



USC Annenberg
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Grounded Reform: Fixing Frelaria's Dysfunctional Land Tenure System

A Case Study On the Politics of Change

The sounds outside were deafening. Hassan peered out his hotel window, staring at the clump of protesters crowding around the entrance to the Bekabe Regal Hotel. They were yelling, singing, and chanting various slogans. He caught snippets of, "Get your hands off our land, foreigners", "This land is ours", and "We are done with our colonial masters! Power to the rural poor!". Hassan closed the curtains. He had taken refuge in his room, attempting to get a moment of peace and quiet to do some writing before tomorrow's Stakeholder Workshop. He sighed, exasperated. He knew that Frelaria desperately needed new land laws and administrative reform, but with all this rancor and antipathy surrounding the release of the proposed Land Reform Plan, he could not fathom how they would manage to pass any land legislation through parliament. He was convinced that Frelaria would benefit tremendously by passing a land law this year but he had no idea what assistance he could possibly provide to help manage the politics of reform and overcome the ever-mounting opposition.

His cell phone rang. "So much for peace and quiet", he thought. He reluctantly picked up the phone. "Hello. I don't know how you got my number, but NO I am NOT interested in answering any more questions about the reform plan... Oh, Minister, oh dear, hello Minister how are you?"

"Can you hear that? Do you see them?!" Minister Masterson replied, barking into the phone in his usual gruff manner. "Yes, I do, I can..." Hassan replied, sighing, "I can't believe this response. I never thought it would be like this. I'm just a technical consultant! I do research. I don't do interviews."

"Welcome to Frelaria, Hassan. Do you know how much my cell phone's been ringing? And they're not asking for interviews. I'm getting threats. I had to pull my kids from school". "Oh I'm so sorry, Minister", Hassan replied.

Thomas Masterson, the Minister of Land and Agriculture, was the reason Hassan became involved in this difficult reform initiative. They met at a convention on agricultural development in South Africa before Masterson's term as Minister and knew him as "Thomas", the representative for an agricultural investment firm. Thomas was seated next to Hassan, and throughout the day regaled him with the history of Frelaria's Land Policy conundrum, describing the decade of political controversy that had continuously squelched all land policy reform in the country. He described powerful chiefs, a rising rural-based opposition party, the growing power of civil society, and a dysfunctional

local land allocation mechanism. “Interesting”, Hassan had responded. They’d exchanged business cards.

Two years later, Hassan received a call from the secretary of “Minister Masterson”. “Who?”, he asked in a puzzled tone, and allowed the surprise call to go through. That was the beginning. Minister Masterson quickly briefed him on the nature of the situation, describing how the new President of Frelaria, Sara Nanoi Zingera, won the Presidency largely based on her campaign promise to establish “a people-friendly land policy reform”. Land reform was at the top of the President’s agenda, and so she appointed Masterson to be her Minister of Land and Agriculture due to his experience working at the local level as a commercial agriculture businessman and investor. He also worked on reform efforts in the Ministry of Natural Resources, which had been one of the most corrupt Ministries in the country before Masterson joined. Minister Masterson sounded enthusiastic and determined to reform land policy in the country. “It’s corrupt, inefficient, and discriminatory, and change is long overdue”, he said. “I want to be the change maker, and I want you to help me”. Impressed with Masterson’s candor and resolve, Hassan promised to seriously think about it. A month later he was on a plane headed for the capital city of Bekabe.

Hassan had spent the last year in Frelaria working with his consultancy group, Agri Form. With funding from the World Bank and support from the government, Hassan and his team toured the country, researching, learning about the land tenure reform issues, speaking with chiefs and local government officials, and conducting land reform debates and workshops with communities. After a year of rigorous research and analysis, Hassan and his team finalized the Frelarian Land Reform Plan. It lays out the policy framework and proposes policy options and an action plan for a national community-based land tenure reform program to ensure security of tenure, improve efficiency in land administration, and increase equitable access to land, particularly among the poor and other vulnerable groups. Upon completion of the Land Reform Plan, Hassan arranged a trip back home to see his family, assuming that he would only be needed after the plan passed through Parliament and implementation activities were to begin. However, this trip did not materialize due to mounting political controversy arising from the proposed plan.

After a history of contested land policy legislation, civil society groups, the House of Chiefs, and the opposition parties were all well versed in disseminating their different views to the public, through the media. Hassan should have known that the current system would not be easy to change. For the past month, Hassan has seen nothing but negative newspaper headlines, calling his plan a product of “the neocolonial project”, a “set of recommendations that will destroy Frelarian society”, and “the final nail in the coffin of the rural poor”.

Hassan couldn’t help but also feel sorry for the President and Minister Masterson. Hassan knew they only had the best intentions, but somehow, Masterson had been turned into the villain in the anti-reform frenzy. Journalists and activists wrote about his background in the commercial agriculture sector, his ties to the commercial farming lobby, and

speculated about his allegiances to foreign investors. AgriForm's recommendation to give the Ministry more authority to arbitrate in land disputes was perceived as Minister Masterson's personal drive for power. Two weeks before the Stakeholder Workshop, allegations were made that the Minister engaged in backroom deals with the commercial farming lobby and the World Bank.

