenges

Challenges related to sustainability of the LAIS include the following: (a) setting up an institutional framework for ongoing maintenance of the new system at the same time as completing first registration, in a relatively short period, has imposed resource and capacity strains; (b) the initial evidence about the degree to which the new registration system will be accepted and taken up by the citizens of Rwanda in rural areas is still mixed. Easy-to-use and understand, secure, affordable services have to be delivered and made very accessible. Citizens have to be aware of where to go, the procedures to follow and how much the services will cost them – they have to see the benefit as being worth more than the cost; (c) there have been difficulties in employing sufficient local staff with appropriate skills,

especially systems and software developers; (d) changing from a production-focused organisation to one that has to be customer-focused and dedicated to service delivery is critical and should be given a high priority, but this requires a paradigm shift in thinking, which is a difficult thing to achieve in the short run as it takes time for people to change their attitude; (e) capacity needs are very difficult to determine with any accuracy. Some districts report high levels of transaction activity while in some sectors the levels are very low. It will take time to balance out the staffing numbers to find an optimal level; and (f) the GoR's policy towards staff numbers is a potential challenge. There is a strict limit and the trend is decreasing staff numbers rather than increasing. Thus, it might be hard to get approval for increased numbers of staff even if the delivery of services requires it.

## **7.6 Next Priorities**

Recognising the tremendous progress Rwanda has made in first-time registration, and the challenges it faces in terms of establishing a sustainable LAIS, a number of steps are proposed as follows: (a) further work is still required to understand the uptake of the formal system in order to fine-tune the strategic approach; (b) further development of services and processes will need to continue including fine-tuning of pricing where it is justified. Creation of a business plan to guide service definition, development and delivery is critical; (c) evolution of the optimal organisational structure will need to continue, with adequate staff levels and training and fine-tuning of staffing needs; (c) cleaning and maintenance of high-quality data have to remain a high priority. Checks, validation and continual improvement should be sought; (d) further development of IT security and communications will need to be ongoing, including IT support for services. LAIS is linked to other services such as the mortgage registration system, city planning authorities, the Ministry of Agriculture, the national identification programme and tax authority (RRA). Attempts to ease access to land information by putting some data on line are currently underway; (e) provision of reliable management data/monitoring feedback (upon which to make policy decisions) has proved to be invaluable, and will need to be ongoing; (f) continuing the development of the knowledge information system will be important to coordinate existing information and to integrate new inputs and identify gaps that require further research; and (g) enhancing the land week campaign, which is already producing positive results in terms of raising awareness.

## **7.7 General Remarks on Sustainability Issues**

Considering the broad aims of the LTR programme and going back to 2009, the first main objective has been completed, which is first registration of all land parcels in Rwanda. This has been achieved using an innovative methodology in an ambitious timescale with a great degree of citizen involvement and at low cost by international comparison. The second part of the programme – to build institutions and systems to provide land administration services – has shown substantial progress after a slow start. It is commonly acknowledged that this second part was not given sufficient priority early enough in the programme but a lesson was learnt and efforts were refocused. From a sustainability perspective, efforts to achieve first registration must be matched with efforts to put in place the framework and systems to enable the registration process to be maintained in a form that is attractive to users; that is, secure, reliable, affordable and accessible. The planning and management of such an exercise is not to be underestimated.

To achieve the LTR programme's aims, it has been very helpful, if not crucial, to use internationally experienced technical assistance alongside the expertise and local knowledge of the counterpart Rwandan staff. While this help has been invaluable, it is important to keep in mind an exit plan and to take every opportunity to transfer skills to build up the local capacity. Working to a comprehensive project plan for first registration has been essential and a similar approach should be adopted to prepare for ongoing maintenance of the new system. Users, not production figures, become the main focus, and a business (or organisational) plan needs to be developed to address all the requirements and to ensure appropriate resources are identified and managed accordingly. A "can do" and flexible attitude has proved decisive in Rwanda: many unforeseen issues have arisen over the course of the LTR programme implementation, some small and some more problematic, but the key to success has been adaptability and cooperation, with strong political support when called for. If a problem has arisen it has been discussed and a solution found and put into practice. The attitude of the people of Rwanda has been a critical success factor.

Lastly, while the LTR programme's focus has mainly been on land administration (and within that, mainly registration), it is important to keep in mind the wider context. The benefits sought from the LTR programme fit into a bigger picture of government policy. Gradually, policy focus will shift from registration itself to maintaining an effective use of land information to support development objectives and accountability, building and decentralising sustainable land administration services, guiding urbanisation and effective land use.

## **7.8 Conclusion**

This chapter has examined sustainability of the newly created LAIS, which shows that the importance of maintaining the land register cannot be over-emphasised if it is to serve its primary purpose of protecting registered landowners and facilitating subsequent land transactions. It has been established that issues affecting sustainability of the LAIS emanate from both the demand and supply sides. The chapter has shown that a lot of progress has been made to ensure that the land register is well-maintained despite existing challenges. Moving forward, there are various priorities that need to be given attention as far as sustainability is concerned. The next chapter looks at the socio-economic benefits of the LTR programme.

## 8

# Socio-economic Benefits of the LTR Programme

### 8.1 Introduction

In the previous chapter, sustainability of the newly created LAIS was examined, and this penultimate chapter is devoted to a consideration of the socio-economic benefits of the LTR programme. In the sections that follow, the benefits in terms of land tenure security, access to formal credit or investment, landownership database, natural resource management, support for the agriculture sector, land governance monitoring, local capacity development and knowledge transfer, land market development, and other benefits, are discussed in sections 8.2–8.10.

### 8.2 Land Tenure Security

One of the main LTR's objectives was to increase tenure security of all landholders and land users. This is clearly explained in the legal and policy framework guiding the LTR programme as explained in chapter 4. The OLL and its implementing orders recognise all forms of ownership that existed prior to formal registration of land as well as long-term, unchallenged possession, whether public or private land. Furthermore, during the SLR, non-documentary evidence was acceptable as proof of land rights. Through SLR, as earlier indicated, over 11 million parcels were demarcated, adjudicated and registered where over 8 million titles have already been issued to landowners.

After such an impressive achievement regarding land registration, the issue to look at is the link between land registration and tenure security in Rwanda. To address this issue, it is important to recall the definitions of land tenure security that were considered in chapter 2. As explained in that chapter, and based on those definitions, this book considers land tenure security as either the degree of clarity and certainty that someone's land rights are, in reality, recognised by the community members (societal recognition) as well as the law, and protected whenever there are challenges (legal recognition), or the perception held by landowners that there is clarity and certainty in their land rights that are recognised by the society and the law, which enables them to exercise the land rights devoid of interferences.

Regarding empirical evidence, in May–June 2017, the author conducted surveys by organising focus group discussions in Rwanda to establish the nexus between land registration and land tenure security. In various focus group discussions involving 188 landowners (in total), which comprised 74 women and 114 men (59 people in urban areas, 94 people in peri-urban areas and 35 people in rural areas), 99% (187 out of the 188) landowners said the security of their landholdings had increased because their land had been registered and they now have land titles with their names printed on them, and the authorities are aware of their rights. In the words of one of the focus group members: *“Our family land is registered and we feel secure since we have our land documents. However, there is one piece of land I inherited from my parents which is not yet registered in my name because my sibling*

*registered a dispute against it. Since there is a dispute registered on that land, I have no ownership document for that land and that is hampering our development. I cannot get the fertilizer to use in that land when I do not have a land document for it showing that I am the owner and this is not good for us...if my husband was to die (God forbid) I do not feel anxious or have any fear of losing our land because no one else would come to take it from me. Our land is registered and everyone knows it and the authorities know it as we have documents showing that it is ours."* This means that 99% of the landowners believed or perceived that land registration had enhanced their land tenure security via the recognition of their land rights by the authorities, which can be considered as a form of legal recognition of land rights and, by implication, they believed that society also recognised their rights. The remaining one landowner (1%) revealed that her landholding was not secure enough because she had not yet received her land title, which also shows that she actually believed that having a land title via land registration enhances land tenure security.

It is important to consider the relationship between land registration and, specifically, security of women's land rights. However, before the empirical evidence on this is considered, it is expedient to provide an appropriate historical context of land ownership by women in Rwanda so that the impact of LTR on the security of women's land ownership can be appreciated. For a very long time, land ownership was the prerogative of men since land rights could only be inherited by sons. Women were therefore excluded from inheriting land since, even as a widow, a woman only had use right over the family land until her sons came of age (Ngoga, 2012). However, this changed with the passage of the Succession Law No. 22/99 of 1999 supplementing Book I of the Civil Code and Matrimonial Regimes, Gifts and Estates. This law was to ensure equal rights for children, both female and male, as it states that: *"all legitimate children under the civil law shall inherit equally without any discrimination between male children and female children"* (GoR, 1999). This was reemphasised in Law No. 59/2008 of 10 September 2008 on Prevention and Punishment of Gender-Based Violence and by subsequent laws and policies. These include the NLP, which states that: *"women, whether married or not, should not be excluded from the process of land access, land acquisition and land control, and female descendants should not be excluded from the process of family and land inheritance"* (GoR, 2004).

