

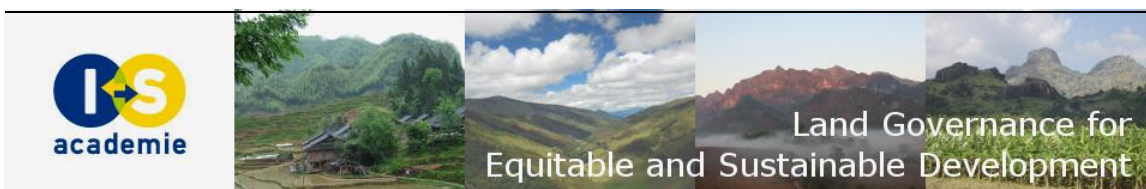
RWANDA

FOOD SECURITY AND LAND GOVERNANCE FACTSHEET

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ABSTRACT

Rwanda faces strong pressures on land that affect tenure security and therefore food production. This situation is primarily due to a continuous process of land fragmentation that is driven by population growth and inheritance practices requiring family land to be divided amongst all members of each new generation. An ambitious centrally driven land reform agenda seeks to address these issues. Its long term goal is to intensify agricultural production and increase output. Core components of the reform agenda are the establishment of a uniform and secure legal tenure regime, the creation of a land market, the facilitation of access to credit through mortgaging, a land consolidation policy, and a crop intensification programme. Draining of valley bottoms, which are also important for the hydrology, also play an important role in this strategy. Although the implementation of the agenda is nation-wide underway, the land registration programme will not improve the position of the (near) landless in rural areas. Equally important is the management of disputes and conflicts over land, which requires strengthening of mediation capacity.





This country factsheet was prepared under auspices of LANDac – The IS academy on land governance – and compiled by the Royal Tropical Institute (KIT – Thea Hilhorst and Nicolas Porchet) at the request of the Ministry of Foreign Affairs – The Netherlands.

About IS Academy on Land Governance for Equitable and Sustainable Development

LANDac, the IS Academy on Land Governance for Equitable and Sustainable Development, aims at bringing together researchers, policy makers and practitioners in the field of land governance and development. It is a partnership between several Dutch organisations and their Southern partners involved in development-related research, policy and practice. LANDac is one of the IS Academies for International Cooperation sponsored by the Netherlands Ministry of Foreign Affairs.

About KIT

The Royal Tropical Institute (KIT) in Amsterdam is an independent centre of knowledge and expertise in the areas of international and intercultural cooperation, operating at the interface between theory and practice and between policy and implementation. The Institute contributes to sustainable development, poverty alleviation and cultural preservation and exchange.

Country expert contribution:

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1 POLICY AND LEGISLATION

1.1 Regulatory land governance framework

The recognition of state and private property and the right of every citizen to private property, whether held individually or in association with others is inscribed in the Constitution of the Republic of Rwanda. The state has the authority to grant rights to land, including private ownership rights, and to establish laws governing land acquisition, transfer and use. State land is classified as public or private; public land cannot be alienated (GOR Constitution 2003).

Policy Framework		
National Policy of 2004	Land	All Rwandans will enjoy the same rights of access to land All land shall be registered, and land shall be alienable Consolidation of household plots is encouraged Land administration shall be based on a title-deeds registration system

(GOR Land Policy 2004a)

Legislative Framework		
2005 Organic Land Law		Organic Law Determining the Use and Management of Land in Rwanda. The State is responsible for managing state land in the public interest and with the objective of supporting economic development and social welfare Recognizes rights to land obtained from competent authorities but which was not regulated by formal law, requires land registration and sets minimum plot sizes for agricultural land
Order 002/2008	No.	Defines Modalities of Land Registration and provides for two types of certificates of land rights: the Certificate of Registration of Full Title and a Certificate of Registration of Emphyteutic Lease (by far the most common form of title)
Order 001/2008	No.	Determines requirements and procedures for land lease that apply i.a. to the Emphyteutic Lease issued in the land registration process.

(GOR Land Law 2005). (GOR Land Registration Order 2008d; GOR Land Lease Order 2008b; GOR Order on Registrar of Land Titles 2006b).