Within his own organization, the Minister is dealing with pockets of bureaucratic resistance. Some of the officers in his ministry disagree with the highly ambitious scope of the plan, having witnessed years of failed reform efforts; some heads of key departments are growing frustrated, apathetic, disengaged, and resentful that, once again, they were not consulted. Despite their wealth of knowledge and depth of experience, their contributions were barely sought in shaping the proposed plan.

Due to the political controversy and wave of public protests, the Ministry of Land and Agriculture convened a multi-stakeholder workshop as a discussion forum to consider the various stakeholder views on the Land Reform Plan.

"Fascinating, and quite challenging", Hassan pondered, recalling the difficult events of the past year.

On June 6th, the Stakeholder Workshop is to take place, where all the stakeholder groups are going to convene to evaluate, debate, and discuss the Land Reform Plan. The goal of the workshop, according to the formal invitation, is to have all stakeholder groups present their opinions of the plan so that decision-makers (government heads, parliamentarians, and donor group representatives) can vote on whether or not to endorse the plan and send it on to parliament. If it reaches that point, it will still have to be approved by the Ministry of Finance before it can be implemented.

Hassan worries that compromise cannot be reached, and his plan will be defeated due to complex political dynamics that seem beyond his control. Before he says goodbye to Minister Masterson, he stops, pauses, and decides to ask him the question that's been on his mind for the past few days, "With Frelaria's long history of failed tenure reforms, what makes you think that this time it will be any different? How can you think that we will be able to overcome all of this political opposition in order to get the plan passed through parliament?"

The Minister stops, sighs, and then, in his low baritone he replies, "Because it has to be different...because we must overhaul the land tenure system and get land legislation through parliament... because Frelaria cannot go any longer without a new land policy".

The Need for Reform

Land lies at the heart of social, political, and economic life in Frelaria, where agriculture and natural resources are fundamental to food security, incomes, employment, and national economic development. Not only is land of particular spiritual and historical significance to the people of Frelaria, but it is also the most important economic asset for

the majority of Frelarians whose livelihoods depend on the productivity of the land. Although there is a rapid move towards urbanization in the country, 70% of the population currently resides in rural areas. Of this rural population, 80% live as subsistence farmers, small-scale miners, and pastoralists who depend on the land for their sustenance. Agriculture accounts for 76% of fulltime employment, 20% of GDP, and 32% of export earnings. Additionally, for many who move to urban areas, rural land ownership still remains the ultimate form of social security to fall back on.

As land is such a central asset within Frelarian life, securing access to land is of increasing concern for many Frelarians. Population growth, migration patterns, environmental change, and market developments are increasing competition for land resources. Non-rural actors, such as urban residents, government officials, and foreign companies, are seeking to gain access to land for both commercial and speculative purposes. Even while demand for land in Frelaria is skyrocketing, 75% of the arable land in the country lies fallow. Government officials and international donor organizations have attributed this paradox to the failures of the existing land system, where farmers have no guarantees of access and ownership, along with little capacity and few incentives to invest in and improve land management.

Background on Land Tenure in Frelaria

Land ownership falls into three broad categories in Frelaria: *Customary lands* (About 78%), *state lands* (about 20%), and *vested land* (About 2%). Most land is owned on a communal basis by the **customary sector**, where tenurial arrangements are driven by customary and religious practices that are usually not written down, but are legitimized by the community. There are 49 different ethnic codes governing land allocation and management in Frelaria.

Most land in the customary sector is used for smallholder agriculture and residential plots, while the majority of large-scale farming takes place on **state and vested lands** where commercial farmers can obtain formal title over the land.

In Frelaria, most land is owned on a communal basis by the customary sector, with tenurial arrangements driven by traditional practices. However, due to changing economic and social conditions, customary land management is increasingly under pressure. Current law restricts the sale or lease of customary land, which covers 80% of the country's arable land, thus stifling the growth of markets for land. Coverage of formal governmental institutions is also very limited in most rural areas, corruption is rampant, land laws are unclear or contradictory, dispute resolution and enforcement mechanisms lack capacity and legal force, and administration is over-centralized and inefficient. There are frequent conflicts between Municipal governments and traditional leaders over the authority to allocate land. Many powerful local bureaucrats, judges, and lawyers benefit immensely from the current land tenure confusion, charging inflated fees in order to navigate the convoluted land laws and land administrative systems. Many politicians continue to take advantage of the ambiguous land tenure system, strong-arming local officials and judges to provide them with enough land to use as a patronage resource. As a result, land tenure and shelter are insecure for most Frelarians. Property rights are weak or unclear, and this rural insecurity has become a major obstacle to national development.

Additionally, land distribution and access in the country is increasingly defined by entrenched inequalities. In Frelaria, the wealthiest 25% of farmers have 10 times more land than the average smallholder, and usually these farmers hold the most fertile land. This is largely attributable to land patronage policies of the country's elite, as well as a system that provides few mechanisms for poor farmers to fight unjust land allocations and obtain new land of their own.

Within customary settings, social norms and marriage arrangements often lead to the systematic exclusion of women, ethnic minorities, and other marginalized groups.

