

# **THE IMPACT OF LAND LEASE FEE ON LANDOWNERS: RWANDA CASE STUDY**

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## I. Acknowledgement

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Last, and in no way the least, great appreciation goes to the GIZ, Action Aid Rwanda and OXFAM for the financial support to this study, which is the first one of its kind in Rwanda, and hope that this piece will contribute to the ongoing Land Tenure Regularization Program (LTRP) in Rwanda, and to the regional lessons’ learned in the area of land policy implementation processes. In particular, this piece of work should be viewed as a contribution to the current pro-poor land policy initiatives both in Rwanda and regionally.

My sincere appreciation and apology goes to those people who particularly extended tangible assistance to the study and are not mentioned herein. Our **“Pride”** is, **“Together, the poor and Vulnerable will have access to Equitable Land Rights and use”!**

**Annie Kairaba (MA)**  
**Director RISD**

## II. List of abbreviations

CPI	:	Consumer Price Index
GDP	:	Gross Domestic Product
GIZ	:	Deutsche Gesellschaft fuer Internationale Zusammenarbeit (GIZ) GmbH
GoR	:	Government of Rwanda
LDMP	:	Land Dispute Management Project
LTRP	:	Land Tenure Regularisation Programme
NISR	:	National Institute of Statistics of Rwanda
NLP	:	National Land Policy
OGRR	:	Official Gazette of the Republic of Rwanda
OLL	:	Organic Land Law
RNRA	:	Rwanda Natural Resources Authority
VUP	:	Vision 2020 Umurenge programme (VUP 2020)
RISD	:	Rwanda Initiative for Sustainable Development
SPSS	:	Statistical Programme for the Social Sciences
MINAGRI	:	Ministry of Agriculture

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## IV. EXECUTIVE SUMMARY

Although Rwanda is making significant economic progress with inflation considerably curbed at 5.0%, the country's economy remains dependent on Agriculture<sup>1</sup>. Land in Rwanda is not only an economic base of the country but also central to social and cultural dependence and beliefs of majority Rwandans especially the rural based women who mainly depend on land. 80% of Rwandans are dependent on land for their livelihood, majority being women<sup>2</sup>. The competition of land rights in Rwanda is believed to have been a central mobilization influence during the conflicts that have characterized the country for decades, making land in Rwanda a political and conflict area, at the same time if managed well, a potential trigger for the achievement of the sustainable peace. The importance of land to Rwandans is understood more from the key development and peace initiative priority areas of the post-genocide government, where land ranks among the first priority areas.

Since 1999, Rwanda is implementing a land reform through the National Land Policy of 2004 and the Organic Land Law (OLL) of 2005. The actual implementation of the Rwanda land reform is done through a program known as 'Land Tenure Regularisation Process' (LTRP) which started on pilot level in 2008, and in 2009 was launched at the national level. It is a well-known knowledge that, putting in place good national policies is not a big challenge, but implementing the developed policies. Unfortunately, although Rwanda government has made highly commendable efforts in implementing the LTRP, some challenges have been faced. The recent challenge where the landowners only came to learn about the requirement of paying land lease only at the time of collecting the 'Ownership Documents' has been a very stressful challenge for local leaders, policy makers and the landowners. The situation is even more complicated by the fact that during the pilot phase no land owner with 2 ha and below was asked to pay for the lease fee and it is not indicated on the 'Ownership' documents, yet other areas where LTRP was implemented, after the pilot phase, every land owner however small the plot is was required to pay land lease fee, despite the fact that the law is very clear on who pays and who is exempted! This difference in the application of the same laws and provisions has become a very contentious issue from the part of small landowners, which has attracted the attention of high level government officials and media.

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<sup>1</sup>NISR 2010: National Agricultural Survey 2008.

<sup>2</sup> Republic of Rwanda: National Institute of Statistics (2010); MINAGRI Annual Report (2010)

As part of RISD's mandate, given this tension on the land lease issue where different stakeholders understand the application differently, RISD made a decision to launch a quick study that would establish the facts on the ground, by providing evidence based data to policy makers, local leaders and the population through reliable data and public awareness. This study was conducted as an effort to gauge the accuracy and legitimacy of people's concerns in relation to the impact of land taxation on their livelihood. Hence, the rapid study was conducted over a period of four months, between October 2011 and January 2012. The study covered four Sectors: Two rural sectors of Rwaza (pilot area which is in Musanze District) and Rukara (in Kayonza Districts) and two urban sectors, Nyamirambo (Nyarugenge District) and Gatsata (pilot area in Gasabo Districts) were identified for the study.

Since the collection of the most reliable data was the main interest of the study, different methods for collecting the data were engaged including: random sampling, semi-structured interviews, questionnaires, group discussions, and stakeholders' workshop.

The main study findings revealed that, most popular concerns are based on lack of proper information for both the population and responsible personnel for land registration. Although the study did not cover the whole country, data from the four sectors of the study indicate that, 78% of the respondents heard about the land lease fee requirement for the first time when they went to collect their certificates; 82% of respondents reported that, the land lease fee is an extra burden on their households in addition to expenses such as the *Mutuelle de santé*, school fees, security fees, garbage collection fee, etc; while 71% of respondents agree that since land is the most important asset for Rwandans, land tax should be paid, but add that, there should be a deeper analysis of the different categories of land owners to determine on the most realistic figures to be applied considering the land use and income.

Both the conclusion and recommendations of the study center on the importance of effective public awareness of existing LTRP implementation procedures and the trainings (capacity building) of the carders responsible for the land registration and issuance of the land ownership certificates for better application of the good laws that have been put in place for Rwanda land reform. Taking advantage of the existing capacity of civil society is also encouraged for the public awareness, since experience has shown that local NGOs have good capacity in this area.

## 1. Background

The Government of Rwanda (GoR) adopted a decentralization system of governance with a view of bringing services closer to the population. This system of governance is considered the best way of bringing services nearer to the people as opposed to the centralized system that characterized Rwanda for decades. It also offers an opportunity for increased community participation in national policies affecting them through identification and prioritization of their needs. The purpose was also to see a spirit of nation-hood permeate the decades-old divisions among Rwandans and thus help in the reconciliation process<sup>3</sup>. This is also an important element highlighted in Pillar 1 of Rwanda's Vision 2020 on "Good Governance and a Capable State"<sup>4</sup>. Besides, decentralization and local democracy have proved to be effective to the responsiveness of policies and initiatives to the priorities and needs of citizens<sup>5</sup>.

In this respect the GoR continues to formulate and implement policies that aid appropriate allocation of resources closer to where people live and to programs that give priority to people's needs through decentralized entities. Therefore, to achieve the objectives of decentralization, local entities have been given budgetary autonomy to facilitate their administrative roles. To enhance this financial autonomy, local authorities need to raise income through various means including levying taxes on land and other properties. That is why the GoR is implementing since 2011 legal provisions obliging any landlord "to pay land tax as determined by a specific law"<sup>6</sup>.

## 2. General introduction

Land remains the most important asset for all Rwanda, especially the rural who only depend on land for their livelihood. Hence, the current GoR has made land reform a strategic priority area to raise and strengthen the economy of the country; and to address disputes related to land, which account for nearly 80% of the grassroots cases.<sup>7</sup> Consequently relevant laws, policies and regulations have been put in place to implement the land reform which mainly guides land administration and management in Rwanda. To maximize the economic

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<sup>3</sup> Ministry of Lands, Environment, Forests, Water and Mines, *National Land Policy*, February 2004, p. 27. (hereafter National Land Policy)

<sup>4</sup> Republic of Rwanda, *Rwanda Vision 2020*, p. 12 online at [http://www.minecofin.gov.rw/webfm\\_send/1700](http://www.minecofin.gov.rw/webfm_send/1700) accessed on March 1st, 2012.

<sup>5</sup> UNCHS 2000, cited by H. Magel and B. Wehrmann, Applying Good Governance to Urban Land Management-Why and How? -, p. 5 online at [http://landentwicklung-muenchen.de/mitarbeit/magel/aufsaeitze\\_englisch/magel\\_wehrmann\\_good\\_gov.pdf](http://landentwicklung-muenchen.de/mitarbeit/magel/aufsaeitze_englisch/magel_wehrmann_good_gov.pdf) accessed on March 1st, 2012.

<sup>6</sup> Article 68 of the Organic Land Law (OLL) N° 08/2005 of 14/07/2005, determining the use and management of land in Rwanda, Official Gazette of the Republic of Rwanda (OGRR) N° 18 of 15 September 2005. Accordingly landlords were given up to the end December 2011 to pay their 2011 annual land lease fees.

<sup>7</sup> Rwanda Initiative for Sustainable Development (RISD), *The Land Dispute Management Project – An assessment in the capacity needs of local leaders in managing land disputes*, 2009.



opportunities of land and property districts and major towns have been given a mandate to generate income through taxation.

It should be noted that although Rwanda is making significant economic progress with inflation considerably curbed at 5.0%, the country's economy remains dependent on Agriculture<sup>8</sup>. This indicates without any doubt the importance of land to Rwandans. Therefore any action taken in relation to land should give due care and consideration to the people's opinion. The lawmaker was particularly aware of that and took the right step in conducting deep consultation with the people, and the civil society prior to the enactment of the OLL of 2005 determining the use and management of land in Rwanda. However the implementation of this organic law and its related orders has presented some critical challenges exteriorized by the recent popular concerns over the enforcement of the land lease fee countrywide.

### **2.1. Problem statement**

The law gives authority to district councils to fix a certain amount of money to be paid by landlords as land lease fee. This money varies depending on the location, size and use of land<sup>9</sup>. In rural areas agricultural land less than two hectares is exempted from land lease fee.

But the majority of people are wondering 'why they should pay lease for their own land'. Another concern mainly from the rural population is that 'land is the main source of livelihood, and they already face many other community contributions deducted from land income. Hence adding land lease fee to these expenses becomes a bigger burden that could affect very negatively on their livelihood'. Worse still, in some areas land lease fee was levied to land owners regardless of the location and use of land yet the law provides for some exemptions especially for rural landowners.

These examples depict with no doubt that the land law and related policies are not clearly understood by both landowners and some land administration officials.