Traditionally, matters related to ownership of land by rural Rwandans were regulated by customary law. Before independence (1962) customary authorities allocated land in most parts of the country. After independence customary structures were largely dismantled and local authorities acquired extensive and virtually exclusive power in matters of land allocation (Pottier 2006: 515).

Since 1999 legislation has been passed that significantly reduces the scope for application of customary law. First, a law was adopted that brought inheritance matters under the scope of formal law (GOR Inheritance Law 1999). The 2004 Land Policy characterized customary law as “widely practiced, but with a tendency to cause insecurity, instability and precariousness of land tenure.” And whilst the Organic Land Law recognizes claims to land obtained under customary law, it converts them to lease rights and demands that they be registered, which effectively means that they are drawn into the formal system. In practice, though, the reach of formal law, especially where land dispute resolution is concerned, remains limited (Lankhorst and Veldman, 2011: 98).

1.2 Land tenure forms and transactions

Most land holdings are acquired by traditional means, that is, through inheritance (46 %) or donation (11 %). The acquisition of land by means of purchase is less common (25 %), but recent research conducted by the Ministry of Lands shows that the land market is rapidly developing. Since 1990, the number of land sales has increased by as much as 500 percent in some areas. Over the same period, land prices have also shot up, especially in peri-urban areas and in areas where cash crops are successfully grown. The average price per hectare in rural areas is about RWF 1.2 million (roughly EUR 1.550 or USD 1.950), which equals about four to five times the average annual income of ordinary Rwandans. (Veldman and Lankhorst, 2011a).

It appears that many residents, while continuing to rely on the customary land tenure system to support and enforce their land rights, are motivated to register their rights under the new legal framework.

The following table provides an overview of the main forms of tenure rights created by the 2005 Organic Land Law.

Forms of land tenure rights	
State ownership of public land	Also referred to as the 'public domain'. This land cannot be alienated or leased out.
State ownership of private land	Land held by the state as a private owner (which can be alienated or leased out – see below).
Individual ownership of private land	Land held by persons or entities vested with legal personality as private owners.*
Lease of private land owned by the state	Depending on the designated land use (e.g. agricultural lands, or wetlands), leases may have a maximum duration varying between 15 and 49 years.
Lease of private land under individual ownership – Emphyteutic leasehold	These are, essentially, the civil code equivalent of a (long term) leasehold in the common law system. This form of leasehold has a 99 year duration.

(GOR Land Registration Order 2008d; GOR Organic Land Law 2005). (GOR Land Lease Order 2007c). (GOR 2007; GOR Land Leasing Law 2007c)

* Whilst this type of tenure right is recognized by the Constitution and the Land Law, very few persons or entities vested with legal personality will hold such a right, since the Land Law and the registration process convert all land acquired through custom or from administrative authorities into emphyteutic leaseholds.

1.3 Institutional land governance framework

National Registrar for land is within the National Land Centre. The Centre maintains data for mapping parcels, coordinates planning (although doesn't itself plan) and supports decentralization. The national land centre is responsible for the land tenure regularization programme

With respect to land management, responsibility for land matters rests with the Ministry of Natural Resources (MINIRENA) including: a) Prepare and ensure the follow up and evaluation of policies, strategies as well as environment protection; b) Prepare draft bills and establish norms and practices for rational exploitation and efficient land management, Environment, Water Resources and evaluate their implementation; c) Promote research and exploit Rwandan underground natural resources and set up appropriate mechanisms for their extraction and valuation; d) Plan and follow up pure water distribution programme and basic health activities; e) Initiate incentive measures and support programmes to private sector and

civil society so as to invest in land protection activities, Water Resources and Environment; f) Coordinate stakeholders activities and mobilise necessary resources for land management and land use planning, Water Resources as well as Environment protection; g) Reinforce capacities of decentralised entities in matters of land management, Water Resources and Environment. (GOR 2011a)

In 2011, the Rwanda Natural Resources Authority (RNRA) was created to lead the management of natural resources (land, water, forests, mines). RNRA is entrusted with supervision, monitoring and ensuring the implementation of issues relating to the promotion and protection of natural resources in programs and activities of all national institutions (GOR 2011b).

Responsibility for balancing national population policy, land-use planning, and environmental needs to ensure that land is not degraded lies with the Rwanda Environment Management Authority (REMA), which is a non-sectorial institution mandated to facilitate coordination and oversight of the implementation of national environmental policy and the subsequent legislation (GOR 2011c).