The rights to own, use and transact any property by women in Rwanda was also recognised as fundamental rights by the Rwandan constitution, which states that *"equal rights between Rwandans and between men and women without prejudice to the principles of gender equality and complementarity in national development...All types of discrimination, including sex discrimination, are prohibited and punishable by law...Every person has a right to private property whether personal or owned in association with others"* (GoR, 2003). Article 4 of the OLL further reiterates the general principles set out in the constitution, namely that: *"Any discrimination either based on sex or origin in matters relating to ownership or possession of rights over the land is prohibited. The wife and husband have equal rights over the land."* The law, therefore, affords women the same rights to acquire land as men. In this regard, the OLL enables land to be transferred to an individual (whether man or woman) by: (a) sale; (b) inheritance; or (c) gift (Ngoga, 2012; GoR, 2005).

Based on the policy and legal framework that promote equal rights between men and women, during the SLR, women's land rights were recognised and strengthened through the registration of their land. The land register data of July 2017 showed that out of 11,446,570 land parcels registered, 2,191,963 parcels are registered to women as de facto owners, whereas those parcels registered to men as de facto owners stood at 1,267,066. Joint ownership (including wives and husbands registered as co-owners) represented 5,633,000



parcels and the rest of the parcels registered as other categories including, for example, State land registered to organisations (RLMUA, 2017).

In terms of the empirical evidence on the relationship between land registration and security of women's land rights, another focus group was organised during the same period above by the author involving only women (69 in total, comprising 30 women from the rural areas) in order to determine how they feel about having land titles in their names. Out of this total number, 51 women representing about 74% who are co-landowners with their husbands believe that land registration has increased their land rights and enhanced the security of such rights because their husbands cannot sell their land without getting their wives' consent and sometimes their wives can object to the sale of the land. As one woman noted: *"Having 50% of shares written against your name on the title is a big milestone. In the past, no one would have thought husbands and wives would have equal rights to land."* The women (that is, the 74%) believe that their husbands now respect them more than they used to because they have to consult each other and value each other's opinion when deciding what to do with their land and this prevents a lot of family disputes. They feel that land registration has also helped them to deal with family disputes because most of them are normally land-related (where in some cases husbands would sell the family's land without their wives' knowledge and this would lead to disputes within the family). Thus, they feel that land registration has reduced family disputes because instead of focusing on disputes, their time is dedicated to things that can improve family living conditions.

The women (the 74%) believe that LTR has empowered them because they feel that since their names are on the land titles, they cannot be vulnerable anymore. According to them, what used to happen was that whether legally married or not, when marriage ended, the husband would keep all the property including land and the wife would not get any share. However, this is no longer the case because if they end up divorcing they would have to share their belongings equally. They asserted that now female children can inherit as equally as their male counterparts. In the words of one focus group participant: *"It is a great feeling when your husband comes home and asks your views about what to use the land for, this is transformational and we feel proud."* Another participant had this to say: *"I do not shy away to ask for a loan in SACCO using my land document even though I am a woman. Before this was not the case but now SACCO would not refuse me a loan when I have a land document because I am a woman. Criteria for loan acquisition using land document are the same for both men and women...Land registration has enabled us to be registered on our land title. For example, I am a widow but have children and the title I have is 100% registered under my name because my husband died. If it was before, the land would have been taken by my deceased husband's family."* They therefore feel that LTR coupled with other government programmes on gender equality have enabled them to come out of their shells and feel that they can also contribute to the country's development.

Four of the rural women (13%) in the focus group discussion were of the view that change of mindset (mainly for rural women) is a slow process, especially for older women. One woman observed that: *"in some rural areas, older women still feel that the decision on what the family land should be used for lies within their husbands' responsibilities and all they have to do is to follow their husbands. The danger comes when the husbands make wrong decision – this can have a negative impact to the whole family."* Thus, awareness on women's land rights needs to continue and be strengthened. The remaining 18 women (26%) in the focus group, like the other women (74%) also feel that the security of their landownership has improved because their land rights have been registered and they hold land titles with their names written on them and the authorities are aware of that. Some of them (5 out of the 18 or

28%) as co-landowners with others revealed that their shares in the land are clearly indicated on the titles and therefore disputes over who owns what in the land would not arise.

Generally, the preceding evidence on the positive link between LTR and the security of women's land rights is corroborated by other studies. According to DFID (2016a) the high level of female landownership had remained relatively stable since the original registration process ended in 2012, suggesting that men were not using various kinds of transactions to "grab" land from female landowners, which is an especially important accomplishment of land registration in the Rwandan context, given that the genocide had resulted in many female-headed households. Also, a study carried out by Deininger *et al.* (2011) on environmental and gender impacts of LTR in Rwanda concluded that: *"The positive results are even more impressive in light of the fact that the program analysed here was a pilot that involved considerable learning and that the period elapsed between its completion – in particular the actual award of titles – and our survey had been quite short. Individuals whose parcels had been registered through LTR, in particular female-headed ones, were much more likely to invest in soil conservation measures on their land. Clarification and documentation of rights reduced uncertainty over who would inherit land with substantial benefits for female children who might otherwise have been discriminated against."* The study established that low levels of security of land rights held by females acted as an obstacle to investment by this group, and removing such impediments by increasing women's tenure security formalised rights which they may have enjoyed on an informal basis. Furthermore, surveys conducted in 2012 and 2015 showed that: (a) the LTR programme reduced land conflicts but increased perceived risks of disagreement over government-allocated land; and (b) there was a positive impact on women's land rights – the programme strengthened married women's subjective rights to be claimants on the land.

It can be concluded that in Rwanda, generally, the impact of land registration on land tenure security is a positive one and, therefore, land registration has enhanced land tenure security of registered title holders. Thus, land registration contributes to land tenure security. As indicated in chapter 2, there is an ambivalent literature regarding the land tenure security function of land registration where there are divergent views as to whether or not land registration guarantees land tenure security. It needs to be noted that the two divergent schools of thought on the role of land registration are about land registration guaranteeing land tenure security, which means it is the only factor that establishes land tenure security. The Rwandan evidence bespeaks that land registration is a determinant of land tenure security, which is different from saying that land registration guarantees tenure security.

There are other determinants of land tenure security that have been identified by Abdulai and Owusu-Ansah (2014, 2016) and Abdulai and Domeher (2012) to include land title insurance, availability of land dispute resolution and enforcement institutions, and clear land boundary demarcation. These authors have explicated these factors as follows. In title insurance, the insurer indemnifies landed property owners if they lose the insured property; it therefore provides guarantees in landed property transactions by protecting the owner or lender against defective ownership or title, which results from problems like unknown recorded liens, forgeries, improperly delivered title deeds, defects in public records and incompetent grantors. Title insurance is definitely a very potent tool although it can be a costly venture based on the experience of countries that are practising it, for example, the USA.

Regarding the second determinant, when someone's landownership is disputed, the dispute would have to be resolved and, therefore, there is the need for appropriate dispute resolution

and enforcement institutions that can authoritatively interpret land rights and resolve disputes, so as to enforce land rights. Where the legitimacy of such dispute resolution systems, whether informal institutions, often referred to as alternative dispute resolution (ADRs) institutions or formal institutions, is well-established, then parties to any landownership dispute can seek redress from them with the assurance that whatever decisions are arrived at are deemed appropriate and can be effectively enforced; when there are institutions that can interpret land ownership rights in an authoritative manner, and people understand the way they work and are willing to abide by whatever decisions they make, land ownership-related disputes are amenable to resolution. In terms of the third factor, when boundaries are clearly demarcated or defined, land boundary disputes would be minimal; accurate and precise well-defined boundaries are easier to enforce and cost less to protect as they are easily observable by other community members.

Indeed, the last two factors (availability of appropriate dispute resolution and enforcement institutions and land boundary demarcation) contributed immensely to establishing land tenure security during the implementation of the LTR programme in Rwanda. As indicated in chapter 6, in the nine-stage process of SLR full roll-out, stage 3 involved parcel demarcation, which consisted of identifying existing boundaries of land parcels to the satisfaction of the claimants, and if disputes arose, stage 4 involved dispute resolution where the disputes had to be adjudicated by the Land Adjudication Committee to the satisfaction of the parties before the land could finally be registered. Where the Land Adjudication Committee could not resolve the dispute, it was recorded in a dispute register and the parties were encouraged to seek legal redress via Abunzi. Another opportunity for land claimants was provided in stage 7 where objections could be raised and any additional disputes were recorded in the dispute register for resolution, and if they could be not resolved by the Land Adjudication Committee, they remained in the register.