Whatever the case, if these concerns are not properly addressed, the situation might lead to more numbers of landless and vulnerable people, as the poor may be forced to sell off their land to get away from the land lease fee, or their land might be confiscated for non-payment of the lease fee.

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<sup>8</sup> According to a survey conducted by the National Institute of Statistics of Rwanda (NISR) in 2008, the agricultural sector employs over 85% of the Rwanda population 90% of who are women. Out of 1,676,251 agriculture households in Rwanda, 27% are purely women headed. Indeed matrimonial status of household heads is significantly different for men and women; 67% of women heading households are widows, 11% cohabiting, 8% married, 7% unmarried and 6% separated. On the other hand 71% of men heading households are married, 20% cohabiting, 4% unmarried, and 3% widowers (NISR 2010: National Agricultural Survey 2008).

<sup>9</sup> See article 2 of the Ministerial Order N° 01/03 of 17 February 2003 modifying Order N° 01/16/00 of 19 September 2001 modifying rates on renting and selling States owned lands, *OGRR* N° special of 24 February 2003 (hereafter Ministerial Order of 2003).

That is why RISD in partnership with her development partners judged timely to carry out a survey to gauge the accuracy and legitimacy of such concerns and complaints, and to measure the impact of land lease fee payment on the livelihood of landowners in Rwanda.

## **2.2. Study objectives**

The general objective of the study is to provide contribution towards harmonizing land related fees, and their social acceptability and affordability by landowners.

Specifically, this short study intends:

- a) To assess the land tax and lease fee status with a view of providing reliable data to policy makers for influencing a positive impact on the poor and the vulnerable small land owners;
- b) To initiate an opportunity for Rwandan to understand the land rent and tax process and its impact (both negative and positive).

## **3. Study methodology**

### **3.1. Scope of the study**

Land lease fee together with other elements of land management which include land valuation, land registration and land tenure among others is an important element that enhances land value and facilitates land-based transactions in the market, making investments and economic development of a country a reality. It however has a significant meaning when land laws, rules, and procedures are well defined and implemented. That is what enhances tenure security, and promotes investments for sustainable economic development and poverty alleviation in land-based economies like Rwanda.

In Rwanda, the existing legal arsenal and policies have been found protective of citizens' land rights and judged in line with the Government's economic development policy<sup>10</sup>. Furthermore, there is no doubt that land should generate revenue both for the landlord and the Government like any other property to foster national development. That is why this study did not focus on discussing the fairness of the existing laws and policies, or whether or not land lease fee should be paid but it rather concentrated in identifying closely existing gaps, inconsistencies and loopholes in the implementation of the law, specifically regarding land lease fees. Although, there has been nation-wide concerns over the issue of land lease fee with good national media coverage, this study does not in anyway intend to be either a national

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<sup>10</sup> See RISD, *1<sup>st</sup> Rwanda dialogue on land, Kigali Declaration*, 2010, p. 1 (4).

representative study, or to exhaustively address general land issues in Rwanda. The modest intention of this study is rather to supply reliable first hand data to trigger an objective debate on the adequacy of the current land lease fee by giving an opportunity for the voices of the population to be heard and to echo the views of those who are facing difficulties to meet their day-to-day livelihood costs. This consideration weighed so much in deciding on the selection of the study geographical areas and respondents.

### ***3.2. Selection of Samples***

#### **3.2.1. Study geographical areas**

The people's discontentment about land lease fees was heard across the country both in rural and in urban areas. Difficulty to pay land lease fee was registered at all social levels ranging from poor people owning less than 1 hectare to those owning more than 5 hectares of land both in urban and rural areas alleging the discrepancy between the amounts of lease fee levied on one hand and productivity or land use on the other hand.

Therefore, pursuing the objectives of this study as stated above the studiers decided to select discretionarily four sectors, two located from the rural area and two others from pre-urban area to grasp the legitimacy of the people's claims and to ascertain the impact of land lease fee on their cost of living. It is submitted that as the aim of the study is not to exhaustively establish issues raised by land owners regarding land lease fee, but rather to find out handful real data to provoke deep understanding and analysis of the related policies, the number of sectors to be investigated did not matter. Yet whether the piece of land is located in rural or urban area matters a lot as the study took off from the assumption that the law makes a distinction between land located in rural areas and that in urban areas without giving relevance to their specific location within national territory. A part from KigaliCity, land lease fee rates have been fixed equally for all land located in the country and no attention was paid to whether the land is located in the Eastern province, Western province, Northern Province, or Southern province<sup>11</sup>. That is why in selecting study geographical areas, it was not necessary to have for instance one or two areas representing each district or province countrywide, but it was very imperative to have areas representing both rural and urban land. Therefore Nyamirambo sector in Nyarugenge district and Gatsata sector in Gasabo district were selected for the study of land lease fee issues in urban areas, whereas Rukara sector located in Kayonza district and Rwaza sector in Musanze district were chosen for rural areas.

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<sup>11</sup> See Table 2 below for details.

As noticed, to preserve diversity in sampling, efforts were made so that each selected sector comes from a distinct district. In total a survey was conducted in eight Cells in respect of two cells by sector. A total of 64 respondents were interviewed as detailed in the table below.

**Table 1: Sample distribution**

District	Sector	Cell	Respondents
Gasabo	Gatsata	Nyamabuye	4 Land officers (1 from each district) 4 Sector Executive Secretaries (1 from each Sector) 8 Cell Executive Secretaries (1 from each Cell) 48 Community landowners (6 from each of the 8 Cells)
		Karuruma	
Nyarugenge	Nyamirambo	Mumena	
		Cyivugiza	
Kayonza	Rukara	Kawangire	
		Rwimishinya	
Musanze	Rwaza	Kabushinge	
		Nyarubuye	

### **3.2.2. Relevance of chosen sectors for this study**

#### **3.2.2.1. Gatsata sector**

Gatsata is not only one of the 15 Sectors that make up Gasabo district in KigaliCity but also one of the urban Sectors in the district. The Sector is divided into 3 Cells. The main economic activity carried out by over 85% of landowners is house rental<sup>12</sup>. The choice of Gatsata sector is relevant to this study because of its long-standing experience with LTRP as one of the Sectors where the Land registration was piloted in 2008. The LDMP was carried out to build the capacity of Local leaders in dealing with land disputes and address diverse land issues among community landowners in the Sector. This achieved good results with local leaders able to resolve up to 95% of the land disputes and knowing where to seek redress in case of any injustice<sup>13</sup>. Over 90% of the residents own less than 0.5 hectare of land and have had their land registered under the systematic land registration process<sup>14</sup>. At the time of this study above 80% of landowners had got their land lease titles while the remaining 20% had issues including some corrections to be made on the documents and reservations to pick documents for fear of land lease to be paid<sup>15</sup>. Although a good number of landowners had picked their

<sup>12</sup> Gatsata Sector 2010: Sector economic activities

<sup>13</sup> RISD 2010: Community Land Dispute Management Mechanism - Kabushinge and Nyamugali experience

<sup>14</sup> Gatsata Sector records 2011: Land registration records

<sup>15</sup> Gatsata Sector records 2011: Land lease collection records

land documents indicating how much lease fee to be paid, questions among landowners arose on various issues; how the process of grading fees was done, unawareness of the deadline for payment and repercussions for non-payment including the interest that it would attract. These and other concerns raised by landowners from an area with a long experience with LTRP motivated the choice of Gatsata for this study.

### **3.2.2.2. Nyamirambo sector**

Nyamirambo is one of the 10 sectors in Nyarugenge district in Kigali City. It is an urban sector divided into 5 Cells with a high population density of about 520 people per square kilometer<sup>16</sup>. Nyamirambo's relevance and choice for this study was based on the fact that although it is an urban sector nearly 30% of land owners still depend on subsistence agriculture for their livelihood having acquired land through customary means yet their land has been registered and rated at the same level with other urban residential landowners<sup>17</sup>. Another issue of interest is that although Nyamirambo is in the urban area, two of its cells namely Gasharu and Rugarama are considered rural yet some landowners were rated at same lease fee level with the urban Cells. This uniqueness from other urban Sectors in addition to the general out cry for lack of clarity in the land lease fee administration process was the basis for taking Nyamirambo Sector for this study.

### **3.2.2.3. Rukara sector**

This is one of the 12 sectors that make up Kayonza district in Eastern province. A part from being in a purely rural setting, the sector was selected for this study because it was one of the first sectors in the district where land registration was completed and by the time of this study land lease documents had been issued. Furthermore, although the Sector is characterized by residents who own large pieces of land of up to 10 hectares, which they use mainly for livestock farming, there are also small landholders owning less 1-hectare of land. However while Ministerial order of 2003<sup>18</sup> exempts rural farmers with less than 1 hectare from paying land lease all landowners in Rukara were obliged to pay lease fee. Community members through their local leaders expressed a need to learn more about the land lease fee process that they claimed had not been included in the sensitization campaigns prior to the systematic land registration. Another issue of concern was that other rural areas had been exempted from land lease fee unlike landowners in Rukara Sector. The sector was therefore chosen for the study in relation to other rural sectors especially Rwaza, which is also part of this study.

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<sup>16</sup> Nyamirambo Sector 2010: Sector household records

<sup>17</sup> Nyamirambo Sector 2010: Sector economic activities

<sup>18</sup> Ministerial Order N° 01/03 of the 17/02/2003 modifying Ministerial order N° 01/16/00 of 19/09/2001 governing the rates for renting and selling State owned lands. See Table 2 for details.

#### **3.2.2.4. Rwaza Sector**

Rwaza is also purely rural and one of the 15 sectors in Musanze district in Northern Province. It has 5 Cells and was also a pilot area for the land registration process in 2008. Rwaza sector was selected for this study for several reasons. First, according to Rwaza sector officials, over 90% of the residents in the selected cells had picked their land lease titles at the time of this study<sup>19</sup>. The remaining percentage either had disputes over the piece of land to be registered, were away at the time of registration or their documents had spelling mistakes and had to be returned to the land office for correction.

Secondly, 90% of the population in the sector depends entirely on subsistence agriculture for their livelihood hence this study was interested in understanding whether the land regularization process had contributed to economic use of land that could enable residents to easily meet their regular obligations<sup>20</sup>. Thirdly Rwaza being one of the pilot areas of the LTRP it is expected that residents clearly understand the implications of LTRP including paying of lease fee, hence the choice of this sector was based on the need to learn how much the grassroots landowners especially in the rural areas understood the implications of land lease.