While women contribute a large percentage of household agricultural production and head almost a third of all households, they rarely have independent ownership or control of land and other assets. Although Frelaria's national land legislation provides for gender equality, under most systems of customary law, inheritance and marriage laws favor men over women. In several areas of the country, single, divorced, and widowed women are prevented from owning land altogether.

A History of Land Policy and Politics

Discussions of land policy have always aroused a deep emotional response from the Frelarian public, as land issues in the country are intricately tied to Frelaria's colonial history. During the colonial era, the settler Fritons imported their system of common and statute law, establishing property rights for Friton plantation owners, while leaving the chiefs to govern customary "tribal" lands. The colonial regime co-opted these traditional authorities, granting the chiefs authority over the use and allocation of land and natural resources and the levying of taxes on land.

In 1968, after independence, the new nationalist Frelaria government, in an attempt to abolish the inequities of the colonial tenure system, nationalized all land, to be held on behalf of the people of Frelaria. While 90% of the land was "redistributed" back to the people, operating under customary tenure and distributed by the chiefs, the remaining 10% held under state title was leased to an emerging class of commercial agriculture and

Land Politics: The Players

Invitees to Stakeholder Meeting:

1. Reform Party: The party of the current president came to power in 2006 with ambitious plans to liberalize the economy and reform the land tenure system; holds 86 of 200 congressional seats.
2. Farmers' Party: Holds 66 congressional seats. Argues land tenure reform will help the rich and leave the rural poor dispossessed of their land.
3. Independence Party: Elected in 1966; held onto power for four decades but is now less popular. Holds 48 congressional seats.
4. House of Chiefs: Represents local chiefs from around the country, advises government on protection of local culture
5. Commercial Farmers' Assoc.: Lobby group representing commercial farmers
6. Civil Society Council: Various civil society groups including smallholder farmers, women, and minorities
7. Council for Justice: Breakaway faction of the Civil Society Council
8. Minister of Land & Agriculture
9. Development Officers, Ministry of Land & Agriculture
10. The World Bank

mining interests. Therefore, the institutional and legal duality persisted into the 1990s with large-scale commercial farms owned by an elite class with formal leasehold titles, while smallholder farmers operate under more than 49 different ethnic and religious customary settings.

Despite the current confusion over property rights, many citizens living in rural areas see the situation as the lesser of two evils. They worry that the land reform deal will follow in the footsteps of other countries that have recently undergone land reform, where reform led to numerous land grabs by foreign companies and investors, which forced many rural citizens off land they had been living off of all their lives, with little or no compensation, so that the land could be used by foreign companies.

The World Bank and other proponents of reform have argued that the current system, and the institutional duality inherent in it, compromises the ability of the customary holders to enter into formal land transactions and thus limits their access to credit, prevents the use of land as collateral, and thwarts investment and poverty alleviation. This system perpetuates agrarian inequality and stunts development, as poor smallholders are unable to invest in new technologies and increase productivity.

Given the very controversial nature of land reform as a policy goal, little has been done at a political level to attempt to substantively change the land policy and administrative structures of the antiquated 1968 law. Throughout the past decade, each attempt to change land policy has been met with immense opposition, as politicians and elites at both the national and local level have used their control over land as a major negotiation tool in forming political allegiances. The land reform debate has thus gone back and forth without any comprehensive reform plans taking place on the legislative or administrative level.

A Decade of Controversy

The Reform Party came to power in 2006, ending the forty-year reign of the Independence Party. The Reform Party had ambitious plans to liberalize the economy, promote growth, and encourage investment in agriculture and natural resources. In mid-2008, the newly elected government publicly announced its Land Reform Plan, pledging to promote rural development and create an efficient, secure, equitable, and modern land law and administration system by the end of the decade. In the Plan, the Ministry of Land and Agriculture laid down ambitious market-based reforms, with provisions to convert all customary land from the traditional tenure system to state title, strengthen the rights of leaseholders, improve the land revenue collection system, ease restrictions on the sale of land to foreigners, and improve the dispute resolution system. The stated goal of the Land Reform Plan was to contribute to rural poverty alleviation by empowering the program's beneficiaries to invest in land and improve productivity. The government rationale was based on the premise that the sale of state titles would create a more secure tenure system, address increasing demand for land, give the land more value, open land markets, promote access to credit facilities, and initiate major economic development.

In the Land Reform Plan, for the first time, the government described land access as a “right”, and committed to protecting land rights for all citizens. The plan also acknowledged existing inequalities in land access and ownership, and attributed these inequalities solely to the arbitrary rule of traditional and religious leaders under the customary tenure system. The World Bank and the IMF supported the plan, offering financial and technical assistance to the project.

The release of the Land Reform Plan was followed by two years of controversy, divisive national debate, and bitter fighting between the Reform Party government, chiefs, religious leaders, and civil society organizations. Almost immediately after the plan was released, the National and Regional Houses of Chiefs came out in an uproar against it, arguing that removing land administration from the realm of traditional authority would undermine the authority of the chiefs and break down the social structures that make up Frelarian society. Several chiefs at the national level resigned in protest.