Therefore, as section 8.4.4 on land dispute management shows, with the completion of the SLR, there is now a comprehensive land disputes database, and in order to facilitate information sharing, a web service is being developed to link the land register with the e-court system to allow the justice system to access all registered land-based disputes in the land register for resolution by the court. This again echoes the role of dispute resolution institutions (this time a formal institution) in establishing land tenure security.

Thus, in Rwanda, apart from land registration, two other factors significantly contributed in establishing land tenure security. In conclusion, the problem with the existing treatise on the nexus between land registration and land tenure security, as articulated in chapter 2, is the emphasis on the word “guarantee”, as if land registration is the only determinant of tenure security.

### **8.3 Access to Formal Credit for Investment**

As indicated in chapter 2, de Soto and his apologists posit that, based on the fact that land registration guarantees tenure security, it also assures access to loans from banks or financial institutions for investment purposes that leads to poverty alleviation and economic development. The argument is that registered land serves as good and secure collateral that is used by the landowners to access finance from banks to invest in various economic ventures. There is, however, a school of thought that disputes the thesis of de Soto. Thus, what needs to be established in the case of Rwanda is the type of relationship that exists between land registration and access to formal credit. To determine this, in the focus group discussion involving 188 participants earlier referred to, they were also interviewed on this issue.

Out of the total of 188 people interviewed, 62 (32.9%) said that LTR helped them gain access to credit mainly by using their registered land as collateral. Of all the 62 people who said that they were able to use their land as collateral, a majority of them, that is 53 people or 85%, are in urban areas compared to the remaining nine, or 15%, who are located in rural areas. This shows that possession of registered titles enhances access to formal credit. Earlier research by CID (2013) on the same issue corroborates this finding. However, this does not necessarily imply that land registration guarantees access to formal capital. This is because common knowledge shows that mortgagees or financial institutions would consider other requirements in order to finally decide whether or not to grant investment loans. Indeed, the above CID study also established that some external factors interfere with the capacity of landowners to use their land titles as collateral, which include the value of land owned, the size of the land owned and the ability of landowners to pay back the credit granted. Furthermore, the study of Abdulai and Hammond (2010) in Ghana, for example, established that access to formal credit is a function of a gamut of factors including: interest rates charged by banks; credit records or financial information; business plans to support loan applications; documentation of landed property ownership in the form of registered title deeds/land certificates and unregistered title deeds; location and quality/standard of landed property to be used as collateral; and willingness of insurance companies to insure the landed property to be used as collateral.

Thus, even though there is a positive relationship between land registration and access to formal credit; that is land registration improves access to formal capital, the possession of registered land titles alone does not guarantee access to formal credit as there are other factors mortgagees consider. Consequently, de Soto's thesis is problematic as the available evidence does not support it.

In spite of the positive relationship between LTR and access to formal credit in Rwanda, it is too early to assess the impact of LTR on poverty reduction because: (a) LTR is a very recent programme; and (b) poverty reduction is assessed based on various indicators, and therefore it would take some time to fully understand the role of LTR on poverty reduction in Rwanda.

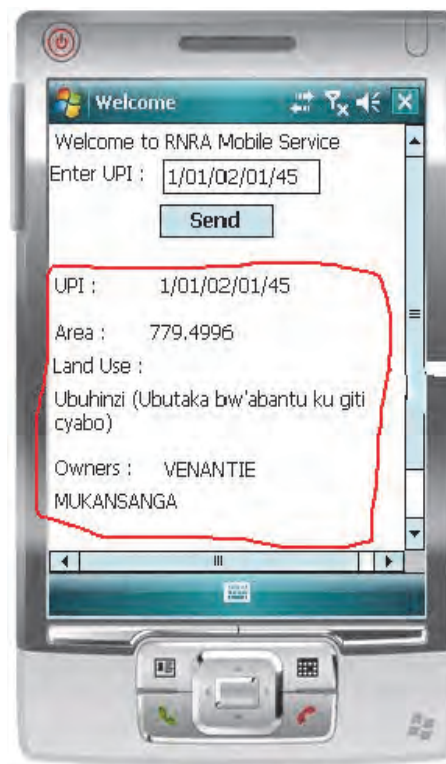
#### **8.4 Landownership and Cadastral Database (LAIS)**

LTR has resulted in the creation of a new digital landownership and cadastral database, which, like any other record-keeping system, plays a critical role in the economies of nations. According to Abdulai and Owusu-Ansah (2014, 2016) and Abdulai and Domeher (2012), any proper record-keeping system overcomes the problems of asymmetrical information and moral hazard and facilitates land-related activities or transactions, thereby reducing transaction costs as land market participants can easily verify genuine owners of land in land-related transactions. It is the same purpose Larsson (1991) alludes to when he explains two basic historical reasons for land ownership record-keeping, which are: the need for the State to know all parcels of land for taxation or other fees; and the need for prospective land purchasers to get publicity for their acquisition of land, whilst de Soto (2000) makes reference to the same purpose when he emphasises the role of land registration in facilitating communication, information sharing, networking and transactions. The newly created Rwandan digital land register is effectively playing this critical role in various ways which are considered as follows.

##### **8.4.1 Easy access to land information**

Following LTR's completion, links are in place for all types of public land information registries, and mandatory checks are performed to ensure legitimacy of any transactions that

materially affect certain parties' land rights before they can be finalized. Inter-operability between the land register (LAIS) and the national ID project helps to ensure that claimants to land are genuine and that land leases and certificates are allocated correctly. Today, via an SMS, interested parties can have access to land information. For example, through SMS, one can ask for the owner, size and use of land as well as any encumbrances on the parcel of land without having to travel to the land office. This obviously reduces transaction costs in land-related transactions and, additionally, it would be difficult for potential land purchasers to be defrauded by unscrupulous people who purport to be the landowners when indeed they are not.



**Fig. 8.1.** Phone application developed to access real-time land information. (Photo: RNRA).

#### **8.4.2 Mortgage registration**

Mortgage register has been linked to the land register, which facilitates the verification of land ownership by mortgagees (banks and other financial institutions). Since May 2009, mortgage registration in Rwanda is done by the Office of the Registrar, a separate organisation from the one responsible for land registration and titling in the country. To reduce the risks associated with mortgage registration (where unscrupulous claimants can use forged land titles as collateral in the bank), an inter-operability ability through a web service



has been created between banks, Office of Registrar and the Land Registry. Today, before banks approve mortgage applications, they check electronically if the mortgage applicants are the real and genuine owners of the land they are using as collateral. Linking the banks' systems to the land register and the mortgage registration system has drastically reduced the risks banks were having: the banks are now confident that, in mortgage transactions, the mortgagor is the real owner of the property/land used as collateral and this is known before the loan is disbursed. LTR has also improved efficiency in service delivery as observed by a Bank of Kigali official: *“access to information is now easy and because of having one unique parcel number for each plot, it has reduced significantly the risk of registering a mortgage with more than one bank. Linking banks, the mortgage registration system and the land register have eased service delivery and made the whole process of registering mortgage quicker. No more queues.”*

When mortgages are registered by the Office of the Registrar, the Land Registry gets, automatically, an annotation that a mortgage has been registered on the parcel of land in question. The same thing happens when a mortgage is de-registered on a parcel. All this happens in real time. The number of mortgages registered has also increased since LTR. Although the increase in the number of mortgages registered is due to various factors including the increase in lending institutions at national level, the LTR programme has also been a very big contributing factor. Figure 8.2 shows how mortgage numbers have increased in the last few years.



**Fig. 8.2.** Number of mortgages registered. (Constructed based on figures from RLMUA, 2017).

### 8.4.3 Increase in land-based revenue collection

Until 2015, land-based revenues, including mainly land lease fees and fixed asset tax, were collected by districts. With the SLR exercise and subsequent titling, more land parcels are now taxed. Before this, given that a small proportion of land was registered, only a small number of land parcels were taxed. With the registration of all land in Rwanda, the number of land parcels on which land lease fees are supposed to be paid has increased and thus appropriate land revenue collections systems are needed to ensure that all revenue due is

paid. Given the magnitude of the task and the lack of capacity and experience in collecting land-based revenues for the majority of districts, the GoR decided to transfer land-based revenue collection to the Rwanda Revenue Authority (RRA), which has the capacity and experience in this matter. In order to ensure that the required land-based revenues are efficiently collected, RRA has created a web service linking their revenue collection system to the land register to ensure that every parcel where land lease and fixed tax asset is due is paid. With this interoperability in place, it is easier to know how much money has been generated and who has not paid, as well as identify gaps in tax and lease fees collection and mechanisms that can be used to broaden the tax base.