### **3.3. Study techniques**

Interviews, questionnaires and group discussions were basically used as techniques for quantitative collection of primary data. Interviews were carried out with district land officials, sector and cell executive secretaries with the support of an interview guide, whereas semi-structured interviews were conducted with 48 grassroots respondents selected randomly. As one can note, central government authorities were not consulted as the issue at stake was to assess how the land lease fee affected the grassroots people, hence only authorities at the grassroots level were considered appropriate for consultation as they are directly in-touch with people's issues and for this reason were best placed to share land related issues brought by their community members on a daily basis. In all, respondents included local authority officials and the grassroots population.

Responses received from questionnaires were analyzed using SPSS Software, which also assisted in making charts and tables.

Group discussions with land stakeholders including grassroots people, civil society, local administration and policy-makers were held during the LandNet Rwanda Chapter consultative

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<sup>19</sup> Rwaza Sector 2010: Land lease collection records

<sup>20</sup> Rwaza Sector economic activities records

meeting held in Kigali on 9-10<sup>th</sup> February 2011<sup>21</sup>. This cross-section consultation with land stakeholders made a great contribution to this study especially in clarifying on key policy issues relating to land lease.

Of course gathering the existing rich secondary data through literature review, including the relevant land laws and policy documents, also strengthened the study.

## **4. Land administration in Rwanda<sup>22</sup>**

### ***4.1. Historical background***

The pre-colonial Rwanda was characterized by collective ownership of land with complementarity between agriculture and livestock<sup>23</sup>. “The land rights were enjoyed under the supreme protection of the King, the guarantor of the wellbeing of the whole population.”<sup>24</sup> Local institutions had authority over land use and management and allocated land to their subjects according to use<sup>25</sup>. On the other hand subjects who acquired land from the King had to express appreciation “*guhakwa*” by offering free labor to the Kingdom for community welfare. This indicates that land lease is not a completely new phenomenon in Rwanda, contrary to what many seem to think today.

The Belgian colonial administration later introduced written “codes and laws of Rwanda,” particularly in order to guarantee land tenure security for settlers and other foreigners wishing to invest in land in Rwanda. In 1885 a decree on land use was introduced with two main features: (1) Only the Colonial Public Officer could guarantee the right to use the land taken from indigenous Rwandans, and (2) Land use should be accompanied by a title deed.

This introduced duality in Rwanda’s land tenure system where all occupied land remained subject to customary law while settlers and other foreigners were subjected to the written law system that was protected by the colonial administration<sup>26</sup>. However in both ways there was some form of payment to the benefit of authorities that included cash, crop growing, and forced labor on government farms.

The post independence governments did not do much to harmonize land administration and management as the duality of land tenure continued to exist which gave rise to more land conflicts due to lack of clear policies to follow.

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<sup>21</sup> Please see the meeting report in appendices for details.

<sup>22</sup> For more details, please see the National Land Policy available at [http://www.minela.gov.rw/IMG/pdf/National\\_Land\\_Policy.pdf](http://www.minela.gov.rw/IMG/pdf/National_Land_Policy.pdf) accessed on March 1st, 2012.

<sup>23</sup> National Land Policy, p. 10.

<sup>24</sup> *Ibidem*

<sup>25</sup> *Ibidem*

<sup>26</sup> National Land Policy, p. 11.

It is against inconsistencies of this duality in land administration that the government of national unity that took power after the 1994 war and genocide against the Tutsi embarked on LTRP to improve land management and administration and more to that ensure tenure security for all citizens.

#### **4.2. Current situation**

The Rwanda National Land Policy of 2004 led to the enactment of the Organic Land Law of 2005 on the use and management of land in Rwanda. According to articles 3 and 4 of this law the, State has full power to administer all land within the country's boundaries. This law also recognizes rights over land acquired customarily before its promulgation but all land must be under the new systematic land registration process at the end of which a land lease title is issued to the landowner.

The LTRP team through the Rwanda Natural Resources Authority (RNRA) launched a strong campaign mobilizing the population for land registration, explaining many benefits that go with the process. Two main reasons interested the public more towards the systematic land registration: (1) a registered land could give an opportunity for easy access to bank loans<sup>27</sup>; and (2) land related disputes<sup>28</sup> will be substantively minimized as the rightful owner and the boundaries of the piece of land will be clearly indicated on the land title document. As many Rwandans, especially in rural areas acquired their land through customary means including inheritance, gift or donation, exchange and to a smaller extent through purchase, land registration was received with a lot of appreciation and interest. It was also commended as coming to strengthen land tenure security including security for Rwandan women who had been marginalized in terms of land ownership for ages.

However, the recent change of mind by Rwandans, especially those with small land holdings, in relation to land lease payment, comes as a surprise, given the higher turn-up for land registration, and now some holding back on collecting the lease documents with some documents returned to the district land offices calls for deep exploration: it could be due to lack of information that the lease document are ready and available for collection at various cells; it could be that when the first people who went to collect documents found out that they

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<sup>27</sup>A 30-year-old Resident of Mumena Cell, Nyamirambo Sector in Nyarugenge district – City of Kigali expressed his happiness during the land registration process in these terms: “*Ubunshoborakujyanaicyangombwacyangecy’ubutakankakainguzanyomuriBankiy’ukwitezimbere*” meaning “I can now use my land title to acquire a bank loan for my welfare” (our translation).

<sup>28</sup>A survey conducted by RISD in 5 Primary courts indicated that land related cases represented 12.8% of all cases received in 2010 – 2011. One should not ignore that some other conflicts are sorted out at the level of Conciliators Committee before going to courts. (RISD:2011)



had to pay land lease fee they informed neighbors and word passed round leading to fear of collecting the documents; it could also be that, most small holders have no money to pay<sup>29</sup>.

### **4.3. Legal framework of land taxation in Rwanda**

As indicated above charges over land have existed in Rwanda since the pre-colonial era. Today it is the Organic Land Law N° 08/2005 of 14/07/2005, determining the use and management of land in Rwanda<sup>30</sup> which sets the general framework for land tax provided for in article 68 that “A landlord has an obligation to pay land tax determined by a specific law.” The expression land tax implies two charges over land applicable to 2 realities. The first reality applies to people with land rights, but who have not yet acquired full rights upon their land from the State. This category is subject to land lease regime whereby they must pay an annual land lease fee, which varies depending on the size, use or location of land. The maximum lease period is 99 years<sup>31</sup>. After signing the lease contract an emphyteutic lease certificate is issued to the lessee. But before the expiration of that period, a landholder who has developed his piece of land to meet certain requirements may apply to competent authorities to acquire full rights upon the rented land after payment of the lease fees for the remaining period of the lease<sup>32</sup>. The full right upon land is acknowledged by the issuance of a certificate of ownership by the Registrar of land titles. Accordingly a person who has shifted from land lease to full ownership regime is subject to land tax (*stricto sensu*), which is a tax levied on an owned piece of land as land will be therefore taxed as any other owned property<sup>33</sup>. This is the second reality entailed in the “land tax” expression contained in the article 68 of the OLL. Currently in Rwanda, less than 1% of landholders enjoy full rights over the land they occupy, therefore only a handful of Rwandans pay tax on their land as a property<sup>34</sup>. On the contrary a big majority of landholders are subject to land lease fee.

The rent and the sale of land belonging to decentralized entities constitute one of their means to generate revenues<sup>35</sup>. Article 19 of the law 59/2011 provides that “The tax rate is fixed at a thousandth (1/1000) of the taxable value per year.” It must be stressed that while article 68 of the OLL does refer to a “specific law” to fix the rate of land tax, it is not clear which specific

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<sup>29</sup> See Table 2 for land lease fee range.

<sup>30</sup> Official Gazette of the Republic of Rwanda (*OGRR*) N° 18 of 15 September 2005.

<sup>31</sup> Article 1 of the Presidential Order N° 61/01 of 22/11/2008 modifying and complementing the Presidential Order N° 31/01 of 29/06/2007 determining the number of years of land lease (*OGRR* N° 23 of 1/12/2008. See also art 24 sec 2 of the OLL of 2005.

<sup>32</sup> See articles 6 and 7 of the Ministerial order N° 01/03 of 17/02/2003 modifying Ministerial Order N° 01/16/00 of 19/09/2001 modifying rates for renting and selling state owned land (*OGRR* N° special of 24 February 2003).

<sup>33</sup> The rate for this tax is 0.1% of the market value of the concerned land. See article 19 of Law N° 59/2011 of 31 December 2011 establishing the source revenue and property of decentralized entities and governing their management, *OGRR* No 03bis of 16 January 2012. (hereafter the Law N° 54/2011)

<sup>34</sup> Dr Emmanuel GASHUMBA, Director General of Rwanda Natural Resources Authority during the presentation he did at LandNet Rwanda Chapter Consultative Meeting on Land Lease and Property Taxation held in Kigali, 17-18 February.

<sup>35</sup> Article 4 (9°) of the Law N° 59/2011 of 31/12/2011 establishing the source of revenue and property of decentralized entities (*OGRR n° 03 bis of 16/01/2012*)

law was referred to as by the end of 2011 when land lease fee was due for the first time, no law or order had been enacted in the execution of this provision. Therefore authorities of decentralized entities used the Ministerial order N° 01/03 of 17/02/2003 in indexing the fee that landowners had to pay in their respective areas. According to article 2 of this Ministerial Order, Kigali City council, town councils, or district councils have the authority to fix “the rate of annual rent according to their urban development plan, plot location, the type and use of the plot, under the provisions of this Order”. While it sounds illogical to use an implementation order entered into force before even the enactment of the law it is supposed to implement, this anachronism did not stop both central and local authorities to request people to pay their land lease fees according to rates prescribed by the ministerial order of 2003. One could expect the law N° 59/2011 that was published in January 2012 to sort out this anachronic situation but in vain. As said above, this law fixes only one rate (0.1% of the market value of the land) for land taxation. According to this Ministerial Order, where the plot has not yet been developed and is held under lease, tax is charged at a fixed rate per square meter depending on the district as shown in table 2 below.

