

Enhancing Inclusiveness of Rwanda's Land Tenure Regularization Program: Insights from Early Stages of its Implementation

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Summary. — This study aims to give practical and evidenced-based recommendations on Rwanda's Land Tenure Regularization Program (LTRP). The LTRP in Rwanda has profound social and economic implications for poor rural households in the entire country, and it also provides lessons for other countries in the African region currently undergoing land tenure reform. We used a gender sensitive analysis to investigate outcomes of the LTRP during its early stages, including the gendered patterns of titling, perceptions of tenure security, and inheritance, and examined the extent to which the program and its processes can be enhanced with a public awareness-raising program.

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1. INTRODUCTION

Over the past decades, the rural poor in East Africa, and particularly rural poor women in the region, have seen their rights to land further weakened by severe conflicts, the HIV/AIDS epidemic, economic transformation, rural–urban dynamics, and a series of land reforms to register land (Englert & Palmer, 2003; Lund, 2000). These reforms have often resulted in increased land concentration and have been especially harmful to women in cases where land was registered under the male household head causing “a further erosion of the marginal land rights many women held under customary tenure” (Englert & Daley, 2008, p. 5).

Yet the impact of these reforms has not been homogenous. The Kenyan reform, which started during colonial times, appears to have been unambiguously detrimental to women (Englert & Daley, 2008; Nyamu-Musembi, 2008). The reform in Tanzania is more recent, making it harder to assess its full impact, particularly in the absence of sex-disaggregated data, but recent studies suggest that it may have improved the tenure security of some women (Daley, 2008; Englert, 2008). Finally, a severe impasse in the implementation of Uganda's Land Act, prevents any empirical assessment of the impact the reform might have on women and the poor (Adoko & Levine, 2008).

This paper aims to contribute to a rigorous assessment of the impact of Rwanda's Land Reform. After decades of civil conflict, Rwanda has emerged as a model for other African countries: GDP growth rates have ranged between 3% and 11% since 2002, governance has been marked by a strong anti-corruption ethic, and Rwandans have shown a remarkable commitment to unity and peace (USDS, 2012). However, land pressure in Rwanda is among the most severe on the continent, with the average family farm size a mere half hectare (USDS, 2012): 90% of the citizenry participates in agriculture, population density, and population growth rates are high, and populations displaced by the Rwandan Civil War and the First and Second Congo Wars have begun to return, creating competing claims to individual parcels. The Government of Rwanda recognized that alleviating post-conflict tenure insecurity and

disputes over land is critical to nurturing peace and promoting economic growth. Toward that end, the government instituted a land law, a new land policy, and a nationwide program to formally document the property rights of landholders.

In 2007, the Government of Rwanda's, National Land Center launched the Land Tenure Regularization (LTR) program. This national program has often been cited as one of the most ambitious of its kind in Africa (Ali, Deininger, & Goldstein, 2011). While the government's commitment to document roughly 11 million parcels within a short timeframe is laudable, there are concerns that measures to ensure that vulnerable groups, like women (especially widows, women in polygynous marriages, and women in non-registered marriages) and children (especially orphans), are fully aware of their rights and engaged in the regularization process may have been undertaken only in a limited fashion.

We employ a gender-sensitive research framework to assess the extent to which men and women have participated in the LTR process, the likelihood that their rights have been formally documented on land titles,¹ their gains in perceived tenure security, and inheritance patterns. We also analyze how these outcomes have been affected by an intervention piloted by CARE International Rwanda (CARE), in partnership with the National Land Center and local NGOs, where they combined local capacity building, awareness-raising campaigns,

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and public dialog events in an effort to ensure that the LTR program formalized land rights in a socially-inclusive manner.

2. RWANDA'S LAND TENURE AND ITS LAND TENURE REGULARIZATION PROCESS

Previous attempts at land reform in 1967, 1978, and 1997 were largely unsuccessful (Polavarapu, 2011). The existing land tenure system was fragmented among diverse customary systems and a minority system of formal titles that had been issued under the German and Belgian colonial regimes (Sagashya & English, 2010). Additional challenges were posed by the settlement of returning refugees and by a historic bias against equal land ownership and inheritance rights for women.