Civil society groups rejected the plan, arguing that the program’s “beneficiaries” were not poor and disempowered farmers, but rather the commercial elite and foreign investors.

Women’s rights and minority groups also decried the lack of policy mechanisms addressing land inequality, women’s land rights, and minority land rights at the local level. A diverse group of 48 civil society organizations formed a coalition, the Civil Society Council, in order to build a lobbying and media campaign to block the passage of the bill.

In the beginning of 2008, the opposition Farmers’ Party joined forces with the House of Chiefs – a group representing the local chiefs that advises the Frelarian government on all matters related to custom and tradition – in a political and media campaign against the Land Reform Plan. The plan was framed as proof of the Reform Party’s secret neocolonial agenda: an attempt to monopolize land ownership in the hands of the elite and foreigners, obliterate traditional Frelarian culture, and repress the rural poor. The Farmers’ Party’s effort, linked with the media campaign conducted by the Civil Society Council, successfully squashed the reform. With the elections only a year away, the Reform Party decided to scrap the plan due to the fear that pursuing it would be too politically costly.

Timeline of Land Tenure Reform in Frelaria

October 2006: Reform Party comes to power

June 2008: Reform Party presents the Land Reform Plan, based on modernizing land law and converting customary land to state title

2008-2010: Years of bitter fighting and controversy between the Reform Party government and the opposition Farmers’ Party

April 2010: The Land Reform Plan is dropped due to the efforts of the Farmers’ Party, the Civil Society Council, and the House of Chiefs

October 2010: Reform Party re-wins Presidency but loses its absolute majority in Parliament

October 2012: The Reform Party and President Zingera announce a partnership with the World Bank in the creation of a new Land Reform Plan

January 2013: Land Reform Plan is published in major newspapers

May 2013: Controversy erupts over “secret meeting” between Commercial Farmers Union, Minister of Agriculture, and the World Bank

In the 2010 elections, the Reform Party lost its absolute majority in parliament, although they managed to hang on to the presidency. Many people worried that land tenure reform would be put on the backburner, and the land issues currently confronting rural communities would continue to go unaddressed.

However, in 2012, leaders in both the Reform Party and the Farmers' party began to bring up the land issue again. Donor institutions, including the World Bank, began repudiating their previous position on the market-led reform plan, as new research began to show the shortcomings of titling programs across different environments. Donor organizations and experts urged the government to come up with a new Land Reform Plan that would work to harmonize formal law and customary land rights and decentralize land rights management to the local level.

A New Strategy

This is where Hassan came into the story: The new Reform Party president, Sara Nanoi Zingera, came to power in 2010 after having campaigned on the land policy issue, promising to supply legislation for a community-based land administration plan within her first two years in office. She appointed Thomas Masterson as her new Minister of Land and Agriculture to head the reform. On the suggestion of the energetic new Minister, President Zingera's administration asked the World Bank and the donor community for financial and technical support in drafting the new Land Reform Plan and in later implementation stages. The government, in consultation with the World Bank, then decided to hire Hassan's consultancy firm, AgriForm, to conduct a study and develop a communication strategy that would provide the framework for a new land policy. Hassan and his team spent the past year working on a new community-oriented communal land program. This plan would serve as the starting point for stakeholder consultations and policy discussions in preparation for a new land legislation to be approved in parliament.

Ultimately, Hassan and his team came up with a plan that would allow for decentralized land administration, in which land would be registered to communities, and unpaid elected community members would make up the land administrative councils (with chiefs only allowed to compete for 20% of these council positions). Worried that conflict between local government, the administrators, and chiefs would hamper land policy at the local level, AgriForm suggested allowing for appointed Land Access Courts to arbitrate in the case of unresolved community land disputes, and added a provision that would grant the Minister certain powers to allocate land in dispute resolution scenarios (see Annex 1 for a summary of the Land Reform Plan).

In October of 2012 the Minister of Land and Agriculture announced that the Frelarian government approached the World Bank for assistance in developing a new Land Reform Plan. However, in the next two months, the government and the World Bank remained silent about the specifics of the plan, merely announcing that its release would take place in January 2013. This fueled widespread speculation in the media and among various

interest groups about the World Bank's heavy-handed approach in pushing policy reform and the Minister of Land's vested interests given his ties to commercial agriculture. Rumors circulated that the Land Reform Plan promotes privatization of land allowing greater capture of benefits among the powerful and wealthy who can then sell the land to foreign investors and further encourage the destruction of communal societies. Even before its release, the plan was politically contentious, and public opinion was negative.

The stage was set for controversy, and when the recommendations were actually published in newspapers on January 9th, 2013, civil society's response was lukewarm at best. The House of Chiefs stated that the recommended 20% restriction on chiefs in administrative land positions would disrupt the stability of the community, replacing traditional custodians with corrupt, wealthy, modernizers. Members of the Farmers' party called the plan "another push by President Sara Nanoi Zingera to place the needs of international corporations over those of rural Frelarians". The Civil Society Council praised some of the recommendations but claimed that the plan did not do enough to ensure adequate representation of women and minorities in land administration governance structures, and they were concerned that the pro-market Minister of Land and Agriculture was given far too much discretionary power to allocate and arbitrate in land related issues.