**Table 2: Range of rates for land lease**

Area	M	Land use		
		Residential	Commercial	Industrial
URBAN AREAS	Kigali City	Between 30 Rwf and 120 Rwf/m <sup>2</sup>	Between 50 Rwf to 150 Rwf/m <sup>2</sup>	50 Rwf/m <sup>2</sup>
	Byumba (Gicumbi), Butare (Huye), Cyangugu (Rusizi), Gikongoro (Nyamagabe), Gisenyi (Rubavu), Gitarama (Muhanga), Kabuga, Kibungo (Ngoma), Kibuye (Karongi), Ruhengeri (Musanze), Umutara (Nyagatare)	Between 20Rwf and 60 Rwf/m <sup>2</sup>	Between 30Rwf and 80Rwf/m <sup>2</sup>	20Rwf/m <sup>2</sup>
	Nyanza, Ruhango, Rwamagana	Between 10 Rwf and 40Rwf/m <sup>2</sup>	Between 20 Rwf and 60 Rwf/m <sup>2</sup>	10Rwf/m <sup>2</sup>
RURAL AREAS	Trading centres	From 3Rwf to 6Rwf/m <sup>2</sup>	From 4Rwf to 8Rwf/m <sup>2</sup>	4Rwf/ m <sup>2</sup>
	Elsewhere	Exempted	From 2Rwf to 4Rwf/m <sup>2</sup>	2Rwf/m <sup>2</sup>

**Note:** For agricultural land, **no** payment is due when the land is below 2 hectares, whereas 1,000 RwF per hectare is due when the land measures between 2 hectares and 20 hectares, and 2,000RwF per hectare when the land measures more than 20 hectares<sup>36</sup>.

It is worth mentioning that article 18 (1<sup>o</sup>), (7<sup>o</sup>), and (8<sup>o</sup>) of the law N<sup>o</sup> 59/2011 of 31/12/2011 exempts from tax respectively “fixed assets used exclusively for medical purposes, or caring for vulnerable groups, and those meant for educational and sporting activities, where no profit-making activity takes place”, “land in use for agriculture, livestock or forestry, if the taxpayer owns less than two (2) hectares. If he/she owns more than two (2) hectares, the first two (2) hectares

<sup>36</sup> Articles 4 and 5 of the Ministerial order N<sup>o</sup> 01/03 of 17/02/2003 modifying Ministerial Order N<sup>o</sup> 01/16/00 of 19/09/2001 modifying rates for renting and selling state owned land (OGRR N<sup>o</sup> special of 24 February 2003).

shall be exempt and tax shall be levied only on the excess land”, and “fixed assets and usufructs used primarily for residential purposes, if the assessed value does not exceed three million (3,000,000) Rwandan francs. If the assessed value exceeds such an amount, only the excess value shall be taxed”.

Article 2 (15<sup>o</sup>) of law N<sup>o</sup> 59/2011 defines a “fixed asset tax” as “ tax levied on immovable property”, therefore a fixed asset should be understood as an immovable property including land of course.

Basing on these provisions, land belonging to vulnerable groups should not pay tax<sup>37</sup>. The law does not define “vulnerable groups” but a look at article 6 section 1 of Ministerial instruction N<sup>o</sup> 007/2010/MINILENA<sup>38</sup> gives an idea of who could be considered vulnerable. This article reads “Landowners whose households are categorized as very poor or vulnerable and normally receive government assistance associated with their status, those known by the Cell, Sector and District authorities as belonging to these categories are exempted from paying any fees or additional fees”. So for a group to be considered vulnerable, it should fulfill these three conditions: (1) to be categorized as such by a government institution, (2) to normally receive assistance from government institutions because of the said status, and (3) to be known by cell, sector and district authorities as belonging to the alleged category. Basing on this definition land belonging to genocide survivors, for instance, should not be subjected to land lease fee payment.

Besides, Law N<sup>o</sup> 59/2011 does also grant exemption to land used primarily for residential purposes if the land’s value is below 3 million of Rwandan Francs. Article 18 (8<sup>o</sup>) does not make distinction of whether the land is located in rural or urban area. This provision is in contradiction with the ongoing practice supported by the Ministerial order of 2003, which exempts from land lease fee only residential land located in rural areas regardless of their value. This kind of contradictions in legal provisions can bring profound confusion in the implementation of the law. That is why it is highly advisable for lawmakers and decision-makers in general to urgently enact clear and effective execution orders for both the OLL of 2005 and Law N<sup>o</sup> 59/2011 to avoid anachronism erected by the ongoing application of the Ministerial order of 2003, which can bring misunderstanding.

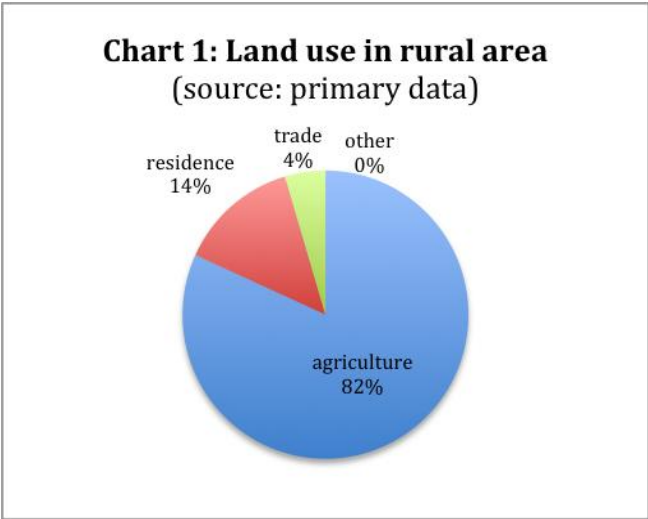
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<sup>37</sup> The word tax is used here in its broad sense and means amount of money levied upon land by government for its support or for specific facilities or services. In this regards it includes even the land lease fee.

<sup>38</sup> Ministerial instruction N<sup>o</sup> 007/2010/MINILENA of 20/08/2010 related to fees to be paid for systematic land registration (OGRR N<sup>o</sup> 39 of 27/09/2010).

## 5. Data analysis: Impact of land lease on landowners

### 5.1. Land lease fee compared to other landowners household expenses



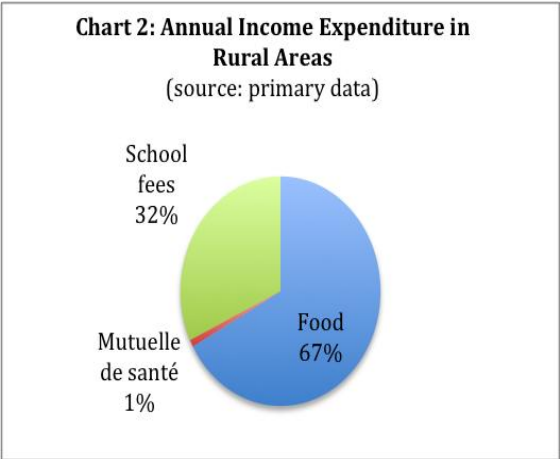
Upon learning about land lease fee landowners both in rural and urban areas found the fee as one extra expense added to their households.

In rural areas, as shown in the chart 1, 82% of landowners declared their land to be primarily used for agriculture<sup>39</sup>.

But by agriculture one should not understand extensive agriculture but rather subsistence as these landowners

use their land to cultivate what to eat and sell some in the market to buy basic household necessities such as salt, oil, soap, etc. The same production is also used to meet other compulsory or necessary costs such as *Mutuelle de santé*, security fee, garbage collection fee, and school fees.

In rural areas, 71% of respondents declared their annual income to be between 50,000RwF and 250,000RwF mainly from their crop production. However, household expenses claim the biggest percentage of their income, and they cannot afford paying the land lease fee as per current rates unless they spend extra efforts (see Chart 2). During our informal discussions with

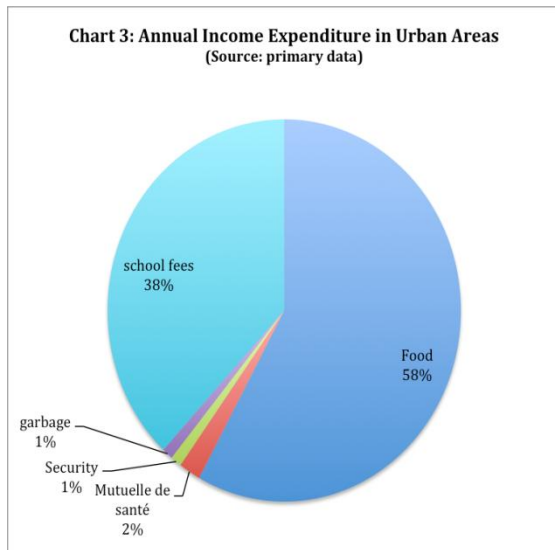


landowners in Rukara Sector, some of them revealed to us that they would need to withdraw significant amounts from their savings to meet the land lease fee requirement.

Despite the fact that urban landlords are sometimes earning other incomes a part from what they earn from their land, land lease fee was not well received in both milieus. But the poor rural persons reacted vigorously because they could not raise money from anywhere while

<sup>39</sup> In urban areas 42% of respondent use their land for trade (rent), 41% residence and 17% for trade.

urban landlords echoed the land lease fee to their tenants by increasing the rent. This is one of the reasons why for rural people land lease fee is seen as burdensome.



It must be noted at this level that unawareness about land lease fee was fed by a misunderstanding of the law by the land officers and local authorities. According to the law, people in rural areas using their land for residential or for agricultural purposes and when such land is less than 2 hectares, are *ex officio* exempted from paying land lease fee.<sup>40</sup> However in practice, when 2011 land lease fees were due local authorities urged everybody to

pay the land lease fee since it was indicated on their land lease documents by square meter without noting that in some cases it had been done regardless of the size of land which was in total violation of the law<sup>41</sup>. In other rural sectors, land was considered residential or agricultural depending on whether it had a house or vacant respectively. Basing on this distinction, some agricultural land less than 2 hectares were not exempted from land lease fee. Further still residential land was charged to pay the land lease fee, and yet rural residence land should also be exempted as showed in table 1 above. Ideally if the law were to be respected more than 96% of rural landowners would be exempted from paying the land lease fee as showed in chart 1 because they use their land basically for subsistence agriculture and also own less than 2 hectares of land.