#### **8.4.4 Land dispute management**

According to LMUA, there were 10,700 land disputes recorded in the land register by the end of the demarcation and adjudication phase of the SLT in June 2012, and the majority of these disputes are mainly intra-family. There are also disputes on State land whereby individuals claimed ownership of State land and had it registered in their names. With the completion of LTR, there is now a comprehensive land disputes database. In order to facilitate information sharing, a web service is being developed to link the land register with the e-court system to allow the justice system to access all registered land-based disputes in the land register. This will not only speed up the information exchange, it will also enable the justice system to gain accurate and up-to-date information on land disputes, on the one hand, while on the other hand, it will enable the land registry to enforce court decisions in a short period. It also makes land disputes resolution monitoring clearer, as observes by the RISD Director: *“LTR has provided a clear framework for land disputes resolution.”* However, the land register does not provide a clear categorisation of land disputes, nor does it record overall figures of disputes which are pending or resolved, and so there is the need to undertake a proper assessment of existing land disputes (and their substance) that are before the courts and Abunzi and to determine how they can be dealt with more efficiently.

#### **8.4.5 State land management**

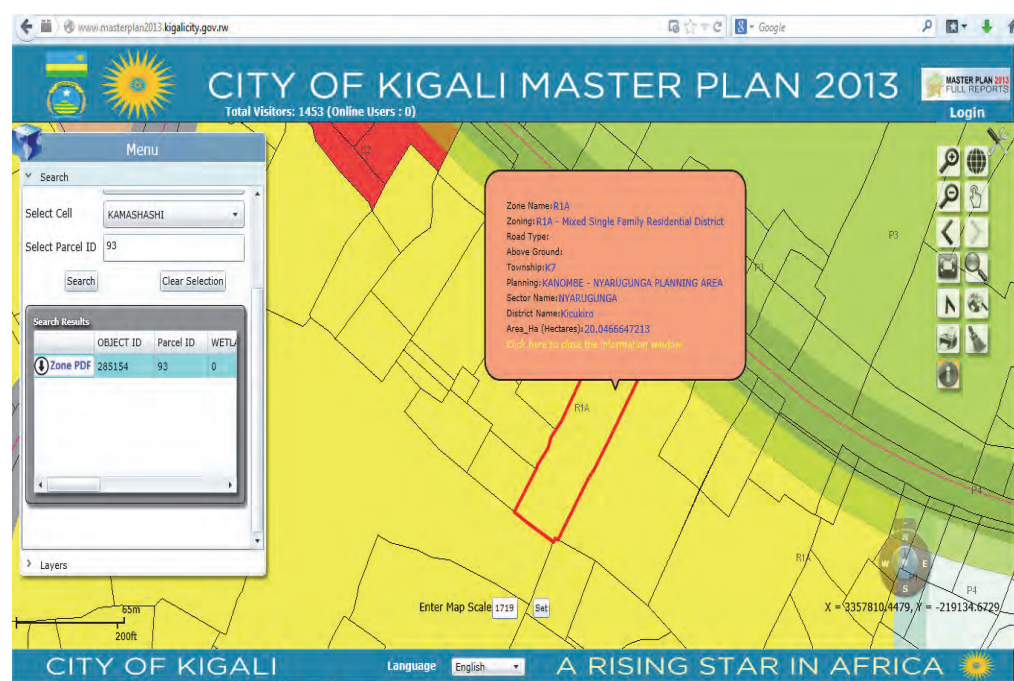
State or public land categories include lakes and waterways, national roads and feeder roads, land with public buildings, natural reserves and national parks, and wetlands. As indicated above, all State land was registered and titled during the SLR. All public land identified through LTR was registered and includes 379,398 State-owned land parcels (comprising 1309 km<sup>2</sup>) and 635,368 wetland parcels (comprising 1049 km<sup>2</sup>). However, due to lack of a State land ownership database and proper State land management, specific policies or strategies as well as adequate financial resources to manage public land, some of the public land was appropriated or “grabbed” during the LTR process. Some local people are claiming ownership over public land in some areas. Management of public lands was an issue also because it was often left in the hands of local authorities who often did not have adequate knowledge or sufficient resources to deal with this issue. With land registration, all public land is known and specific organisations and/or institutions are mandated to manage the land entrusted to them. It is expected that public land management would therefore be improved.

#### **8.4.6 Urban land development**

For the last decade, Rwanda’s urban areas, specifically, underwent fairly rapid economic growth. The urban economy is by far the most important employer in Rwanda in terms of per

capita income. This economic growth has led to rapid population growth in the city influenced by rural–urban migration as people move in search of better economic opportunities. As such, the urban population has grown since the late 1990s. This growth was, however, never matched with appropriate and timely planning, thereby leading to rapid, haphazard sprawling of the cities into the surrounding local areas.

The Economic Development and Poverty Reduction Strategy 2 (EDPRS) for Rwanda considers urban development, especially development of six secondary cities, as one of the main pillars the government should focus on to increase the country’s economic growth. In this regard, LTR results are already providing support to various cities’ development projects. With the cadastral data produced for the whole country, secondary cities and Kigali city are using the data to process planning permission applications. LAIS is linked to the cities’ building permit management information system, and every time an application for building permit is made, city planners have to check first if the applicant is the real owner of the land for which they are applying for a building permit. They would also check the size and land use of the plot before they can process the application. For city projects where compulsory acquisition is required (e.g. for road expansion), there is now a reliable cadastral and legal dataset that would facilitate knowing who owns what and what their legal status is, which is crucial information in compulsory acquisition. Other benefits of LTR in urban development include the availability of baseline data for land valuation and land surveying, monitoring land-use change and serving as the basis for urban planning, especially for secondary cities.



**Fig. 8.3.** Cadastral information supporting land-use planning. (From: RNRA).

## 8.5 Natural Resources Management

Results from the SLT and the cadastral data produced are currently supporting other sectors. The cadastral land information produced during SLR is considered as the backbone and key baseline tool in the development and management of other natural resources including mainly forestry, water and mining.

### **8.5.1 Forestry**

The LTR programme's results are contributing to efficient forestry management. Public and private forests have been identified through the SLR exercise. As a result, a national forestry cadastre has been created using cadastral data produced by the SLR exercise. This facilitates the authority responsible for forestry management in Rwanda to know the location and size of both State and privately owned forests. Given the GoR's forestry target of achieving a 30% forest cover by 2020, it is now possible to assess the gaps in forestry's plantation using cadastral information, and based on that, to identify areas that are less served in forestry, thereby facilitating the whole forestry planting and planning exercise.

Apart from facilitating the creation of the national forest cadastre, the SLR exercise has also brought up some issues over certain forest land, where the State and local communities have claimed ownership over the same area. Although the scale of the issue is not widespread, it does raise concern over how public land management was done prior to the introduction of the LTR programme. This is an area that needs further research to understand the nature of the issues and their causes.

### **8.5.2 Mining**

A mining cadastre has been established following the production of the national land cadastre. This is another important outcome of the LTR programme. The mining authority is now able to use the national land cadastre for mining purposes. With the unique parcel identification numbering system, it is now possible to identify what types of minerals are on what types of land and the types of rights associated with that land, which are all crucial for the mining authority.

### **8.5.3 Integrated water management**

Regarding water, a water management information system, including a water permit system, is being developed using the national land cadastre. Water catchment plans are currently being developed using cadastral data. Furthermore, plans are underway to see how both forestry and water can have one comprehensive management information system based on the cadastral data currently available.

## **8.6 Supporting the Agriculture Sector**

In its efforts to increase agriculture productivity through the use of agriculture inputs, the Ministry of Agriculture is distributing agriculture inputs using LTR results. Whereas before it was difficult to know whether all farmers who received fertilisers were owners of the land they claimed, today the Ministry and its agents are using land certificates to distribute fertilisers. Fertiliser distribution is now based on accurate information and this increases accountability. People now receive fertilisers based on their land size and after checking that they are the real owners of the land. Apart from increasing accountability, it also reduces any risk of distributing fertilisers to those who are not eligible.

Also, a web-based portal (Agricultural Land Information System-ALIS) has been set up as a resource that is used to support any investor interested in investing in agriculture. The platform provides information on land that is available for investment, size, tenure status and

rights associated with it, and it is envisaged that conditions and requirements for land acquisition will be added to that platform as well as soil composition. This will enable anyone interested to have more accurate, up-to-date and reliable information without having to travel and spend money seeking the same information. The use of ALIS makes investment decision-making quicker and ensures that planning is based on a definitive and reliable source of information.

## **8.7 Land Governance Monitoring**

With all land parcels mapped and registered, a land governance monitoring system is being developed to support various sectoral plans, increase accountability and transparency, respond to data gaps that have characterised the land administration sector, facilitate information exchange and assess the role of land in the country's economic development. Various indicators on land ownership (proportion of land owned by men/women), land markets data (land prices); land use types (residential, commercial, agriculture, industrial); and proportion of land under disputes are all available, and these are being analysed to inform policy formulation.