Then one morning, two weeks before the workshop was to take place in Bekabe, an anonymous government official leaked information to the media about a "secret meeting between Minister Masterman, World Bank officials, and the Commercial Farmers' Association" (a powerful lobby group that represents mostly commercial farmers) (See Bekabe Herald article in annex 5). The House of Chiefs released statements about how the meeting proved that Minister Masterman planned to use his new powers to appoint members of the commercial farming industry to the court in order to undermine community councils. It did not help that the Minister was a former member of the Commercial Farmers' Association, and still has many friends in the group. Civil Society Council executives initially said they were concerned about the allegations, but would wait until further proof surfaced. However, some of the smaller organizations within the group, who were more adamantly opposed to land reform and angry about the Council's silence on the secret meeting, branched off to form the Council for Justice. (See *Frelarian Times* articles in annex 5). This new group, teaming up with the House of Chiefs, wrote editorials about how the plan positioned unpaid community administrators against the Minister of Land, a man backed by the powerful and wealthy Commercial Farmers' Association, foreign investors, and the World Bank. They officially accused Minister Masterman of corruption and called for his resignation.

President Zingera and Minister Masterman officially discredited the source and denounced all allegations of backroom deals. The World Bank also released a statement denying participation in any secret meetings and asserting that the World Bank had merely served as a technical facilitator and administrator of the Global Common Fund.

Leading up to the workshop, the Council for Justice staged several rallies against the Land Reform Plan, and they plan to hold a protest in Bekabe on the workshop's date. The

House of Chiefs has taken ads out in the most read national and local newspapers against the plan. The Civil Society Council has organized several community meetings and on-air radio shows to discuss and debate the recommendations.

Together, this controversy has drowned out the few supporters who have written about the merits of the recommendations. They acknowledge that the plan is not perfect, but is a first step towards reforming the land tenure policy process. Although many Frelarians are pessimistic about potential compromise and forward action, Hassan is confident in the technical feasibility of his plan, and he remains hopeful that those in favor of reform will be able to create a winning coalition, argue for the reform, and convince the political and government leaders to endorse the plan in parliament.

Annexes

- 1. Executive Summary on the Land Reform Plan (2013)**
- 2. Socio-economic and Political environment of Frelaria**
- 3. Summary of Community Consultations on Land Issues**
- 4. Public Opinion Surveys**

Focus Group and Stakeholder Interviews
Poll 1, Conducted January/February 2013
Poll 2, Conducted May 2013

- 5. Press Clips**

Annex 1

Executive Summary: **The Frelarian Community Land Reform Plan**

Authored by: Hassan Martins and the AgriForm Consultancy group

At the request of the President of Frelaria, AgriForm Consultancy Group has developed a Plan of Cooperation with the Democratic Republic of Frelaria to assist the country in the land policy development process. This paper is the summary of recommendations derived from data gathered through interviews, comparative case studies of other African countries, workshops, and surveys conducted on the subject of land tenure and administration reform with a wide range of stakeholders at the community and national level. The data were gathered and the analysis was done between December 2011 and November 2012. This document summarizes the key elements of the recommendations, to be considered and evaluated by policy advisors, politicians, and stakeholders at the June 2013 Stakeholder Workshop in Bekabe, Frelaria.

In light of Frelaria's history of failed land reform initiatives and the politically sensitive nature of all previous proposals calling for land tenure reform legislation and implementation, it is the author's recommendation that the policy review process should be inclusive and participatory, incorporating a wide range of stakeholders and including a plan for public sensitization and education. If the adopted legislation is not politically accepted at all levels, conflict is likely at the time of implementation and will result in failure.

Long-Term Land Policy Goals:

- Increase land tenure security in both customary and state land
- Improve efficiency in land administration and land dispute resolution
- Increase equitable access to, ownership of, and control of land resources
- Ensure that land tenure policy reform processes, implementation, and administration systems are inclusive and represent the voices of all stakeholders

Key Policy Recommendations:

1. Allow the current dual nature of the tenure system to continue to exist and evolve into systems that provide better security of tenure and access to land.
2. Establish registration of communal rights to land such as "traditional titles" in customary areas; this measure will increase security of tenure and access to financial resources.
3. Allow for a multiple-stage, consultative communal title transfer process, including a Ministry of Land rights investigation, community meetings, and objection procedures.

4. Enhance governance in the administration and management of community land through democratic structures that are easily accessible, transparent, and locally situated.

- These administrative structures should be made up of community members elected on a democratic basis.
- Traditional leaders can be a part of this administrative structure, but they cannot make up more than 20% of the membership.
- Women and other minority groups must not be prevented from running for these positions nor should they be discriminated against in the allocation of land.
- Community administrative structures will be responsible for the creation of community rules, defining and registering community tenure rights, and acting as a judicial board in the case of disputes over land.
- The administrative positions will be volunteer-based, to keep costs low and to ensure that only the most invested community members apply for the positions.