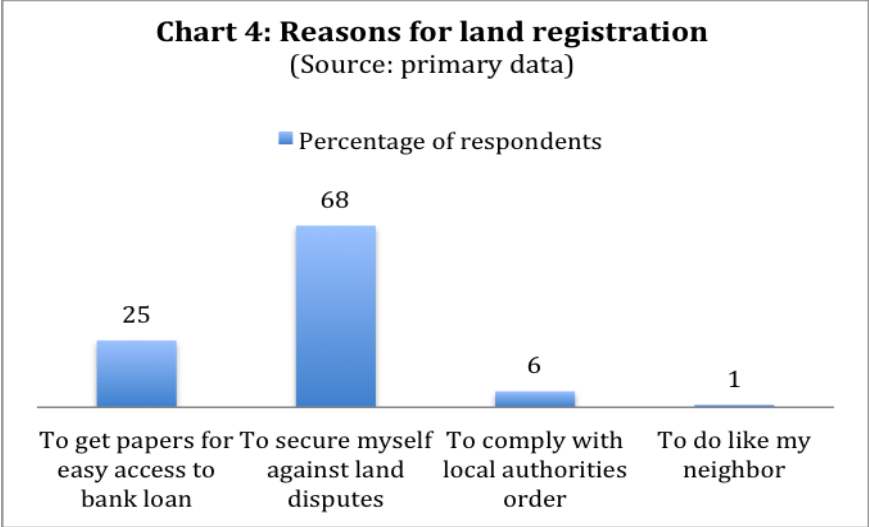
## ***5.2. Landowners' awareness about the land lease fee***

Another issue that amplified landowners' complaints was the way used to inform them about the payment of land lease fee. Local authorities in investigated areas both rural and urban acknowledged that people overwhelmingly received the land registration process positively. Their participation in giving information related to their land was motivated by all advantages that local authorities and land officers justly advertised to them (bank loan access, land related disputes avoidance, etc.). This is confirmed by our survey whereby 68% of respondents affirm that they went to register their land to get shelter against land related disputes, and 25% did register their land because they expected to get easy access to bank loans. However a handful

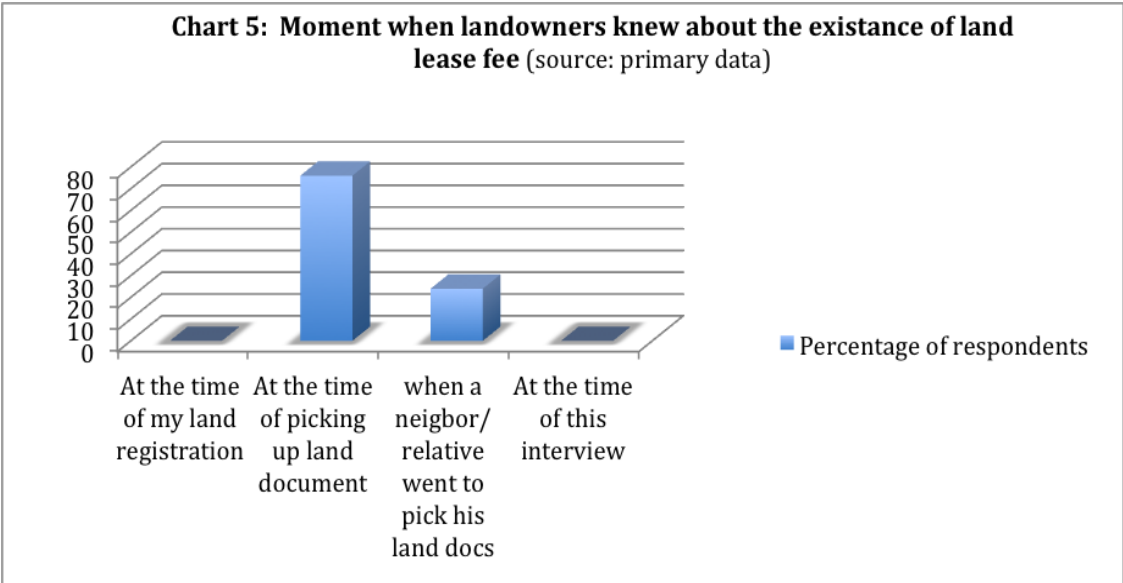
<sup>40</sup>Article 18 (7<sup>e</sup>) of the Law of 2011. See also Table 2 for details.

<sup>41</sup> Only Rwaza sector which was one of the pilot area for the land registration process spared its inhabitants from paying the land lease fee.

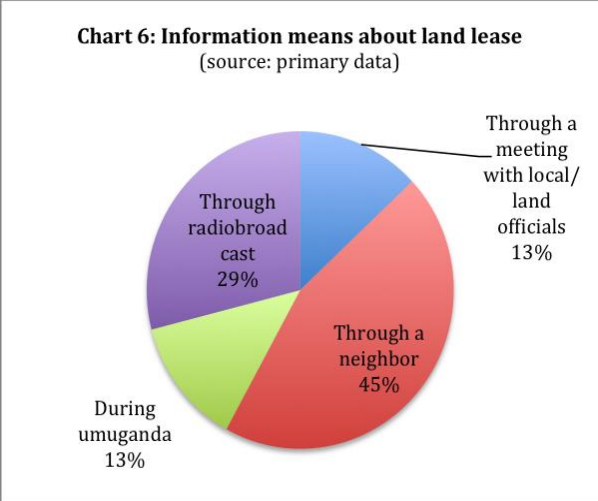
of respondents mainly in rural areas registered their land to comply with the local authority’s order (see chart 4).



Whatever the land registration reason could be one thing is sure: landlords did not know much about pecuniary consequences of their land registration on expenses. Both in rural and urban area 76% of the respondents unanimously submitted that they came to know about the payment of land lease when they went to pick up their land documents after land registration whereas 26% knew about the existence of land lease fee after their neighbors or relatives went to pick up their titles (see chart 5 below).



However, this chart carries one single message that land lease fee was kept secret either willingly or not by land officials up to the end of the land registration process. The reason why officials decided to keep untold the obligation for landowners to pay land lease fee is unknown. But there is no way one may think that even land officials did not know about this. Nevertheless many make assumptions that the reason behind could have been to encourage people to tell the truth about the size and use of their land because if they knew that the lease fee could be proportional to the land’s size and location some landowners would be tempted

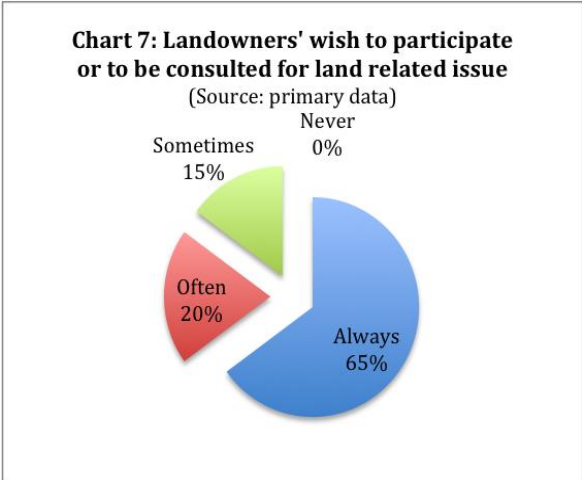


to provide false information. This argument is corroborated by the current reluctance of some landowners to pick up their land lease titles.

Further land officials and land authorities did not do much to inform the people about these fees. 45% of respondents heard for the first time about land lease fee through their neighbors, whereas radiobroadcast informed 29% of

respondents for the first time about the existence of land lease fee. As shown in Chart 6 meetings with local and land authorities come last as means through which landowners knew about land lease fee and which came after land registration, yet this ought to be the first channel for the people to get reliable and authentic information. At this rhythm it is not sure whether landowners really participated in the setting of land lease fee.

**5.3. Landowners’ participation in fixing the land lease fee**



As said above, good governance is one of the pillars of Rwanda’s Vision 2020 *Umurenge*, which postulates for the people’s effective participation in matters that affect their lives. Since land is very important to Rwandans, any law or policy relating to land rights should be among the first on which the people, landlords and tenants, need to be called upon for discussion. It is worth mentioning here that

ground campaigns, radiobroadcast and many other ways were exploited to sensitize the people



about the land registration process. The result for this sensitization was great as people massively embraced the process.

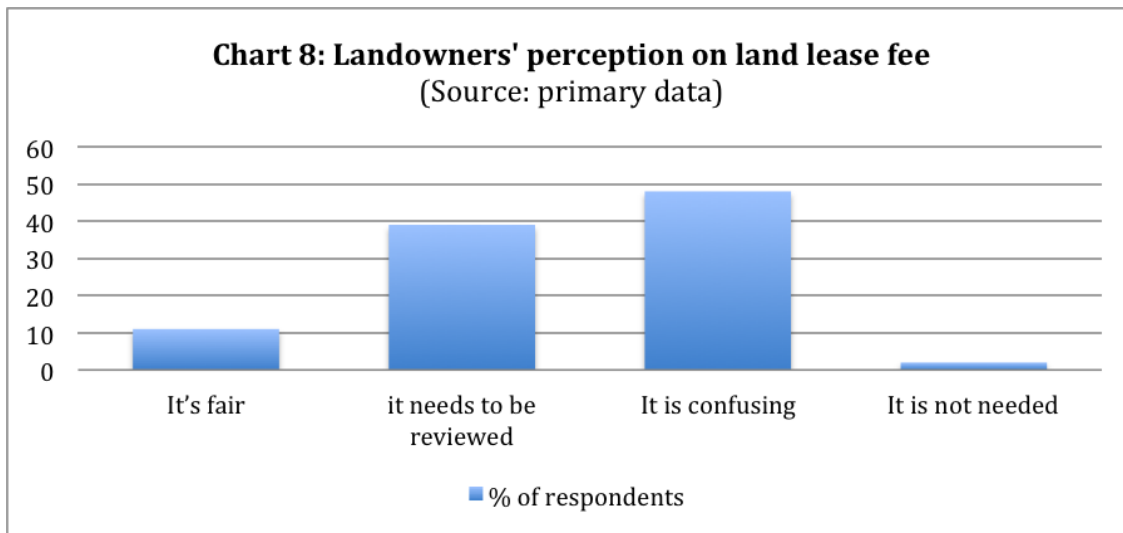
However as far as land lease is concerned the participation of landowners was not satisfactory. They did not participate in meetings that happened at different levels to make their views heard yet that kind of meetings impact on the reception of the process as it has been experienced since the implementation of the land lease fee payment in 2011. According to this survey 98% of respondents said they have *never* been invited in a meeting where they were sensitized about land lease fee. Let us remember that district councils fixed land lease fee amount within the scales provided by the law, and of course the people could not sit in district council meetings. However, as by good governance principles district officials should be sensitized to consult at least landowners within their jurisdiction to get their views, concerns, and suggestions that could in turn help them adopt rates that accommodate all landowners.