1.4 Gender

The principal means for women to access and use land under customary law is through marriage, but this does not grant them control rights (selling, gifting, renting, building). In principle, customary law also does not enable women to inherit their husband's or their father's land, but, under certain conditions, they may continue to exercise their use rights until they die or their sons reach the age of marriage.

Therefore, that customary law did not meet the need for secure access to land for the large number of female-headed households that Rwanda was left with after the genocide (roughly a third of all households). This was viewed as a potential threat to economic development. To remedy this, the Matrimonial Regimes, Liberties and Succession Law was introduced in 1999. Its aim was not only to formalize the way in which inheritance was regulated and bring within the scope of the state justice system, but also to break with important aspects of customary law. First, it granted daughters the right to inherit land from their parents. Like their brothers, therefore, women are entitled to a share of family land when they get married or when their parents die. Second, the law gave wives rights to matrimonial property. Third, it allowed widows to inherit their deceased husbands' property.

The scope of this law, however, is not as wide as it might seem. The law applies only to formally married wives and widows, thus excluding those who marry under customary or religious unions which is particularly common in rural areas. In addition, although the law provides that daughters have an equal right to the land left behind when their parents die, with respect to gifts it only provides that they may not be discriminated against when the parents gift land to their children during their lifetime. In many cases, such gifts involve the bulk of a family's land, leaving little to be inherited. Moreover, lawyers frequently interpret the term 'discrimination' used in the law to mean that if a girl has acquired access to sufficient land through her marriage, this justifies her receiving a smaller gift from her parents than her brothers.

While there is a basic awareness among most men and women that the law has changed in favor of the latter, in practice, customary law continues to have a strong influence on how marriage and inheritance are regulated in rural areas. The adoption of formal laws guaranteeing women's access to marital and natal family land has therefore not led to significant changes on the ground. The adverse consequences of the failure of formal law to change marriage and inheritance practices in rural areas are exacerbated by the narrowing of the scope for acceptance of women's land claims under customary law.

(Lankhorst and Veldman 2011a; Uwineza and Pearson 2009; Rose 2004; Scalise and Giovarelli 2010; GOR 2007; GOR Law 22/99 1999).

1.5 Foreign direct investment

The government strongly encourages foreign investment in agriculture in the fertile river valleys, which are held in private ownership by the state to ensure national food security and promote access to income. Promoting such investment is at the core of the Organic Land Law of 2005, the Organic Environment Law of 2005, and a law also of 2005 relating to investment and export promotion and facilitation. The investment law aims to facilitate procedures for investors and provides significant incentives for investors, in terms of a number of tax breaks (notably on VAT and income tax). In addition, the law provides guarantees for the protection of foreign investments. It stipulates that the only way for the Government to acquire rights over the investment is by following established expropriation procedures; in this case, adequate compensation will be paid in foreign convertible currency within 12 months (Veldman and Lankhorst 2011b).

2 INTEGRATED WATER MANAGEMENT

2.1 Regulatory framework

The abundant water resources of Rwanda include lakes, rivers, and marshlands. Marshlands are particularly productive ecosystems, responsible for cycling nutrients, recharging groundwater and helping mitigate flooding. Ensuring integrated water management in marshlands is important to protect soil productivity and hydrology. (FAO 2009; REMA 2009a; GOR Water Policy 2004).

Rwanda has two major drainage basins: the Upper Nile basin and the Congo basin and agricultural use accounts for 68% of water withdrawal, while domestic use and industry account for 24% and 8%, respectively (REMA 2009; FAO 2005; FAO 2009; World Bank 2009a; GOR Water Policy 2004b).

The 2005 Organic Land Law provides that the country's lakes, rivers, and groundwater are in the public domain, and the use of water resources is shared by all (GOR Organic Land Law 2005).