Land governance is also improving following the implementation of the LTR programme. Today it is possible to track how land administration services are being dealt with. For example, through the land query notification system, applicants for land administration services are able to track their application process. Unnecessary application processes have been eliminated by the use of a digital system, and this has improved governance and transparency in delivering land services. There is now clarity of roles of each institution involved in delivering land administration services. There are clear standards of operating procedures in place. Requirements including fees for service delivery are also known and are uniform across the country and published. This is different from the previous practices where clarity about who does what and requirements for land services were not clear and each district had its own way of delivering services and setting up their own requirements. The government is preparing for systematic monitoring to report various land governance indicators, such as disputes, transaction by type, mortgage and land-use change. With the availability of land information systems, this will become achievable.

## **8.8 Local Capacity Development and Knowledge Transfer**

It is estimated that by the end of the implementation of the LTR programme in August 2013, 110,000 people had been employed by the LTR programme, of which more than 99% were from local communities where the LTR work took place (RNRA, 2013). This is a significant portion of the entire Rwandan population. All these people were paid for the work accomplished and this would have significantly contributed to their livelihoods.

In addition, the LTR programme has significantly developed the capacity of local communities and other staff. For example, the entire demarcation committee (para-surveyors) were locally recruited and trained to read maps. Both men and women were taught basic mapping skills that enabled them to carry out the work successfully. Trained para-surveyors were subsequently tasked to transfer knowledge gained to other members of the team in other areas through training. It is important to note that these men and women were not university graduates; most of them had not even completed secondary school. University graduates who worked on the programme as GIS professionals were equipped with practical knowledge and skills that enabled them to be competitive in the job market. Today, many government and private agencies employ former GIS staff who were trained through the LTR programme.



At the international level, representatives from African countries have come to Rwanda to learn about the LTR programme. Some of these countries have embarked on or are considering doing their own LTR programmes using Rwanda as a best-practice country. Although Ethiopia started some land registration in some states, such as Amhara State, around 2002, and although some of the lessons learnt were applied in the design of Rwanda's LTR trial phase, that did not stop some representatives from other states in Ethiopia coming to learn from Rwanda's experience. As noted by one delegate from Ethiopia: *"We came to Rwanda specifically to learn from the country's experience. Rwanda has reached an advanced stage of implementing nationwide land registration. This time, we came to learn best practice, which we can apply in Ethiopia in the coming years."* He further remarked that *"registration methods used by Rwanda are unique, modern, efficient and cheap. We started our five-year project last year and next month we are going to start trials in Ethiopia using similar methodology to the one used in Rwanda"* (Kanyesigye, 2012). There is no doubt that there is value in exchange visits between projects and programmes in different countries and this is one of many examples.

Importantly, the LTR programme was able to identify gaps in skills with respect to land administration and management. When the programme started, there was no single university or higher institute (State or private) that offered courses in land administration as the programme heavily relied on technical teams from Kenya and Uganda. However, three universities in Rwanda are now offering land administration- and management-related undergraduate and postgraduate programmes. That said, these institutions suffer from a shortage of qualified academic staff. Consequently, they rely on partnerships with regional academic staff from the wider east African community. This is arguably an unsustainable situation that might affect the quality of education; in particular, the level of local expertise in the long run.

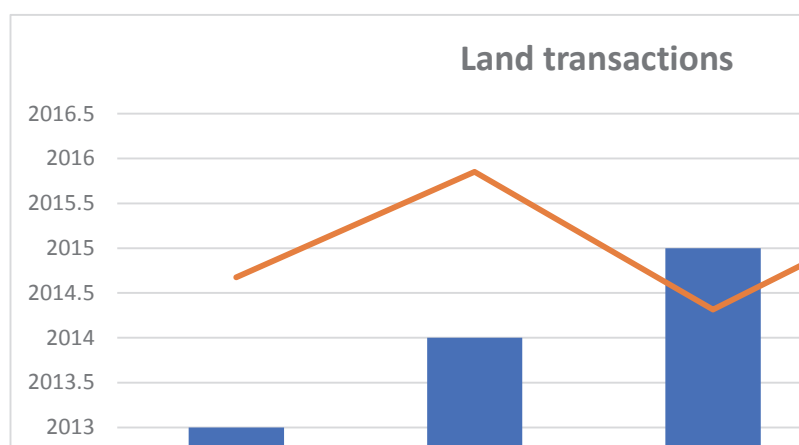
In this regard, Sifa Mupenzi, explains that the LTR programme has built her capacity in different ways. *"When land registration started in Nyamugali cell, Gatsata sector, one of the pilot areas, I was a cell coordinator, a none-paid job. I knew nothing about land registration. My role was to work with other local leaders in the adjudication committee. We worked with the team of para-surveyors and the exercise went well in our area. I was involved in the exercise throughout, I loved the job and the team leader suggested that I join a team of trainers to go and work in Mwoga cell, Kirehe district (another pilot area). My knowledge of the work increased and I was later promoted to be a field manager for an entire district. I went on to work in most districts across the country. Even when some Field Managers were made redundant, I was one of the few who stayed in the job. I understood my role well and my knowledge increased daily. I never went to university to study land management, I understood the practice and was good at mobilising local community. This made me who I am today. As an employee, I have managed to build a house for my family and I am paying school fees for my kids including one who is doing a degree in medicine. I would never have dreamed about all these achievements."*

In terms of other benefits, people now seem to understand the value of some professions including land surveying. LTR, through the SLR campaign, contributed in raising awareness of the land survey profession. Jobs have been created for land surveyors and as the survey profession grows, discussions are now underway on how to establish and regulate the profession in the country, as has been done for land valuation.

## 8.9 Land Market Development

The dynamics of land market have changed with the registration of all land in Rwanda. People feel more confident to buy and sell their land because there is a system in place to support and legitimise their transactions. Land registration seems to have increased the value of land and both landowners and potential land buyers would have more confidence in land because the rights and obligations associated with the land are known. LTR has also generated clear guidelines and standard operating procedures related to land transactions. All processes including requirements, time, fees and steps involved in transactions are publicly known. Institutions dealing with land transactions have been set up and are serving those interested. Clear policy and legal frameworks on land transactions are also in place and are being followed.

All these facilitate land transactions as they instil confidence in the market. In urban areas, for example, the construction industry is booming and LTR has to be commended for its contribution, as confirmed by a manager at Sports View Real Estate Development: *“Land registration programme is significantly contributing to real estate development. People who are interested in buying houses can now have access to credit because the houses they intend to buy have proper land documents issued by an authorised organisation; it makes real estate business more reliable and service are offered quickly. The programme seems to have also reduced land disputes.”* Looking at the number of transactions in Fig. 8.4, one can see that land transactions are taking place with the main type of transactions being buying and selling.



**Fig. 8.4.** Land transactions. (Based on figures from RLMUA, 2017).

## 8.10 Other Benefits

In addition to the benefits considered above, the LTR has additional benefits including:

- Cadastral data is being used to distribute solar panels in the rural areas. This is to ensure that the solar panels are given to the rightful house owners and the only way they can prove that they are the real owners is by showing the registered titles of the land they own.
- Jobs are being created for land surveyors and land valuers – both are professionals whose value was not known or understood properly by the public before LTR.

- Decision-making process and harmony between families. This is more evident when the husband and wife decide what to use their land for or when it comes to selling their land.
- LTR has improved the country's ranking in the World Bank *Doing Business* report. In terms of registering property indicator for the years 2012–2017, Rwanda ranks 4th (a very significant jump from 61st) in the world because SLR has made registering property quicker with fewer steps (only three compared to the average 6.2 steps in sub-Saharan Africa) and by 2017, the World Bank was giving the overall quality of the country's registry a score at 28 out of 30.

### **8.11 Conclusion**

In this chapter, the socio-economic benefits of the LTR programme in Rwanda have been considered and it is obvious that the benefits are enormous as the outcomes of implementing the programme are being used in various ways that are contributing to the economic development of the country. The impressive socio-economic benefits of the programme can serve as a motivation for other African countries to go the Rwandan route. The next and final chapter looks at the main key success factors that led to the SLR's success, which also serve as the key lessons to be drawn from the programme that would be useful for other African countries that desire to embark on similar land tenure reforms.

## Key Success Factors (KSFs) and Lessons

### 9.1 Introduction

Chapter 1 set the tone for this book by explicating: (a) some of the reasons why land tenure reform is taking place in different countries and why there is the need for an improved land governance; and (b) the importance of documenting Rwanda's land tenure reform programme. In chapter 2, the evolution of customary land tenure systems in Africa was discussed, in relation to explaining the existence of the current dual land tenure systems in African countries. The land tenure systems of Rwanda as a case study country were also considered. Chapter 3 was devoted to a treatment of the socio-political and economic justification for the tenure reform programme and the key exercises that were carried out as part of preparing the ground for the programme. Chapters 4 and 5 looked at the policy and legal framework (including the preparatory public consultations and LTR trials) and the institutional framework that were established, respectively, to support the land tenure reform programme in order to ensure its successful implementation. Chapter 6 concentrated on the work that was carried out in preparation for the full SLR roll-out and the process of the full roll-out. Chapter 7 examined the sustainability of the newly LAIS, whilst chapter 8 assessed the socio-economic impacts of the LTR programme.