To highlight the importance of the issue, investigated landowners both in rural and urban areas have overwhelmingly expressed their will to be part of or to be represented at any meeting deciding on land related issues as shown in the chart 7 above.

While landowners are unanimously willing to participate in land related meetings, how about their commitment to pay the already fixed and pending land lease fee?

#### ***5.4. Landowners' willingness to pay land lease fee***

Though they were not consulted in fixing the land lease fee, landowners in the study areas expressed their willingness to pay. According to interviewed local authorities the number of collected land lease titles whose owners are assumed to be willing to pay is higher than those which are still pending either because of landowners' reluctance or because of any other reason. This shows landowners' commitment to fulfill their legal duties. Further, when requested to comment on land lease fee payment (Chart 8); 48% find it confusing, while 39% think that the fee should be reviewed. The good thing is that only 2% of respondent do find that land lease fee is not needed, and therefore should be removed.



As for what should be done to improve land lease fee collection, and the land registration process in general 82% respondents suggested that sensitization campaigns should be organized at the grassroots level to enable the landowners understand the legal provisions and assorted sanctions should someone not comply with the law.

As far as local authorities are concerned 72% of respondents agree that trainings and workshops on land related laws and *ad hoc* ministerial orders should be carried out as a misunderstanding of the law by local leaders in charge of its implementation may lead to grave violations of landowners' rights.

## 6. Conclusion

At the end of this study it is clearly distilled out that land lease fee is not per se an issue for landowners in Rwanda as no one of the respondents openly questioned its legitimacy. But there is need for proper interpretation and implementation of the land law and its executive ministerial orders. The wrong interpretation of the law was nurtured by a widespread misunderstanding by both local authorities and land officers. Although the existing laws and policies on land registration, lease fee and property tax are very clear, there remains a challenge of interpretation and implementation by both the population and land administration personnel. Still at the level of law implementation, the application of a ministerial order dating back to 2003 in execution of the OLL of 2005 creates serious issue, especially since the entry into force of Law N° 59/2011 in January 2012. The problem resides not only at the terminology level but also landowners' rights. In terms of terminology, whereas the Ministerial Order of 2003 talks about land lease fee, the law N° 59/2011 refers to land tax, and so does the OLL 2005 in article 68. On the side of landowners' rights, the Ministerial order of

2003 provides for instance exemption for residential land located in rural areas regardless of its value whereas the law No 59/2011 provides such exemption to all land used primarily for residential purposes provided that the land's value remains below 3 million Rwanda Francs. This challenge has created a lot of confusion and misunderstanding at different levels and between the authorities and land owners, especially the small holder land owners, who are the majority, and is costing a lot of money and time to the government unnecessarily. There is urgent need to extend training on the implementation of the law to cover all implementers and find a way of reaching the citizens too.

Land remains a key area of livelihood for the majority rural in Rwanda. Therefore, any decisions that concern land should be handled diligently, as this impact on the good governance and sustainable peace building in the country. The recent complaints as a result of some error in the implementation process of land lease is a clear demonstration of land being a potential source of conflict if its administration procedures are not managed well.

While the civil society has highlighted and clarifies legal and implementation inconsistencies, the government continues to demonstrate a genuine commitment to correct the errors made, although this might take a longer time than may be anticipated. The challenge of working out a formula and methodology on how to refund the money paid by the exempted population still remains a challenge with no clear solution.

## **7. Recommendations**

Land administration in Rwanda is a national and regional model of good land governance principles where Rwandans are involved in decision-making processes. Accordingly it is crucial to consult communities and individuals in matters concerning them. Consultation does not mean calling a meeting where people would be informed of already-taken decisions, but rather to open the floor so as to record any suggestions and views coming from the grassroots population before designing and implementing any law or policy. Dialogue with communities should be frequent and ongoing, and not a one-time exercise. This will ensure that programs and policies such as levying land lease fee and property tax and their collection are implemented with minimal errors.

The government should take advantage of engaging civil society in public awareness, especially NGOs whose main engagement and expertise is in the area of land, unlike the

government institutions which are far overstretched that it would be hard to manage an effective public awareness.

Effective measures should be taken by the Government of Rwanda to strike a social balance for the land lease fee on land belonging to vulnerable people who cannot afford the general rates set by responsible authorities. The idea of exempting small rural land holders is highly welcome, but the lease fee and tax for the commercial land owners should be reviewed to reflect the income made from the land and property as the current rates are set generally for a particular area such as rates in Kigali city.

In the urban areas, where the poor and vulnerable land owners cannot develop their land to recommended standards, appropriate policies should be put in place such that land owners benefit in kind in the event that such land is allocated to able developers.

Land officials and local leaders from district and below, including town councils need capacity building training so as to effectively engage in the land administration process and information sharing.

Harmony must be found between multiple land related laws and ministerial orders related to land lease, so that they are in line with the Organic Land Law, and the law N<sup>o</sup> 59/2011 on the sources of revenue and property for decentralized entities. This implies that exhaustive and detailed provisions dealing with land tax should be inserted in law N<sup>o</sup> 59/2011 making sure that the used terminology and landowners' rights are clear and consistent for both decision-makers and landowners.

Last but not least given the gaps in understanding of land lease fee process for various categories of landowners, there is need for initiating more in depth studies and research to ensure that policy implementation is all-inclusive and participatory.

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18. Nyamirambo Sector 2010: Sector economic activities
19. Nyamirambo Sector 2010: Sector household records

# **Annexes**



## CONSULTATIVE MEETING REPORT ON LAND LEASE AND PROPERTY TAX

Held February 9<sup>TH</sup>-10<sup>TH</sup>, 2012 Umubano Hotel, Kigali



## **LIST OF ABBREVIATIONS AND ACRONYMS**

CS(O)	Civil Society (Organization)
EDPRS	Economic Development and Poverty Reduction Strategy
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
KCC	Kigali City Council
LTRP	Land Tenure Regularization Process
MINIJUST	Ministry of Justice
MINIRENA	Ministry of Natural Resources
REDO	Rural Environment and Development Organization
RISD	Rwanda Initiative for Sustainable Development
RNRA	Rwanda Natural Resources Authority
Rwf	Rwandan Franc



## 1. EXECUTIVE SUMMARY

The “*Consultative Meeting on Land Lease and Property Taxation*” held on 09th and 10th February 2012 at Umubano Hotel in Kigali, was organized by LandNet Rwanda Chapter spearheaded by Rwanda Initiative for Sustainable Development (RISD) as the host of Land Net with support from Action Aid Rwanda, Oxfam and GIZ. The aim was to provide a dialogue forum for the grassroots population, civil society, local administration and policy-makers to discuss on the current land issues affecting Rwandan land owners. In particular the meeting discussed the impacts of land lease to land owners especially the poor and vulnerable and the implementing procedures for and to make suggestions on how appropriate coordination mechanisms to bridge existing information gaps and misunderstandings between the population and policy-makers on these issues can be put in place.

The two day meeting was attended by seventy-five participants. It was viewed as very important given that land is a key production resource upon which many Rwandans depend for their livelihoods and therefore a major catalyst to the country’s economic poverty reduction strategies and sustainable peace.

Day 1 took up discussions on current issues related to land lease and property tax, mainly emanating from actual issues affecting land owners especially the grassroots based on community testimonies and studies. Participants overwhelmingly expressed the need for increased communication and more exchange of information for better understanding of the legal provisions regarding the land lease and property tax. Presentations on the topic were made by different stakeholders, including Rwanda Initiative for Sustainable Development (RISD), the Rwanda Natural Resources Authority (RNRA) and Kigali City Council (KCC). Grassroots experiences were shared by the Executive Secretary of Rukara Sector in Kayonza District and the Land Officer of Nyarugenge District. Additionally short messages from people affected by the land lease and property tax regulations which were collected during a radio broadcast on radio Flash were shared to complement the picture.

On Day 2 participants went into discussion groups where they worked on three important issues raised by participants during the meeting:

1. Information sharing and public awareness
2. Lease fee for the vulnerable
3. Land taxation and land lease in regard with poverty reduction

Finally the meeting came up with a declaration affirming the commitment of the GoR in supporting dialogues, that current land related laws are protective of land rights and that the current national discussion about property taxation and land lease is a public concern. Participants also recommended the need for raising public awareness about land lease, putting in place measures to ensure social balance of the lease fee, developing all land in Rwanda and initiating more studies and researches aimed at a deeper understanding of the impact of land lease and property tax on Rwandan land owners.

## **2. BACKGROUND AND INTRODUCTION**

### **LandNet Rwanda Chapter**

LandNet Rwanda Chapter is a network, which brings together policy makers, academics and civil society in Rwanda to work on land related issues relating to land reform and policy implementation. The Network has existed since the year 2000 and currently has 32 members. The goal of LandNet Rwanda Chapter is to build and strengthen the capacity of the Rwandan CS to be able to engage and dialogue with government, local leaders and development partners on land policy issues and to mainstream land issues in the Economic Development and Poverty Reduction Strategy (EDPRS) of the GoR to contribute to equitable and sustainable land reform through inclusive actions and processes

LandNet Rwanda Chapter is the first and the only network in Rwanda that deals with land issues. It is therefore viewed as a major opportunity in Rwanda to strengthen the capacity of civil society to engage in policy issues. It is through the Network that the civil society has able participate in the formulation and implementation of national policies related to land in Rwanda. Key engagements include the formulation process of the Rwanda National Land policy of 2004 and the Organic Land Law (OLL) of 2005.