Water Policy in Rwanda	
2004 Sector Policy on Water and Sanitation	Goal: ensure access to water for everyone fairly and in a sustainable manner, protect water resources and sources, and promote cooperation for the management of catchment basins Improve the water supply systems; to optimize use of water in the agricultural sector, energy production and transport; to encourage the management of water supply infrastructure by communities; to increase access to sanitation services; to reinforce capacity-building at all levels (central and district).
Water Law (Law No 62/2008 of 10/09/08)	Designed within the framework of the 2004 Water Policy Provides that water is a public good, and responsibility for its proper use and protection is the responsibility of the state Recognizes principles such as: protecting water resources from pollution, requiring water users and water polluters to pay, using water user associations The priorities for water distribution are: (1) the population; (2) livestock; and (3) hydroelectric energy production

(GOR Water Policy 2004b; GOR Water Law 2008).

2.2 Institutional framework around Integrated Water Resource Management

Several agencies share responsibility for water resources and distribution of water in Rwanda; the Ministry of Infrastructure (MININFRA) being responsible for the water and sanitation sector and the National Water Commission being responsible for creating water resource development plans and programs to support the Ministry's policies (REMA 2009a).

Rural water supply, management of water resources and sanitation are the responsibilities of the Ministry of Natural Resources, through its Directorate of Water and Sanitation and the Ministry of Natural Resources is responsible for helping to set national water policy; ensuring compliance with relevant legislation; representing the government in intergovernmental organizations on matters related to water; and promoting international and regional cooperation on water resource issues.

Local governments are generally in charge of the administration of (improved) marshlands. At the district-level basin committees are responsible for preparing district-level water management plans. The district basin committees have the power to delegate authority for management of water resources and water infrastructure to local water user associations (GOR Water Law 2008; REMA 2009a; RWASCO 2010).

The Ministry of the Environment and Lands (MINELA) has responsibility for planning and implementing water quality and distribution programs; ensuring that the use of water and wetlands is done without endangering the environment; putting in place legislation for monitoring and reduction of pollution; and fostering appropriate environment-friendly methods and techniques for the exploitation and management of natural resources (GOR 2010a).

The rational use of water potential for agricultural purposes is ensured by the Ministry of Agriculture and Animal Resources (MINAGRI). MINAGRI's Unit of Agricultural Engineering and Soil Conservation, manages agricultural development and soil conservation through terracing, drainage and irrigation (REMA 2009a; GOR 2010d).

3 REALITIES ON THE GROUND

Land disputes remain common in Rwanda. The growing population (202 inhabitants per km² in 1991; 384 per km² in 2009; and an estimated 531 per km² in 2020) is putting pressure on land tenure structure for some time, as manifested by competing claims to land.

The pressure on land, combined with limited non-agricultural livelihood options, was one of the factors that fuelled the **1994 genocide**. The **displacement of large groups** of people brought about by the violence produced new challenges. In several cases multiple groups occupied and laid claim to the same land. Competing claims to land are influenced by the reintegration of demobilized soldiers, former prisoners, and **old- and new-case returnees** from neighboring countries.

The government estimates that by 2001 **land-related disputes** concerned as much as 80% of the cases coming before prefect courts (Musahara 2006; André and Platteau 2005; GOR 2007; Wyss 2006). Intra-family disputes occur most frequently (79% of land cases at primary court level). Most of these (74% of land cases at primary court level) involve some form of inheritance claim (which often arise from polygamous relationships). The overwhelming majority of disputes are occurring within extended families rather than between different social groups (Veldman and Lankhorst 2011a; GOR 2007; Wyss 2006; ARD 2008a; ARD 2008b).

Other causes of conflict are government expropriations. The **compulsory villagisation and land-sharing programs** were mostly conducted without due process or payment of fair compensation, required settlement in areas without services or adequate farmland and resulted in increased insecurity and tension (GOR 2007; Bruce 2007). The Rwandan government has also allocated land in game reserves.

As elsewhere in Africa, the bulk of land disputes are handled at the local level, with only a fraction entering the formal court system. Roughly one in 40 disputes started at village level will enter the formal court system and 48% of the land cases that do enter the formal court system are summarily dismissed. At the local level, disputes may more or less informally be put before a family council, local authorities (the head of the *imidugudu* or the executive secretary of the cell). Before a case can be brought to court, disputants must submit it to a mediation committee (or *abunzi* committee). If the parties cannot be reconciled the *abunzi* are required to apply the law and adopt an adversarial decision. This decision is binding on the parties unless one of them submits the case to the Primary Court for review. A committee is composed 12 community members elected for a five year term (Veldman and Lankhorst 2011a).