5. Allow for the Minister of Land and Agriculture to appoint provincial Land Dispute Courts to arbitrate in land disputes, and provide the Minister of Land and Agriculture with the power to award alternative land to people whose tenure is insecure as a result of conflicting rights on the same land.

6. Raise awareness and educate traditional leaders and communities about reform policies, administrative changes, and land rights

Lessons from the Project:

The pace of the land policy legislation and review has been stalled since 2008 largely due to lack of political will to reinitiate the policy review process. Political leadership is needed to push legislation forward, and bureaucratic leadership will be necessary in its implementation.

There was a general limited capacity of civil society to effectively participate in the policy review process in past attempts to pass legislative reform. Civil society must be consulted in order to ensure the passage of relevant legislation, the protection of marginalized groups and the poor, and the successful implementation of policy.

Annex 2

Socio-economic and political economy of Frelaria

Frelaria has a population of 34 million people, a relatively stable political and social environment, and is endowed with some valuable primary commodities and conditions favorable to agriculture. The majority of the population lives in rural areas, working as subsistence farmers. Between 1980 and 1994, Frelaria saw its GDP fall by more than half, largely due to the drop in the prices of many of its principal exports, combined with poor leadership, economic mismanagement, and an overvalued currency. However, after a decade of structural adjustment reforms, Frelaria has seen steady economic growth of 4% a year. Despite the economy's recent growth, poverty levels remain stagnant and inequality continues to climb, with 69% of Frelarians living in poverty and 65% food-insecure.

Political History

In the past decade, Frelaria has not only undergone a radical economic transformation, but has also seen a dramatic change in its political makeup, as the country shifted from authoritarian one-party rule to a functioning democracy. At the country's independence in 1966, multi-party elections brought the Independence Party to power, led by the charismatic, populist president, El Lein. Upon taking power, the party adopted an ideology based on nationalism and centralized government. However, while El Lein espoused rhetoric of equality and self-sufficiency, he quickly consolidated power, eliminating all other political parties and changing the constitution to a single-party state.

Finally, in 2005, El Lein was forced by reformers to lift the ban on multiple parties, reform the constitution, and hold multiparty elections. Several new parties quickly gained momentum, and elections were held in 2006. In the elections, regarded by international watchdogs as free and fair, the Reform Party won 142 of the 200 seats in the National Parliament, with the Independence Party taking 51 of the remaining seats, and the Farmers' Party winning the final 7 seats. After this landslide election, the Reform Party came to power, with market reformist Trevor Monotu as the new president. The new government, with support from the World Bank and the IMF, quickly worked to institute market reforms, privatize state-owned monopolies, and liberalize commodity markets.

In 2010, the Reform Party lost its absolute majority in the National Parliament, with the Farmers' Party picking up many of the Reform Party's seats. This was largely a result of the negative public response to the proposed land tenure reform bill, as well as other market reform policies that were perceived as hurting the rural poor at the expense of the urban elite.

The Reform Party currently holds 86 seats in parliament. Since they lost their absolute majority, they have formed an unlikely alliance with the former ruling Independence party to give them a voting majority, which is required to pass all legislation. However, The Farmers' Party currently has 66 seats, and is increasingly gaining support from

members of parliament in the Independence Party. In the last year, 19 of the Independence MPs voted with the Farmers' Party.

The recent elections in 2010 saw the Reform Party win the presidency again, but by a much smaller margin than seen in previous years. The new President, Sara Nanoi Zingera, campaigned on a platform of moderation, including a commitment to finally achieve "a people-friendly land policy reform". She has been making the rounds in Frelaria and in the media touting the potential benefits of land reform.

The Independence Party still retains strong support in several key areas, where the Party's traditional elite continue to exist along with the old rules of the game, gaining most of their support from local patronage, corrupt governors, and public sector workers in local government.

With the change in the political makeup of parliament, the Independence Party has come to realize its newfound importance as key swing voters. This change has been seen by some younger members of the party as an opportunity for the rebirth of the Independence Party, moving away from its history of corruption and patronage towards a party platform based on reform and forward-thinking. These reformers within the party believe that with this new message, they will be able to pick up voters that are currently disenchanted with the Farmers' and Reform Parties. Many of the older members of the Independence party are resisting this push, and this resistant faction is backed by the loyal governors and local officials who refuse to change their corrupt ways.

Socio-political environment

A macro level profile of Frelaria's socio-political environment provides a broad picture of the reform context that can affect the design and implementation of policy reforms. The following describes key characteristics of Frelaria's socio-political environment.

- The Constitution of Frelaria is the basic law of the land, which enshrines the citizen's right to free expression, free association, free speech, and free media.
- There is a legal framework guaranteeing the citizen's right to vote. Overall, elections are generally considered to be free and fair, but in the last election there were several allegations of vote fraud in rural areas.
- The constitution provides citizens the right to form civil society organizations. However, reports indicate that bureaucratic red tape and complex administrative requirements are obstacles to the formation of civil society organizations. Nonetheless, CSOs have rapidly increased in recent years.
- There is media plurality in the print media with some estimates that there are 57 independently owned newspapers, as well as many national and community radio stations. There is much less media diversity and exposure in rural areas as compared to urban areas. The government does not restrict the use of Internet, but only about 7% have access.