After the formulation of the Land Policy and Land Law, LandNet Rwanda Chapter continued to accompany the implementation of the Land Tenure Regularization Process (LTRP) with constant monitoring and documenting experiences and impacts, supporting in Public Information Awareness (PIA) campaigns and building the capacity of Local leaders to resolve any Land disputes that may arise in the implementation process. Recently LandNet has been involved in the review of the OLL currently in Parliament. LandNet works in close collaboration with Ministries such as MINIRENA and MINIJUST and government agencies including the Rwanda Natural Resources Authority (RNRA), REMA, RADA and the Office of the Ombudsman, pursuing the chosen dialogue approach between civil society and government institutions.

The network constantly seeks to catalyze multi-stakeholder dialogue on land governance issues at the national level by bringing stakeholders together to share information, develop and debate key national land governance concerns so as to contribute to equitable and sustainable land reform.

The focus on land lies in the fact that while land is a key resource upon which over 80% of Rwandans especially the rural women depend for their livelihood, it is also a potential source conflict if not well managed. It has been widely believed that, the political economy of land in Rwanda contributed to socio-political tensions, leading to the 1994 genocide, due to the effects of resource capture by elite groups and landlessness in the economic collapse prior to 1994, in the context of structural land scarcity. The Scenario has made land related disputes multiple and varied. While some originate from the morphology of the land, others are rooted in social demographic and social economic situations as well as deficient implementation of policies, laws and regulations related to land.

The GoR with full knowledge of the importance of land has always responded by putting in place relevant legal provisions to guide land governance in the country. However the gap comes in the implementation process when procedures are either not clearly followed or understood by both land owners and implementers.

The current debate and uncertainty about land lease and property tax is a case in point. The GoR embarked on the program of systematic land registration in an effort to register all land

partitions in the country and issue land titles to the owners. The process which started in 2008 is ongoing and the government envisages finalizing the demarcation by June 2012 and issuance of ownership certificates by December 2013.

Defined by the Organic Land Law of 2005, all land belongs to public entities: the State, the Cities and the Districts. "Public land" is reserved for public use or for environmental protection. "Privateland" can be allocated by its public owners (State, Cities and District) to natural or legal persons. It then becomes "individual land". It is leased, for up to 99 years, through a lease contract and against payment of an annual lease fee. The lessee can obtain an ownership certificate by paying at once 10 years of lease fee after improving/exploiting the land in conformity with its intended use.

Under the 2005 Ministerial decree on land tenure, land owners are meant to pay a tax of Rwf80 per square meter for residential land, Rwf150 for commercial land in all areas classified as urban areas while a tax ranging between Rwf50 and Rwf30 be levied on rural land. All land owners in rural areas with land that is not more than 2 hectares and used for agricultural purposes will be exempted and not pay taxes.

Nevertheless, whereas the provision make a lot of sense in terms of ownership and citizens' responsibility, the implementation of this obligation for paying lease and determining on who is exempted has recently created some misunderstanding among the population and ignited a public debate over the last few months. Some of the key issues that have been raised include why the government would want to lease land to its "real owners" and the disparities between the lease fees paid in the various categories of urban and rural areas which leave some at a disadvantage.

### **3. Objectives of the meeting**

The "*Consultative Meeting on Land Lease and Property Taxation*" had the following main objectives:

- To provide dialogue between the grassroots, civil society, local administration and policy-makers on the best procedures for the land lease and property taxation in Rwanda.
- To generate collective commitment among stakeholders to put in place appropriate coordination mechanisms to bridge existing information gaps and misunderstandings between the population and policy-makers on these issues.
- To create opportunities for collaboration between the GoR and LandNet Rwanda Chapter on public awareness and information about the legal provisions of the land lease and property taxation as well as monitoring and documentation of the impacts of their implementation
- To enhance the capacity of CSOs to engage and intervene in the LTRP through the exchange of experiences and through relevant expert inputs.

## Participants

The meeting took place over 2 days at the Umubano Hotel in Kigali, with participants (see Annex 2: List of participants) drawn from three main groups:

- Representatives of LandNet Rwanda Chapter member organizations and institutions.
- Representatives from relevant government institutions, both from national and local levels.
- Representatives from development partners that have experience or an interest in land issues in Rwanda.

## 4. Overview of the proceedings

The two days of the workshop were divided as follows:

- **Presenting experiences:** After the opening sessions and a plenary discussion on clarification of terms and proceedings regarding the land lease and property taxation, a full day was devoted to presentations on the topic, involving national government institutions, local authorities, civil society and media.
  - Quick update on the ongoing land registration and title issuing process (RNRA)
  - General overview on Land Tax and Land Lease Fee (KCC)
  - Study presentation on “*The Impact of Land Tax and Lease Fee on Rwandan Land Owners*” (RISD)
  - Experience from Rukara Sector
  - Experience from Land Office Nyarugenge District
  - Testimonies from the ground (Radio Flash FM)
- **Identifying current gaps and suggesting way forward:** Half a day was devoted to discussing lessons from the presentations, first in three different working groups, then through reporting back in plenary. This was also an opportunity for all participants to share their views with other participants.
- **Launching LandNet Rwanda Chapter Blog:** The end of day two was devoted to a presentation on the use of the new LandNet Rwanda Chapter Blog and its objective to create more visibility for the work of LandNet Rwanda Chapter towards more effective lobbying and advocacy.
- **Proclaiming Meeting Declaration:** The meeting ended with the official read out of the meeting declaration which then was approved by participants. This key document will guide the way forward and comprises the recommendations made during the meeting.

## 5. Overview of key achievements

The meeting was successful both in facilitating a degree of exchange and learning among participants, and in revealing key areas of concern and interest regarding the land lease and property taxation as well as the overall LTRP in Rwanda. Key achievements include:

- Providing open space for dialogue between civil society and the government allowing an extensive exchange of experiences and critical discussion of implementation procedures and lessons for land lease and property taxation in Rwanda.
- Clear articulation of the current gaps regarding the land lease and property taxation leading to confusion and misunderstanding within the Rwandan population.
- Greater understanding of opportunities for state and non-state actor cooperation on public awareness and information about the legal provisions of the land lease and property taxation as well as monitoring and documentation of the impacts of their implementation.
- Identification of the need to strengthen capacities among LandNet Rwanda Chapter members for more effective engagement and intervention on the subject.

## 6. Key lessons for LandNet Rwanda Chapter

The group work and plenary discussions on Day Two, based on the presentations shared with the audience on Day One, were an opportunity for some key lessons to emerge for the network. Key lessons included:

- **On collaboration:** There is a need for stronger collaboration between the relevant institutions and departments of the LandNet Rwanda Chapter to help create, distribute and access information regarding the land lease and property taxation and to help facilitate in-country engagement between civil society organizations (CSOs) and the GoR. Looking at land issues in general, there is a big reciprocal need regarding the partnership between LandNet Rwanda Chapter and the GoR, therefore critical collaboration needs to be widened.
- **On data gathering by CSOs:** CSO-produced data needs to be credible both upwards (e.g. to government) and downward (to affected people, the public). Credibility depends on transparency of method, participatory approach to data gathering and alliance with other stakeholders from the beginning – the GoR, professional researchers etc.

## 7. Evaluation of the meeting

At the close participants were asked to look back on the meetings' objectives stated in the initial agenda and to reflect on how these had been achieved and what could have been done better. Key points from the discussion included:

- Objectives were largely met, particularly on creating an opportunity for dialogue between the grassroots, civil society, local administration and policy makers on the best procedures for the land lease and property taxation.
- Furthermore the meeting was viewed as a good opportunity to exchange of experiences and questions which had been the main goal for most participants.

- Participants found that the meeting provided a good balance between presentations, group work and time for discussion, so that there was enough opportunity for the audience to ask questions and for presenters to respond and discussion to follow.

## 8. SESSIONS

### 8.1 Session 1: Opening remarks



(From Left to right) Mr. Damascene G. (LandNet Rwanda Chairperson), Dr. Emmanuel N. (RNRA DG.) Ms. Annie K. (RISD Director& LandNet Rwanda Coordinator)

The main aim of Session 1 was to familiarize participants with the current debate on land lease and property taxation in Rwanda:

The Coordinator of LandNet Rwanda Chapter brought to the attention of participants the importance of CS in Rwanda's LTRP including the fact that the GoR had not left out the CS in the formulation and implementation process of the land related legal provisions. This also goes along with the acknowledgement of the government's support of dialogue such as this one meant to provide an open space for different input to improve land related policies and come up with appropriate recommendations to the GoR.

**The Director General of RNRA**, who officially opened the meeting, demonstrated that the raised confusion and concern was based on poor understanding of the law and its implementation decrees both by the people and some land officers. This poor understanding was facilitated by ineffective communication between policy-makers, policy-implementers

and the population. A distinction between land lease fee and property taxation was made sorting out rates applicable depending on location land. It was assumed that not even 3% of Rwanda's population is affected by the lease, as every piece of land below 2ha and residential areas in rural areas are exempted from paying and highlighted fees. It was stressed that this should be seen as opportunity to promote land as an economic good and participants were reminded that the revenue accrued would benefits local institutions and that it is a duty to be accountable for the land you own and to contribute to national development.

## 8.2 Session 2: Presentations

### 8.2.1 *"The ongoing land registration and title issuing process."*



**Mr. Thierry Ngoga, Division Manager, Land Technical Operations at RNRA**

This was presented by **Thierry Ngoga, Division Manager, and Land Technical Operations at RNRA.**

This took the audience through the land registration process explaining the land institutional framework from ministry to cell level and outlined the land management regulations as well as the land rights and obligations provided by the Organic Land Law of 2005, making land registration in Rwanda mandatory. Participants got an overview of the status quo of the systematic land registration, the detailed technical registration procedures and the benefits of the program which include; the establishment of a unique land registry, decrease of land related disputes, the consecration of women's land rights and the opportunities for economic

development. The presentation ended with an outlook on remaining challenges as the small proportion of unclaimed land in the country, succession issues mostly affecting children (orphans) and women (widows). The target to finalize the nationwide demarcation remains June 2012.