The **mediation process** is hampered by the fact that the *abunzi* mostly to position themselves as judges rather than as mediators facilitating a dialogue between the parties. Since they lack knowledge of relevant laws and procedures, the outcome is often unsatisfactory. Nonetheless, the rural population in general and vulnerable groups, in particular, tend to prefer the *abunzi* over local authorities and formal courts. In part, this is due to a suspicion that the latter are biased or can be corrupted (ARD 2008b; Veldman and Lankhorst 2011a; Lankhorst and Veldman 2009; GOR 2007).

The land tenure regularization programme is a major endeavor in Rwanda and it was announced in 2012 that all fields have been covered. This is a major achievement and one of the few in its kind in Africa. However, policy space in Rwanda for farmers to question aspects of land policy and registration process is perceived to be insufficient. It is suggested that government land reforms are mostly the product of central level decision making, with less consideration for rural realities (Anseeuw and Alden, 2010; Ansoms 2009, Ansoms et al. 2010). The use of monitoring for adaptive management is hampered by a tendency to approach the presentation of results as “public relations” (e.g. very low percentage of disputed cases of land registration).

A particular problem for Rwanda is the landlessness of **marginalized groups** particularly *abasigajwe inyuma n'amateka* (known as the *Abatwa* or *Twa*), genocide survivors, orphans and legally vulnerable women (Musahara 2006; André and Platteau 2005).

4 RESOURCES AND OTHER INFORMATION

4.1 Related country profiles

- USAID: <http://usaidlandtenure.net/usaidltprproducts/country-profiles/rwanda>
- FAO: <http://www.fao.org/countryprofiles/index.asp?lang=en&ISO3=RWA>
- FAO/Gender: <http://www.fao.org/gender/landrights/report/en/>
- IMF: <http://www.imf.org/external/country/RWA/index.htm>
- World Bank:
<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/RWANDAEXTN/0,,menuPK:368660~pagePK:141159~piPK:141110~theSitePK:368651,00.html>

4.2 Laws, policy and regulations search engines

- FAO Lex (Land & NR search engine): <http://faolex.fao.org/faolex/index.htm>
- Water Lex (Water laws search engine): <http://faolex.fao.org/faolex/waterlex.htm>

4.3 Maps and Databases

- Land and soils databases/information systems:
<http://www.fao.org/nr/land/databasesinformation-systems/en/>
- Water database/information systems:
http://www.fao.org/nr/water/infores_databases.html
- Land and water maps and graphs: <http://www.fao.org/nr/solaw/maps-and-graphs/en/>
http://www.fao.org/nr/water/infores_maps.html

4.4 Portals and other resources

- http://landportal.info/search/apachesolr_search/rwanda
- <http://www.landesia.org/search/?q=rwanda>

4.5 Donor support programs

- USAID has supported the government of Rwanda in its development of land policy and the legal framework governing land. Also the UK's Department for International Development (DFID) is funding and providing technical support for Rwanda's National Land Tenure Reform Programme.
- Since 2011, the World Bank is promoting the implementation of the land governance assessment framework (LGAF), an activity that is facilitated by RISD.

4.6 Civil society organizations working on land governance

Members of International Land Coalition from Rwanda:

- Rwanda Initiative for Sustainable Development (RISD) www.risdrwanda.org

Members EAFF in Rwanda:

- Syndicat des agri-éleveurs du Rwanda (IMBARAGE) –
<http://www.roparwa.org/spip.php?rubrique20>
- Syndicat Rwandais des Agriculteurs et Eleveurs INGABO - http://www.agro-info.net/?menu=documents&view=document&document_id=52534

The Eastern Africa Farmers Federation (EAFF) participates actively in national and international discussions on land governance. They also published in 2010 *The Entebbe Declaration on Large Foreign Land Acquisitions*

<http://www.eaffu.org/go/downloads/EAFF%20Position%20on%20Land%20Grab.pdf>

EAFF covers the following countries: Burundi, Democratic Republic of Congo, Djibouti, Eritrea, Federal Democratic Republic of Ethiopia, Kenya, Rwanda, Uganda and the United Republic of Tanzania. General website: <http://www.eaffu.org/go/>

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