- The independence of the judiciary is guaranteed by the Constitution. However, a study by an international human rights group revealed that some decisions have been influenced by gender bias and accusations of bribery and corruption. These problems with the judiciary are especially prevalent at the local level.
- While the Constitution protects women against discrimination under Article 17, Article 30 contradicts those protections by allowing for the application of communal and religious laws in regards to inheritance, marriage, and divorce laws. This limits women's access to and ownership of land and other productive resources.
- The Republic of Frelaria is divided into 16 administrative provinces, each governed by a provincial governor. Each province is then subdivided into municipalities, governed by municipal development councils. The provincial and municipal development councils are elected for 5-year terms.
- Customary government exists alongside the municipal government as a second administrative and legal structure. Native government in Frelaria is largely separated along the lines of tribe, with each chief of a village or town supported by sub-chiefs and a traditional council.
- The Constitution maintains that the House of Chiefs will exist in a national advisory capacity to the Frelarian government on all matters related to custom and tradition. Chiefs cannot participate in political activity, but this nonpartisanship is frequently violated, and Chiefs have become a powerful and influential group due to their ability to win votes from their communities.

Annex 3

Summary of Community Consultations on Land Issues

Several community consultations were conducted to assess the public's perceptions on various land issues and tenure problems affecting them. The community consultations were a part of AgriForm's research and analysis, commissioned by the government of Frelaria and the World Bank. A series of 8 community consultations took place in several rural villages in different areas of the country between January and August 2012. This document summarizes the main issues raised in the meetings.

On Security of Tenure:

People do not feel they have secure rights to land. Many 'buy' land from chiefs and bibires (headmen). They receive handwritten receipts, but no other documents to confirm their rights to land. People feel their tenure insecure and causes nervousness about investing in land. They have reported many chiefs and headmen they believe take bribes for re-distributing land. Some people fear eviction from their land.

On the Allocation of Land:

The manner in which land is allocated has no rhyme or reason. The absence of a proper system makes it difficult for police and other services to operate. It has been difficult for municipalities to put in roads and water in many areas, due to the chaotic nature of land allocation.

Few understand how to legally access new land without paying off a member of the traditional council or a government official.

On Dispute Resolution Mechanisms:

Land dispute resolution is an extremely frustrating and long process. The judicial process can often take up to five years. Many claim that the judiciary is also corrupt and can be paid off by the wealthiest or most powerful party.

On Traditional Authority and Chief Power:

Often traditional authorities charge levies for tenants on tribal land, and they have the power to raise these fees at their discretion.

There are many conflicts between chiefs and local governments, largely due to the lack of institutional linkages between the municipal development councils and chiefs. This causes confusion, delays, and contradiction in all development projects. People feel as though they are caught between the municipality and the chiefs.

In a few cases, chiefs have abused their power over the land, treating it not as the property of the community, but as land they can allocate to their friends and relatives. They have also been accused of taking bribes regarding land allocation. Community members had no means of redress.

On Land inequality:

Women are inherently discriminated against in land rights issues, due to traditional inheritance, divorce, and marriage laws. In several places, land is not allocated to women unless they are over 40 years old and have children. In some areas, land is not allocated to unmarried women at all. In some places, women have no right to speak in community meetings or customary courts, but must be represented by a male relative.

On the Effects of Modernization:

The traditional systems that once protected and managed communal resources (such as firewood, water, and grazing areas) have eroded. Many say that private contractors, outsiders, and government officials are able to access these resources easily as there are no official controls to stop them and chiefs often facilitate the process to make a profit.

Annex 4

Public Opinion Surveys

A. Results of Focus Groups and Stakeholder Interviews

A series of interviews and focus groups were conducted following the public release of the new Land Reform Plan, commissioned by AgriForm, on behalf of the World Bank and the Frelarian government. Participants include key stakeholders such as government officials, politicians, traditional leaders, the private sector, the academic community, and civil society. Below is a summary of the findings on public opinion about the plan and the upcoming workshop:

- This plan will worsen the institutional confusion between the powers and responsibilities of the chiefs and local government, by adding yet another governing body. The plan does not provide for institutional integration between these three administrative actors.
- Many respondents do not like that the community administrator positions will be unpaid. They believe that this will allow only the wealthiest members of society to run for the positions. Many people also think this will encourage the taking of bribes.
- Most respondents approve of the plan's proposal to register all land rights, and see it as much needed.
- Many worry that the land they have been living off of without formal title will be sold to foreign companies and that they will be evicted.
- Some respondents believed that the 20% participation by chiefs was too much. They thought that the remaining 80% would go to those in the chief's inner circles, and chiefs would dominate.
- Others responded that the 20% participation by chiefs was too little, and they expressed concern that traditional safety nets and community values would erode over time.
- Women believe that there should be more protections of gender equality in the community land boards. The majority would like to see quotas instituted to mandate that women make up a substantial percentage of the land administrative systems.
- Overall, most respondents believed that, despite minor problems, the plan is a good step towards better land policy and administration, and they hope that it passes the legislative stage.