### **8.2.2 Land Lease and Property Taxation**

The presenter was **Gasana Aimable NDAKENGWA, Director General of KCC**. In the presentation, a general overview on land lease and property taxation regulations in place were given outlining the legal background provided for by the Organic Land Law and related Ministerial Orders and explained how the lease fees were established by the KCC depending on the intended use of the land, differentiating between urban and rural areas. Regarding property taxation the audience was reminded of the change made from 0.2% to 0.1% of the property market price towards more social balance. Some Rwandans were criticized for being too passive and not feeling concerned enough with paying taxes. In case of errors affected people were advised to bargain with local authorities about the price to pay basing on their income. Implementation challenges were noted as being poverty among some residents in Kigali who are unable to meet their tax obligations as well as the absence of master plans for Gasabo and Kicukiro Districts. But the greatest concern originates from the current poor communication between the government authorities and the grassroots population, which leads to unnecessary misunderstandings and misinterpretations of the land lease and property taxation provisions.



**Mr. Gasana Aimable NDAKENGWA, Director General of KCC**

### **8.2.3 The impact of Land Tax and Lease Fee on Rwandan Land Owners**

This was presented by **Andrew TUSHABE**, a consultant for **RISD**. The presentation highlighted findings of a quick and short research carried out on *“The impact of Land Tax and Lease Fee on Rwandan Land Owners”*. The aim of the research was to collect testimonies from the ground, to examine the view of the Rwandan population on the land



lease and property taxation and to assess the impact of lease fee on land owners, especially the rural poor. The study was conducted in Rwaza Sector of Musanze District, Nyamirambo Sector of Nyarugenge District and Rukara Sector of Kayonza District. It confirmed the poor communication, implementation and misunderstanding of the legal provisions by land owners especially in remote rural areas and some policy implementers. As a result, most respondents viewed the regulations as burdensome as they considered the fees too high in regard to their income since they already struggled to pay other fees for such needs as health care, schools fees and garbage collection. It became evident that confusion exists about the selection in the respective land lease categories and it also became very clear that the majority does not understand the background, purpose or implementation procedures of the land lease and property taxation regulations and questions why they – as owners of the land – have to lease their own land back from the state.

### **8.2.4 Grass roots experiences**

From **Rukara Sector in Kayonza District**, the **Executive Secretary, Victor NGABONZIZA** submitted that his people were happy and involved in land registration because they expected obvious advantages, such as bank loan access, succession, land conflict avoidance, etc. However, it was mentioned that people were not informed or even sensitized about the cost resulting from land registration. That is why; many people are skeptic in withdrawing their land registration documents. It was also noted there is total confusion among community members regarding the land policy in general. Finally recommendations were given that both land lease and property tax should be proportional to people's income and that government organs should sensitize the people for better understanding on the topic.

**Emmanuel INGABIRE** from the **Land Office in Nyarugenge District** held a very clear presentation about the land situation in Nyarugenge and the role of the local authorities in the administration of land lease and property taxation. He pointed out their involvement in making the propositions for the land price taxation, preparing the lease contracts, carrying out sensitization on the benefits of land registration and applying fines to those who did not pay taxes at proper time.



**Mr. Emmanuel INGABIRE, from the Land Office in Nyarugenge District.**

As challenges to the process Mr. Ingabire mentioned almost similar issues as the ones already presented by previous presenters, e.g. Some citizens were resistant to pay because they had inherited land from their ancestors and would not understand why they now had to pay for their “own land” or that some people were too poor to afford the taxes. It was also noted that majority of the people in Nyarugenge District would want to use their land contrary to given land use regulations. Last but not least it was highlighted that there is currently less human capacity at Land offices which cannot allow them fulfill all their tasks properly.

## 8.2.5. Radio extracts

**Theo BARASA**, a Journalist at **Radio Flash FM**, gave the audience a concrete touch of the people's confusion and concerns about the land registration process in general and consequent lease fees. The presentation contained short messages extracted from a radio broadcast aired in regard to land lease.

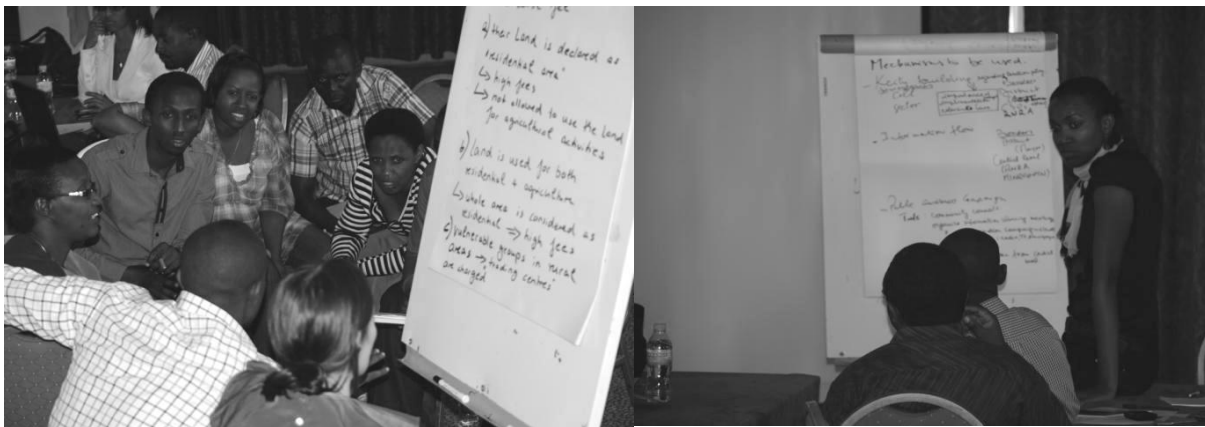
## 8.3. Session 3

### Group Work

Questions that were asked during Day 1 all reflected obvious and persisting problems related to the understanding of the land reform process in general, and concern about high rates of the applied fees and helped to sort out major and recurrent issues. That led to the creation of three thematic areas where much attention could be focused. Therefore, the following three groups tried to discuss those issues on Day 2 and to find out best ways of dealing with them by coming up with clear recommendations.

#### 1. Information sharing and public awareness

The group analyzed the current communication issues and made recommendations on which mechanisms should be in place to ensure effective communication and which actors needed to be involved at what level.



Participants of the workshop discussing in group works

- Mechanisms identified were: (1) Capacity building on the taxation policy (concept, implementation, relevant laws) to sector and cell leaders; (2) Securing constant information flow between authorities at all levels and the people; (3) Public awareness campaigns involving the community councils and media; (4) Better research through CSO, involving closer cooperation with research institutions and universities.
- Identified key actors both at central and local level for the proper sensitization of the Rwandan population were responsible government institutions as well as CSOs of LandNet Rwanda Chapter, which can effectively support the GoR through the provision of information services to the communities

## **2. Lease fee for the vulnerable**

The group discussed the concern raised in regard to the inability of poor people to pay the required lease or tax fees and made suggestions for social balanced solutions.

- Identified vulnerable people were: unemployed, unskilled, handicapped, widows, survivors, orphans, people living with HIV/Aids, single mothers and elderly.
- Special object of concerns were vulnerable people living in urban or trading areas who are obliged to pay the land lease fee and the issue of organizations attempting to get back pieces of land they had bought to vulnerable people.
- Recommendations made were: (1) A categorization system for vulnerable people, defining them objectively in terms of earning income per year; (2) The gazetting of agricultural areas in other cities than Kigali; (3) An installment for vulnerable people, providing them with technical advice and able to take ad hoc measures through case to case dealing.

## **3. Land lease and property taxation in regard with poverty reduction**

The group discussed the economic opportunities of the land lease and property tax revenues for national development as well as the adequacy of the current rates

- “Land taxation” should be understood as property taxation, not as a special tax and land should be taxed as any other property.
- Land lease and property tax are truly an asset for the economic development and also add to the land’s value through allowing the building of infrastructures at local level and helping the people to get better services.
- Recommendations made were: (1) Those who are not able to pay tax because of their inability to develop their land should be helped by the GoR technically on how to add value to his/her land; (2) Conduct a study/research to find out the range of payment of land lease depending not on the city but rather on the specific area in a given city where the land is located as uniform rates for one city is unfair, given that the value of land is also different in one city depending on the location; (3) Vulnerable people should sublease their land to those who can make the land be developed

## Annex 2

# The Meeting Declaration

**LANDNET RWANDA CHAPTER CONSULTATIVE MEETING ON  
LAND LEASE AND PROPERTY TAXATION  
9TH-10TH February 2012 at UMUBANO Hotel, Kigali**



### **DECLARATION FROM THE MEETING**

We, participants gathered in Kigali, at Umubano Hotel, February 9-10, 2012 at the LandNet Rwanda Chapter consultative meeting on Property taxation and land lease, aiming at providing dialogue between the grassroots, civil society, local administration and policy-makers on the best procedures for the land lease and property taxation in Rwanda, affirm a collective commitment to put in place appropriate coordination mechanisms to bridge existing information gaps and misunderstandings between the population and policy-makers on property taxation and land lease.

We affirm with great appreciation the continued commitment of the Government of Rwanda in supporting and welcoming the dialogue with civil society and providing open space for addressing the land issue in the country, which is very critical in the implementation of land reform in a post-conflict setting.

We acknowledge that the existing land laws and policies are protective of citizens' land rights and are in line with the Government's economic development policy; therefore land should generate revenue like any other property to foster national development.

We affirm that the current national discussion about property taxation and land lease is a public concern, and should be addressed accordingly.

We therefore come up with the following recommendations:

1. The government of Rwanda together with LandNet Rwanda Chapter should put in place effective mechanisms to raise public awareness and to insure adequate information of the population in regards to property taxation and land lease fees. This should include wide public awareness campaigns on the importance of land lease and property taxation, capacity building of relevant actors in understanding relevant legal provisions, as well as constant monitoring of the process through documentation and research.

2. Effective measures should be taken by the Government of Rwanda to find socially balanced solutions for the lease fee on land belonging to vulnerable people who cannot afford to pay.
3. As Rwanda's economy is still dependent on agriculture and given the land scarcity issue, no piece of land should remain undeveloped.
4. Given the gaps in understanding of land lease and taxation including the fixed rates and categories by both public and local leaders, there is a need for more deep studies and research.

Done in Kigali, February 10th, 2012