African Union's Declaration on Issues and Framework and Guidelines on Land Policy in Africa

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Property Rights and Resource Governance

Issues and Best Practices

Monrovia, Liberia

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DECLARATION ON LAND ISSUES AND CHALLENGES IN AFRICA

WE, the Heads of States and Government of the African Union, meeting at our Thirteenth Ordinary Session in Sirte, Libya, from 1 to 3 July 2009;

RECOGNISING the centrality of land to sustainable socio-economic growth, development and the security of the social, economic and cultural livelihoods of our people;

AWARE of the rich heritage of Africa's land and related resources especially its unique natural eco-systems;

FURTHER AWARE of the diversity and complexity of the systems under which land and related resources are held, managed and used…

RESOLVE TO:
1. Ensure that land laws provide for equitable access to land and related resources among all land users including the youth and other landless and vulnerable groups such as displaced persons;

2. Strengthen security of land tenure for women which merits special attention.

FRAMEWORK AND GUIDELINES

ON LAND POLICY IN AFRICA

Revised Version

March 2009

African Union Problem Analysis on Land Issues

"…many African countries have, over time, accumulated a multiplicity of sectorial policies and laws relating to land, its management and use without over-arching policies which rationalize, harmonize and clarify the otherwise uncoordinated approaches and complex interactions between these sectorial laws and policies."

Developing an African Union Vision

- **Regional Consultative Workshops:** AU-ECA-AfDB. August 2007-December, 2008

- **Draft of Continental Framework and Background Documents:** March 2009

- **Land Policy Initiative:** 5-Year Strategic Plan and Roadmap (2012-2016)

African Union Framework Vision Statement

On that basis, African governments will seek to develop land policies in a manner that is inclusive and responsive to the needs of all land users, contribute to political stability, promote gender equity, foster the reduction of conflict, enhance the sustainable management of natural resources, ensure orderly urban development, and which put all stakeholders on the path to higher economic growth and a better quality of life.

Key Values

Interface between Customary and Statutory Tenure

A major continual challenge which evolving land policies have to face, especially in sub-Saharan Africa, is the need to blend tradition and modernity in land rights regimes. In this respect land policies should seek to remove age-old rigidities in traditional structures and systems which tend to discriminate against women while at the same time building on and thereby improving indigenous tenure arrangements. In thus acknowledging the legitimacy of indigenous land rights, land policy processes must also recognize the role of local and community-based land administration/management institutions and structures, alongside those of the State. Land policy processes should also seek to provide for the necessary interface between state and indigenous systems, particularly with regard to the certification of land rights, the empowerment of decentralized institutions in land rights administration, and the management of land as a resource at the local level.

Gender and Resource Tenure

primarily the responsibility of women and children. It is still generally the case, however, that gender discrimination in access to land resources is a serious problem particularly in rural Africa. This is both undemocratic and a constraint on economic development. Better and more productive use of land requires that the land rights of women be strengthened through a variety of mechanisms including the enactment of legislation that allows women to enforce documented claims to land within and outside marriage. This should come hand in hand with equal rights for women to inherit and bequeath land, co-ownership of registered land by spouses and the promotion of women's participation in land administration structures. To ensure full enjoyment of land rights, these measures must be part of an ideology which removes issues regarding the land rights of women from the private sphere of marriage and family, and places them in the public domain of human rights.

Pro-Poor Market Orientations

In particular, there is need to ensure that adequate measures are put in place to ensure that increased market-driven policies of land development do not expose vulnerable groups, particularly women, to further marginalization through speculation and costly land rights transfer systems.

The State and Land Administration

For land to play its primary role in national and regional development in Africa, attention will need to be focused, as a matter of urgency on the state of land administration systems. There are two aspects to this issue, namely; the state of land rights delivery and the efficiency and efficacy of the laws, structures and institutions for land governance. Both aspects are in dire need of reform.

Land Administration

The administration of land resources has an important bearing on the democratic process. Structures governing access, control and management of land are as much about the consolidation of democracy as they are about asset stewardship. Linked to this is the need to integrate land administration and management into systems of governance at all levels. Best practice points to the fact that devolution

Further policy making processes should promote holistic approaches instead of the tendency to pursue sector specific paths or foci to policy development with little or no co-ordination or harmonization with other sectors and cross-cutting policies.

Land Rights Delivery Systems

Land rights delivery systems comprise those processes that are concerned with ascertainment, demarcation, survey, registration, and documentation of land rights and systematic tracking of land rights transactions. In many African countries, these systems are in various conditions of disuse and mismanagement and are largely paper-based and manually operated. Further many are generally inaccessible and expensive to the ordinary land using public. These will require not merely redesign but also technological upgrading including the establishment of computerized Land Information Systems (LIS) for faster and more efficient delivery. In addition land delivery systems may also need to be privatized or outsourced so as to liberate the provision of services from complex government bureaucracies.

Key Values

Land Policy Development Process

BOX 2: Sequencing the Policy Development Process

1. Stakeholder consultation and identification of salient problems in the land sector;
2. Preparation of working drafts for further discussion with stakeholders.
3. Appraisal of institutional and financial/budgetary options;
4. Refinement, processing and approval of the national land policy
5. Design of implementation programmes and rationalization of institutional responsibilities for implementation;
6. Enactment of new and revision or repeal of existing land and land-related legislation
7. Further dissemination of information to the public, training and capacity building to support implementation