The LTR programme as a whole, and particularly its SLR, is seen as one of the most thoroughly designed and ambitious interventions of its kind in Africa. The demarcation, adjudication and registration of over 11 million parcels, almost 40% over the initial target of 7.9 million parcels in about five years is a highly remarkable and unprecedented feat in Africa that deserves high commendation. This final chapter is designed to detail the main key success factors that led to the SLR's success, which, to all intents and purposes, also constitute the key lessons drawn from the programme.

### 9.2 KSFs and Lessons Learned

#### 9.2.1 Strong political will and ownership

Of utmost importance for the successful implementation of the Rwanda LTR programme was the strong political will and ownership that the Rwandan leadership showed throughout the implementation of the programme. From top government officials to local leaders, the programme received full support, which was of vital importance to ensure a smooth, effective and timely implementation. As noted by Byamugisha (2013), while development partners led by the UK's DFID provided funding in the range of US\$40million, the success of the programme in terms of speed, coverage and impact was clearly due to the government commitment to improve land administration and reduce land disputes. The President himself was involved. He was very supportive of the reform and was ready to listen and provide all necessary guidance and budget support, remarks Hon. Hajabakiga Patricia, former State Minister in charge of Lands and Environment. There was a deliberate choice to reform land management and land tenure in Rwanda through an informed process and technique that would also support environmental and housing development.

The political will was more practically oriented and flexible. For example, drafting and passing laws is generally a lengthy process but the government ensured that all required legal instruments were in place by prioritising the drafting of key land laws, decrees and the new land administration institutional framework that was needed to implement the OLL. In fact, since 2005, more than 20 land-related laws, decrees and instructions were passed including the OLL, which was amended in 2012 to accommodate new changes resulting from the LTR process. The speed and flexibility in changing the legal framework is highly commended.

A strong political will needs to go beyond the government's own agenda and accommodate the people's voice and the government should be open to listening to other ideas that may supplement the government's, even when it might need some compromises to be made on the part of the government. The GoR was proactive enough and recognised this fact, which is manifested in the words of the Director of RISD: *"Initially, it was not easy because everything was government led, however, when we were invited to give our thoughts, they were considered. I remember before the policy was formulated, we suggested some changes but the Ministry of Lands said it was too late to accommodate our changes because the draft policy had been sent to the prime minister's office. However, we wrote to the Prime Minister's Office and eventually our ideas were taken into consideration in the final draft policy."* The country was open to professional and technical input from a wide range of people as long as it would help the country achieve its ambitious LTR programme's objectives. Also, consistent support by the President enabled Rwanda's land registry team to remain focused on its core functions despite years of challenges. A former Deputy Director General of RNRA who is quoted in Schreiber (2017) observed: *"A key success factor was the high level of political will from the highest office in the country – the president himself supported the program...The political support from all corners of government allowed us to be innovative. We simply couldn't have achieved what we did without that."* Thus, the high political will coupled with the willingness and openness to professional and technical input from a wide range of people was a very important KSF.

Adopting such an inclusive approach where key stakeholders were consulted and relevant professional expertise was drawn upon contributed immensely to the successful implementation of a transparent land tenure reform programme. Political will has to embrace flexibility where the government is willing to learn, and additionally, political will which is expressed through an organisation management that understands what they want is important. In this regard, Rwanda seemed unique because not only they had a high level political will but this was noticeable in the senior management of the NLC. They understood their sector very well and were committed. The NLC and RNRA closely monitored the support team's performance and attended weekly LTR management meetings. This gave them the opportunity to discuss any issues: as noted earlier, they took quick decisions based on lessons learned either in the field or in the office-based work. This made the whole process possible because people who led the programme understood it well and were committed to doing a great job: they owned the entire process.

### **9.2.2 Piloting the SLR**

Piloting the SLR, which was one major component of the LTR programme before its full national roll-out, was very important. The trials gathered a set of information and details that helped to understand prevailing situational analysis on the ground in four distinctive regions of the country. They also helped to assess the magnitude of the task and define the type of resources that would be needed to implement the programme in the whole country. The pilot



phase helped in designing the whole country's programme and documented lessons during the trials were used to design the full roll-out through the SRM. This SRM guided the roll-out of the SLR programme across the country.

### **9.2.3 Implementing the SLR on a project basis**

Running a SLR programme on a national scale requires a lot of effort and flexibility. Even though the GoR, through NLC and then RNRA, proved to be on top of the programme in driving it, having a privately led project to support the GoR in implementing the programme was vital. However resourceful, willing and committed the GoR was, running the SLR programme on a project basis (at least the field operations) was important. The HTSPE team had more flexibility in terms of, for example, procurement and recruitment at short notice without having to go through lengthy government procurement procedures.

### **9.2.4 A decentralized land administration institutional framework**

The decentralised land institutional arrangement set up in Rwanda played a key role in the successful implementation of the SLR. Land committees operating at the grassroots levels were within reach of every landowner. Most SLR phases, including title issuance, took place at the grassroots level and this increased community participation. Further, beyond SLR, this institutional framework has significantly improved land service delivery, with the majority of land disputes being resolved at a lower level and land transactions and titles issuance being handled at local level (sector and district). Landowners no longer need to travel long distances or pay large sums of money to get a land-related service. In addition, problems occurring in one zonal office (such as power cuts or server malfunction) would not stop work elsewhere, and any interruptions to the work could be supported by other offices at short notice. Decentralising land institutions is of key importance. However, these must be well resourced to ensure that they can deliver effectively.

### **9.2.5 Nature of the land tenure system**

As discussed previously, land in Rwanda is held on a long-term lease (between 15 and 99 years) or a freehold basis. This is the case with agricultural land, whereas other land, for example, built-up land, commercial land and industrial land, can upgrade from leasehold to freehold, subject to meeting certain conditions related to development made on the land. Having straightforward tenure systems contributed in making the LTR process easy and quick. In countries such as Uganda, where land tenure systems are diverse and complex, a large-scale LTR Rwanda-type of programme would be difficult to implement. Apart from having easy tenure systems to regularise, Rwanda also benefited from the fact that the programme started from scratch regarding policy, law and institutions, etc. Sometimes it is difficult to change what is already in place, especially for large-scale programmes.

### **9.2.6 Size of the country and its homogenous character**

Often, country size is not mentioned as a key factor in successfully implementing LTR-type projects. Rwanda's LTR programme implementation pace depended on various factors including the country's size. Although the entire field operations were decentralised at district and zonal levels, it was possible to provide any management, technical or logistical support from the national level quickly. For example, it was quicker to send IT or GIS technical

support staff from Kigali to provide technical support that was needed at the zonal levels within a few hours from the time the request was made. Broken cars were quickly replaced in less than a day and, most importantly, senior LTRSP and RNRA managers could make field visits to all districts to see how the programme was implemented and provide their support where needed on a regular basis. Thus, in implementing large-scale LTR projects, it is important to ensure that management support systems are established in advance. However, in implementing the same programmes in large countries such as Ethiopia and Tanzania, management, technical and logistical support systems need to be established at decentralised levels, otherwise it would be time-consuming, costly and ineffective to provide this support from a centralised system.

Furthermore, the homogenous nature of the country (same language, same culture and no multiplicity of ethnic groups with their own specific systems) was a positive ingredient in designing and implementing the LTR programme. In countries with multiple ethnic groups, multiple languages and multiples systems and different cultures, designing LTR-type programmes is difficult, time-consuming and expensive.

### **9.2.7 Stakeholder engagement and communication**

The successful implementation of the LTR programme (mainly the SLR) required concerted efforts from a wide range of stakeholders, from government institutions, private sector, NGOs to local community and beneficiaries of the programme. All stakeholders (NGOs and civil society organisations (CSOs) grouped under the Land Net Rwanda chapter, government organisations, private sector and the general public) were all consulted during the preparation of the LTR programme both at inception (preparation of the land policy, land law and other laws) and during the SLR. Once all key stakeholders were identified, some activities of the programme were devolved to other organisations other than the leading government institutions. For example, realising that women needed more awareness in terms of their land rights and land registration programme, some organisations supported the programme by increasing awareness programmes specific to women whereas others like Rwanda Initiative for Sustainable Development (RISD) and RCN focused on training local land committees and local mediators on land dispute resolutions and land laws. Furthermore, other organisations like the World Bank and USAID Land Project focused on carrying out research and evaluation projects whose output would inform the effective implementation of the programme or suggest new policy actions. All this was done in harmony with other programmes to ensure effective use of resources. Regular meetings were held between the leading government organisations and all stakeholders to ensure effective planning and coordination. For instance, when public meetings introducing the LTR programme in various sectors were held, organisations working on raising awareness amongst women were invited to hold specific meetings with women.