B. Results of National Poll, January-February 2013

National poll of 1160 Likely Voters

(Survey conducted 1 January - 2 February 2013, before the “secret meeting” controversy)

‘Do you support the passage of a Land Reform bill?’



C. Results of National Poll, May 2013

National Poll of 997 Likely Voters (Survey conducted 23 May – 30 May, 2013, after the “secret meeting” controversy)

A. ‘Are you Concerned about Foreign Influence in the Land Reform Policymaking Process?’



B. 'Do you support the passage of a Land Reform bill?'



Annex 5

Press Articles

MINISTER DENIES “SECRET MEETING” WITH WORLD BANK

MAY 22, 2013

Bekabe Herald

This morning, the Frelarian Minister of Land and Agriculture, Thomas Masterson, was joined by President Sara Nanoi Zingera in denying allegations that a secret backroom meeting occurred during the drafting of the Frelarian Land Reform Plan.

Yesterday, an anonymous government official leaked information about a “secret meeting” that occurred in Bekabe regarding the nature of the Land Reform Plan. According to the informant, the Minister, World Bank representatives, members of the Frelarian Commercial Farmers’ Association, and the architects of the recent Land Reform Plan attended a meeting earlier this year, which was held in an undisclosed location off government premises. The government informant did not indicate what was specifically discussed; however he did suggest that the nature of the meeting was about the policy recommendations for the Land Reform Plan.

Members of the Farmers’ Party, the spokesperson for the House of Chiefs, and the recently formed Council for Justice have released public statements in response, charging the Minister with corruption and underhanded negotiations.

However, Minister Masterson, joined by President Zingera in a press conference this morning, refuted these claims. “This is absurd”, he said. “There were no secret meetings that took place during the drafting process. The Plan’s recommendations are solely a product of Agri-Form’s intensive research and analysis process. I had no knowledge of the recommendations until the Plan was complete”.

The incident incensed worries of a potential land grab by foreign investors if the Plan comes to pass. NGOs and civil society members in neighboring countries with recent land tenure reforms have reported cases of thousands of citizens being evicted from their homes to make way for international corporations to make use of the land.

The Farmers’ Party worries that backroom deals signal a pathway for moving international corporations onto rural land, even though the draft form of the plan includes provisions for incorporating local community leaders in all decision-making.

“This is just further proof that the architects of the Land Reform Plan are in the pockets of the wealthy elite and foreign powers”, said the spokesperson for the Rural Farmers’ Party, Shania Johnson.

Agri-Form LTD is foreign-owned consultant company. They claim to be an independent, nonpartisan group, with expertise in agricultural development and land administration. Agri-Form’s founder and the main author of the Land Reform Plan, Hassan Akwal, declined to comment.

President Zingera also noted that there are records of all consultations that have taken place on the subject of the plan. “We have been very transparent about all our actions in this policy review process” she said. Indeed, there are records of several meetings taking place at the capital between the Commercial Farmers’ Association, the Minister, and the World Bank on March 7, 8, and 9 of this year. Government officials have said that these meetings were a few in a series of stakeholder consultations that occurred after the release and finalization of the policy recommendations.

“We do not know if these are the same meetings”, said a spokesperson from the Civil Society Council. “However, it is disturbing that consultations took place between the private sector and the Minister, while the Minister has continually refused to meet with representatives from civil society.”

These accusations come at a critical time for the Reform Party, President Zingera, and Minister Masterman, several weeks before the proposed Stakeholder Workshop.

LAND POLICY CONTROVERSY SPLITS CIVIL SOCIETY

MAY 29, 2012

Frelarian Times

Last week, an anonymous government official leaked information pertaining to a “secret meeting” about the Land Reform Plan. The source identified the meeting’s attendees as the Minister of Land and Agriculture, Hassan Martins, the author of the Technical land policy recommendations, and representatives from the Commercial Farmers Association and the World Bank.

Critics claim that this leak proves that the Minister of Land and Agriculture and the commercial farming lobby influenced the Land Reform Plan. Members of the Farmers’ Party released statements condemning the Minister and asking for his resignation.

However, civil society remained surprisingly quiet about the leak. “We are disturbed by these allegations”, said a spokesperson from the Civil Society Council, the federation of pro-poor civil society organizations that worked to mobilize the country against the

Community Development Land Bill of 2009, “but we cannot condemn the Minister until more evidence surfaces to substantiate these claims. This does not change our position that the Plan does not adequately provide for women and minority land rights. We will continue to push for a more pro-poor, more gender-neutral Land Reform Plan”.

However, several member organizations broke the Civil Society Council’s silence. “We cannot believe this is a coincidence”, said Anastasio Brenoola, the head of the Frelarian Rural Development (FRD), an organization in the coalition. “Now we have proof that if the Community Land recommendations are passed, the Minister will use his new powers to appoint his commercial farmer friends and open up community lands to foreign investors.”

Later in the day, the FRD and thirteen other organizations within the Civil Society Council announced that they were forming their own organization, the Council for Justice. “We cannot sit by silently and watch while corrupt officials hand over Frelarian community lands to foreigners. We must act.” The Council for Justice has called for Minister Masterman’s resignation.

Civil Society Council spokespersons declined to comment on the split.