

**Land in Africa Conference  
November 8 – 9, 2004, Church House**

**Report Back from Working Group 5**

The group spent its time exploring some of the challenges to securing collective rights to land and natural resources in Africa.

**1. What are the commons?** Difficult to come to arrive at a consensus on what exactly constitute the "commons" and "common property resources".

- Are we talking about the land, or the resources that the land sustains or both?
- And if we're talking about resources, which ones do we consider to be common property over which communities can claim collective rights? For example, can communities claim collective rights over minerals or fugitive resources such as wildlife or fish?
- And if we're talking about land, what land types are we referring to? In the Sahel, for example, all land is ostensibly held by the State (until it is registered and individuals establish title deed), but over which local people enjoy benefits through a variety of customary tenure systems allowing for both private and communal benefits. For example, agro-pastoralists cultivate land during the rainy season (fields at this moment are considered to be "private" property) but then open up their fields to livestock in the dry season (the same land then becomes a common resource).

In practice the situation is highly complex and dynamic. Institutions for regulating the use and management of the commons and common property resources need to recognise this.

**2. How to secure collective rights to land?** The debate highlighted a number of issues:

- What is a "community"? Who are they? Great diversity along class, gender, ethnic, wealth, etc.

Given this diversity:

- Should one attempt to define a community in law? Example of Mozambique land law was given where the law provides a very open and flexible definition, essentially allowing local people to define what a community consists of.
- Of greater importance is WHO represents a community. Kenya's experience with Group Ranches was discussed to highlight the critical importance of having an accountable and representative leadership as well as an informed population able to hold their leaders to account.

The experiences from Kenya and Mozambique confirmed securing collective rights hinged on:

- Existence of a national policy and legal system which explicitly recognises and protects collective rights to land on an equal basis to other forms of land holding.
- Communities need to register their land in order to force external parties to negotiate with them; registration will also allow communities to defend their rights in court.
- A transparent process for registering land and agreeing boundaries which involves all stakeholders. Mozambique experience with this indicates that it need not be a costly process, and can be cheaper per unit of land than examples of private land registration.
- The establishment of accountable institutions and an informed and competent local population able to hold them to account.
- A clear understanding of the economic and other benefits to be drawn from the collective use of the commons and common property resources. Valuing these resources is, however, problematic since many of their "uses" are not necessarily economic - e.g. spiritual value of forests, the collective identity of Maasai pastoralism. Are there alternative ways of valuing the commons - the idea of individuals within a given community acquiring "shares" (similar to equity shares in a company) in the resources they use and manage collectively, which can then be exchanged to realise other forms of capital was discussed. The group felt additional work is needed on the broader issue of valuing the commons.