In addition to engaging the stakeholders in various activities of the programme, relevant efficient communications channels that were specific to each type of stakeholders were adopted. In this regard, meetings were held with all members of the land sub-sector groups to discuss the programme's update, challenges and plans. During the trial land registration phase, monthly newsletters were also written and distributed to all key stakeholders to ensure everyone involved was informed on the programme's progress. Field visits with stakeholders willing to visit the field were also organised which were more frequent during the pilot phase when the methodology for the entire programme was still being developed. Visiting delegations were encouraged to provide their inputs.

At the grassroots level, however, different communication channels were used. An effective, adequate and timely communication strategy is paramount in achieving public acceptance, buy-in and participation. Communication messages must be clear and ensure that all levels involved are considered. Communication must be considered at every level with a clear and measurable set of objectives. Conventional media such as TV, written press, radio broadcast messages, workshops, public meetings, word of mouth and social media were used to ensure that everyone was informed. Churches and other community gatherings such as markets were used to communicate LTR messages. All these communication channels and messages conveyed through them were adapted to ensure that there was no misunderstanding and that gaps were dealt with accordingly. Regarding issues where there was no clarity, they were avoided during the communication and awareness campaign. This was done in order to avoid the confusion the message might generate. For example, although it was known that at some point, registered and titled landowners will have to pay a lease fee, as required by law, this message was not delivered before people understood the value of land registration. Hence, message sequencing is very important.

Identifying key stakeholders and determining their roles prior and during the SLR is very important and must be encouraged. Good political will and financial resources on their own are not enough for a successful implementation of the type of Rwanda's LTR programme. Stakeholders have a huge role to play but they must be well-coordinated and, where necessary, guided to ensure effective results are attained.

### **9.2.8 Use of modern technology and open source software**

The use of technology at different phases in the SLR programme is seen as a contributing factor to the success of the programme. The SLR has demonstrated that the use of open source software for data processing for large-scale projects is possible. This helped to reduce the financial burden that comes with the use of commercially licensed software, even though sometimes the combination of both open source and commercial software is essential to ensure maximum result. For example, *“the batch processing of cadastral extracts (the parcel map shown on each lease certificate) was possible through a combination of commercially licensed map production software, an open source software plug-in, and a series of automated procedures built into the lease production engine based entirely around open source principles. A purely open source, or purely commercial solution would have been inadequate, inefficient, or would have required substantial software development time. By combining the two approaches, a simple and elegant solution was developed which required the minimum amount of training and investment”* (RNRA, 2013, p. 32). Land administration in Rwanda has moved from using analogue to digital land register. For legal or textual data, a maintenance database commonly known as land administration information system (LAIS) has been developed based on the SRL programme. LAIS is a digital land register that deals with daily land transactions related to land ownership. By digitally maintaining all information concerning land ownership in Rwanda, it is increasing efficiency and transparency, and is significantly reducing transaction costs and time. As a result, significant space is not required to store land-related documents and records. As for spatial data, open source software is being used to handle all cadastral information.

To reinforce the land administration systems and land mapping, Rwanda has established eight modern GPS continuous operating reference stations (CORS) that cover the entire country. However, as much as technology is good and praised for modernising the land administration system, proper safeguards and mitigation measures must be put in place to deal with the

adverse consequences of IT systems when they occur. Resources and capacity needed to deal with IT threats must be put in place in land registries.

### **9.2.9 Affordable land registration technique**

Recognising that the SLR was aimed at regularising landowners' rights, the GoR opted for an affordable technique that would help in: (a) regularising land rights; (b) recognising land parcel boundaries as they existed on the ground at the time of registration; and (c) simple technique which would be easily understood by landowners. The land demarcation using *general boundary* technique worked very well in attaining the registration results and the local community bought into the technique. Survey standards that require very high precision are difficult and expensive to implement yet they are not essential in recognising people's land rights. If precision is important, this can be done on a sporadic basis post-recognition of land rights. This is the case for urban areas in Rwanda, where there is a shift from *general boundary* survey to fixed boundary survey on a sporadic basis. This is happening after land rights recognition and interested parties are bearing the cost. Should precision have been a priority during the SLR, the former would not have been completed by now. The time would have been endless and the cost of the programme would have been beyond imagination.

### **9.2.10 Increased community participation**

One of the SLR's KSFs is the community participation. The LTR's participatory approach made people feel empowered and there was a sense of ownership amongst people. As people participated through SLR processes, they showed confidence and a sense of ownership given their active role, especially during AD and O&C phases. All these phases were led by local communities, with some technical support from field managers or surveyors. The more the community understood the importance of registering their land, the more they were committed and bought into the programme. SLR was labour-intensive and without the communities' participation it would have taken years to complete. The adjudication committees, cell and sector land committee members and the entire para-surveyor team were members of the community. This boosted the community's participation. The local community ought to be given priority in determining their needs and must be enabled to take part in contributing to their own development or finding solutions to their own problems. The SLR programme is an evidence of this.

### **9.2.11 Value for money**

The high cost of land registration constitutes a serious bottleneck in many countries. Through the SLR programme, Rwanda demonstrated that with reasonable technology, it is possible to carry out a national land registration programme at a low cost. The Rwanda SLR programme is considered to be one of the cheapest land registration programmes of its kind. The cost of about US\$8 to individuals to register a parcel enabled the majority of landholders to afford land registration, thereby ensuring that a complete record can be maintained by the land registry. In comparison to other countries where land registration costs were judged to be "*cost-effective and low*" (Byamugisha, 2013), namely in Ghana, Uganda and Thailand where pilot land registration exercises took place, fees in Rwanda are by far the lowest as seen in the Table 9.1.

**Table 9.1.** Cost of land registration for selected countries.

Country	Estimated cost per parcel (US\$)
Rwanda	7.69
Kyrgyzstan	10.55
Armenia	13.35
Indonesia	16.30
Uganda	23.00
Thailand	25.00
Ghana	32.00
Moldova	46.41
Lesotho	69.00
Mozambique	88.78

(Source: RNRA, 2013, p. 26; Byamugisha, 2013, p. 9)

It is important to note that the cost of registering a parcel of land in Rwanda (as mentioned above) included the cost of aerial photography that was used for parcel demarcation. The orthophotos had already been commissioned by the government as part of the national land-use planning process. Although the registration fee is considered low and affordable, some landowners, especially in rural areas, were not able to collect their land certificates because they had not paid the registration fee. People were permitted to register their land and settle the outstanding registration fee at the collection of their land certificates. The low rate of land certificate collection led the GoR to waive the registration fee for those who could not afford it. Landholders identified by cell-level *ubudehe*<sup>8</sup> lists as being among the poorest tier of households in Rwanda were listed and allowed to collect their lease certificates without paying the registration fee. Establishing a fair and affordable land registration fee structure is very important.

### 9.2.11 Teamwork

During the SLR, there were three key players in the programme whose relationship was key in leading to successful results of the programme. These were the GoR (NLC and later RNRA), DFID (the main donor) and the HTSPE team (LTRSP). The openness and collaboration between the leading donor agency (DFID) and the RNRA's leadership as well as the LTRSP coupled with safeguards that had been established contributed to effective use of the resources that were allocated to the programme. Developing a healthy professional relationship between the excellent RNRA leadership and all parties was essential to ensure that all parties' specific tasks were aimed at achieving the same objective.

Furthermore, DFID's decision-making process was the one that enabled flexibility. In many cases, the person responsible for the programme was given full responsibility as power was

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<sup>8</sup> *Ubudehe* is a poverty categorisation scheme used in Rwanda. People are categorised on *ubudehe* list based on their level of poverty and this list is prepared by the community.



devolved to the Rwanda's DFID country office. In addition, it was very important to have a DFID counterpart who had a very good understanding of the programme. The achievements realised clearly resulted from mutual respectful and strong professional relationship which was built between the RNRA, donor organisations and the LTRSP team. There were regular donor forums where donors involved in the programme would meet to be briefed on the progress, financial reports, challenges being faced and strategies proposed. A donor-backed fund for the LTR programme was also established and DFID was responsible to ensure that every single penny spent on the programme was accounted for. This donor harmonization approach was essential as all donors involved in the programme worked together and this approach helped in achieving the programme's objectives as well as effective resource management. When all parties involved in this kind of programme work as a team, it makes the work a lot easier. The triangular relationship is, therefore, very important in implementing this kind of programme.