Beginning in 1999, however, the Government of Rwanda (GoR) passed a series of laws, regulations, and policies designed to reform its land tenure system, with a focus on developing a system that promoted peace, economic development, and paid special attention to gender equality. The primary components of the new legal framework are the Rwandan Constitution of 2003 establishing the right to private property as inviolable (GoR, 2003), the National Land Policy adopted in 2004, and the Organic Land Law (OLL) of 2005. The National Land Policy was developed to provide Rwandan citizens with general guidelines for efficient use of land resources. It emphasized tenure security, focused on the elimination of all forms of discrimination in access to land, included guiding principles for managing and administering land, and called for a new legal mechanism to implement them properly (GoR, 2004).

The ensuing Organic Land Law determines the use and management of land and represented a major commitment to creating a single, unified system of land tenure. While the State retains the right to manage the land, the law vests the land in the people of Rwanda, recognizing rights to land acquired by custom (the majority of the land), from a competent authority (including land allocation which was common after the war), or by purchase (GoR, 2005a).

An extensive period of research, public consultation, and a series of pilots supported by the United Kingdom's Department for International Development (DFID),² helped shape Rwanda's LTR process, a process that consists of nine inter-related administrative and legal procedures (Sagashya & English, 2010):

- (1) Notification of areas for an LTR program.
- (2) Local information dissemination through public meetings, with a particular focus on informing women and other vulnerable groups about the process.
- (3) Appointment and training of local citizens to serve on Land Committees responsible for demarcation and adjudication.
- (4) Demarcation of land using a participatory process to mark boundaries on photographic images of the area.
- (5) Adjudication, recording personal details of claimants as well as persons of interest, issuing claim receipts, and recording objections and corrections when needed.
- (6) Publication of adjudication records and compilation of a parcel index map.
- (7) Objections and corrections period to finalize the record and disputant lists.
- (8) Mediation period for disputes.
- (9) Registration and titling when title documents are prepared and issued.

The Rwanda Natural Resources Authority publicly announced that by January of 2012 it had demarcated and adjudicated 93% of all parcels and had issued 1.7 million titles

(Lands Rwanda, 2012). While this is an impressive result, a thorough assessment of the reform requires that we examine how socially-inclusive and gender-sensitive the process has been.

The OLL makes efforts to ensure gender equality. It prohibits sex-based discrimination on rights to own or possess land and, in its Kinyarwanda version, it grants men and women equal rights over the land (GoR, 2005a). However, a now-revised English translation of the OLL widely cited during the land tenure regularization process mistakenly stated that the law granted husbands and wives (rather than men and women) equal rights to land. This unfortunate translation may have affected local officials' and communities' understanding of the land rights of women who are not legally married and their children.

Furthermore, women are more likely to gain rights to land through marriage or inheritance and those rights are defined by the Matrimonial Regimes, Liberties, and Succession Law (MRLSL) of 1999, not by the OLL. The MRLSL recognizes only monogamous civil marriages (GoR, 1999), leaving women in polygamous households and those who are cohabiting with no formal rights to land. And, while the MRLSL gives legally married women rights to a share of family land through three marital regimes: community of property, limited community of acquests, and separation of property, it is only under the default regime, *community of property*, that spouses have "joint ownership of all their property, movable as well as immovable, and their present and future charges" (GoR, 1999).

Women may also be limited in their ability to inherit land. The MRLSL gives daughters the right to inherit land equally at parental death, but most land is gifted to children while parents are still alive (Lankhorst & Veldman, 2011). In this case, the law states that daughters should not be discriminated against but it does not require equality (GoR, 1999).

Moreover, a seemingly gender neutral restriction of the OLL prohibiting the division of land holdings smaller than one hectare (GoR, 2005a), can further affect women because when families are limited to choosing one heir, they are more likely to choose a man.

3. PILOTING A MODEL OF PUBLIC AWARENESS AND DIALOG

While the underpinning legal framework is essential, the full impact of a land reform depends also on whether it unfolds in a socially-inclusive and gender-sensitive manner. Unfortunately, ambitious land tenure regularization processes that focus on reaching large numbers of households over a short period of time run the risk of failing to include, recognize, or fully document the rights of groups that are in a more vulnerable position, including women. It was therefore essential for the LTR process to successfully reach rural poor men and women throughout: ensuring they had good access to information, that they were appointed to the land committees, that the demarcation and adjudication activities did not unintentionally discriminate on the basis of wealth or gender, that everybody could present objections, and that there was no bias in how corrections were handled or on how documents were issued.

Thus, acting on its longstanding interest in ensuring that the rights of vulnerable groups are fully included in land regularization efforts, Landesa partnered with CARE to test a scalable model of public awareness and dialog that CARE had piloted in partnership with the NLC, the District of Musanze, and local NGOs.

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