### **9.2.12 Speed of the programme**

As noted earlier, there is no doubt that the completion of demarcation and registration of over 11 million land parcels from 2009 to 2012 covering the whole country is a huge milestone considering the nature of the work. Some operations were done in day and night shifts to ensure things were done expeditiously. By the time parcel demarcation was completed in June 2012, about 8 million titles had been issued to landowners. Although this can be commended, the rapid and target-based data collection resulted in some errors, and in some areas poor data quality. This meant that resources were allocated to ensure that data cleaning was done and errors rectified. Some errors continued to be rectified even after the completion of the demarcation and adjudication periods. Although the level of errors made (those known so far) would not jeopardise the quality of the programme's overall results, quantity and quality should be given equal attention and one should not suffer at the expense of the other. Safeguards to ensure both are attained with the minimum errors need to be established at every stage of the process.

### **9.2.14 Maintenance/sustainability of newly created land register**

Large-scale SLR programmes are very demanding and often the focus and priority is given to first-time registration and less on the maintenance of the land register post-first registration. While it may be difficult to know the form the maintenance system would take prior to the commencement of the first registration and how people might respond to it, it is paramount to ensure that the preparation of a system to maintain the land register starts as early as the first registration. This is because maintenance of the land register needs as much attention as first registration. It is, therefore, essential to have a comprehensive project plan for first registration and business plan for maintenance of the land register after first registration. This is something donor organisations need to embrace while designing their support programmes to LTR types of projects. LTR is not a "one-off" process. Where maintenance systems are proven to take long to operationalise, an option should be provided to ensure that land transactions are recorded and that its data is kept safely and recorded in a manner that would be easy to migrate once the maintenance system is ready. It would be a waste of time and resources to carry out a large-scale land registration programme without a system to maintain the land register post-first registration.

In Rwanda, it has been a process of evolution and continual improvement. After the initial analysis, political support and ground-setting through legal changes and institutional building,

the survey, demarcation, adjudication and registration took place, and there has been a continual evolution and improvement of the system as lessons are learnt. However, it is vital to plan in advance. There has been a bit of a time gap as staff were overwhelmed by first registration, and less attention was given to maintenance/sustainability issues. There was the need for mechanisms to be put in place in advance to ensure that the maintenance system was ready as soon as title issuance started to ensure that any subsequent land transactions that then take place are dealt with through the maintenance system.

Land register maintenance should go hand in hand with communication. Landowners must be fully informed about what happens once they have their lease certificates. The message should be clear. A specific information and awareness campaign should be organised as soon as first land registration is completed and during title issuance. The message must cover, for example, what people have to do when they have certificates and want to sell, bequeath, donate, mortgage and exchange land; where to go; and what cost to pay. This is paramount to ensure that informal transactions are reduced and avoided where possible.

It is, thus, important to get the newly created system accepted and used – this should be a higher priority initially than recovering costs. The public acceptance and use of the new system and transaction levels have to be carefully monitored so that appropriate strategies can be designed to maximise uptake and use. Evidence of use is crucial – accurate monthly transaction figures are needed for monitoring and studies to show the use of the formal system in order to make meaningful strategic decisions regarding services and pricing. Designing a system for maintenance has been challenging in Rwanda without knowing the eventual demand for its use. Monitoring output will allow changes to be made when necessary. Data security is non-negotiable and data quality has to be given a high priority as users must have total confidence in the land register.

Adaptability and flexibility in delivering the new system and high-level government support are essential. A robust procedure based on cooperation for addressing identified risks and issues with government support where needed (for example Ministerial decisions) is essential to allocate responsibilities and resources quickly and to implement solutions. A registration system under the control of a single organisation is most efficient but if management is spread over multiple organisations (or levels of government) in Rwanda, robust agreements, procedures and lines of communication should be introduced so that any inconvenience and problems do not affect the quality of service to the end-user.

Annual independent reviews, research and evaluations while the system is developing can provide valuable support and guidance. The volume and range of reports, reviews and studies can be overwhelming and seemingly counter-productive at times. Managing these inputs carefully to get best use from them is important and a knowledge-management system in which all such references can be stored and managed will be a helpful management tool. Technology can be a big help and it is an essential tool. An IT strategy is a valuable resource for guiding development in a way that is secure and scalable.

### **9.2.15 Clear policy and legal framework**

It is important to have a clear policy and legal framework to guide any type of land tenure reform, but it is equally critical for the development of such a framework to be informed by practical evidence-based information. For the case of Rwanda, apart from the organic land law and the national land policy, all the secondary legislation that guided the LTR processes were developed based on the results from field consultations and trial land registration

exercises. In this case, the legal framework was based on real issues and informed by solutions that had been tried. This, in a way, made the implementation of the law and policy easier. The lesson in this regard for countries that are willing to embark on an LTR-type reform is that it is possible to start the process without all the required legal instruments. Field trials of processes, techniques and technologies coupled with stakeholders and public consultations can provide the right foundation for the implementation of LTR programmes.

#### **9.2.16 Mutual accountability**

During the SLR, RNRA and development partners who co-funded the programme with the Government of Rwanda were kept informed on how their support money is being used. Through the consultative forum, quarterly meetings were held between RNRA and development partners where SLR progress was presented including financial status reports against achieved results. Challenges field teams were facing were also discussed as well as solutions adopted to tackle them. In addition to quarterly meetings and reporting, development partners made regular field visits to witness the progress on the ground. This gave them hands-on experience as one of them said: *“When I started working on LTR programme, I did not know much about reform, by the time field demarcation ended, I had become an expert in the area. Our open interaction with Government officials leading the reform and our regular field visit, discussion of challenges and solutions provided me with a breath of knowledge I did not have before. And this knowledge gained facilitated our interaction with all counterparts and stakeholders.”* As much as land reform programmes are owned by government, mutual accountability with whoever is financially or technically supporting such programme is very important.

#### **9.2.17 Continuous monitoring**

The SLR benefited significantly from regular mid-term reviews, which were planned as part of the programme implementation. Recommendations from the reviews were carefully considered and, as a result, significant changes were made including, for example, the review of the programme’s overall results framework. In addition, independent evaluations were carried out with particular focus on the SLR processes. Given the pace of the programme, there was a risk that its speed would jeopardise the registration procedures and legal processes as well as the capacity of institutions to deliver the programme effectively. Recommendations from such independent evaluations were generally adopted. A lesson for other countries would be to encourage independent evaluations from the outset to ensure that changes in procedures and documentation mirror the reality on the ground.

### **9.3 Conclusion**

This concluding chapter has catalogued the KSFs that contributed immensely to the highly successful implementation of the SLR programme and, for that matter, the lessons drawn from the programme. In particular, government buy-in, ownership, political will and commitment throughout the entire programme proved to be essential for its successful implementation. This political will attracted the donor community to pledge their financial support for the programme. The political will was so strong that even at a stage where some donors, who had initially pledged their support, were reluctant to provide such support when it was needed due to the government’s request for changes to timeline of the project implementation, the government demonstrated its high commitment to the programme by

providing its own funding for the initial registration of over one million parcels, which then made such donors to have a rethink and reaffirm their pledge to support the programme. Such a high political will exhibited by the GoR deserves high commendation since in most African countries analogous programmes or interventions commenced by governments do not achieve the desired objectives due to lack of political will. Thus, the importance of high political will in the implementation of programmes of this nature cannot be over-emphasised.

Such political will and other lessons considered in this chapter would be invaluable for other countries, especially Africa, that would want to embark on similar programmes. Admittedly, countries' contexts are different from one to another. However, these lessons can still be worth considering when designing any low-cost land registration projects.

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# Rwanda's Land Tenure Reform

## Non-existent to Best Practice

Thierry Hoza Ngoga

*Rwanda's Land Tenure Reform: Non-existent to Best Practice* provides a detailed account of how Rwanda managed to systematically demarcate and register all land, comprising over 10 million parcels within five years.

This book:

- Provides a detailed account of how Rwanda built a land administration system that is now internationally viewed as a model of success for implementing a complex land reform programme in the developing world.
- Considers the ways in which land tenure reform has contributed to the country's development beyond the land sector.
- Discusses how Rwanda's example can be followed by other countries wishing to embark on similar programmes of designing and implementing a nationwide land tenure regularisation programme.
- Provides key strategic orientation to achieve a sustainable land administration programme.

Offering a comprehensive narrative of the land tenure reform programme from inception to implementation, this book will be important reading for policy makers, land administration professionals, academics and development partners working in land administration and land tenure programmes in developing countries.

**Thierry Hoza Ngoga** is a land development professional with special focus on land administration, land tenure and land use planning. He worked on Rwanda's land tenure regularisation reform programme for over 12 years in various capacities, most recently as Head of Land Technical Operations overseeing land use planning, land surveying and the land administration information system. He is currently working on land development issues, focusing on building institutional and policy development in several African countries.