

DEVELOPING A RESEARCH AGENDA TO SUSTAIN LAND REFORMS IN KENYA

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CONTEXT

- Land reform an agenda for many countries in Africa over the past 3 decades
- 2009 *Framework and Guidelines on Land Policy Formulation in Africa*
 - Framework to strengthen land rights, enhance productivity and secure livelihoods
- Guidelines recognize that Land is at the center of governance, political, social and economic development and processes in Africa
- However, challenge of addressing the fundamental draw-back “**The Land Question?**”
- Key Challenge is identifying what the land question is in different contexts and designing appropriate responses?

WHAT'S THE LAND PROBLEM IN AFRICA??

- Professor Okoth Ogendo's article on the Tragic African's Commons: A Century of Expropriation, Suppression and Exploitation?
 - Is the problem disregard of customary/communal ownership arrangements?
- Kwamena Bentsi-Enchill: Do African Systems of Land Tenure Require a Special Terminology?
 - Is there a misunderstanding of what land is, what rights are? and what ownership means? Can we solve what we do not accurately describe??
- AU Guidelines elaborates on various manifestations of the problem from geographical, ecological, economic and political aspects of the problem
- Challenge multifaceted and has both historical and contemporary aspects

THE KENYAN RESPONSES

- Land and Kenya's history intertwined: From Colonialism, independence to post-independent contestations
- 2007 PEV and the land linkage- Land as Agenda IV
- The NLP and the steps towards a " Land Answer"
- 2010 Constitution and responses to the land problems
 - Tenure reforms
 - Institutional restructuring- NLC
 - Democratizing the exercises of the power of eminent domain and development control
 - Enhancing sustainability, productivity, efficiency and equity in land use

THE POST 2010 LAND REFORM AGENDA

- Past complaints of poor legal and institutional architecture(Njonjo Land Commission)
- 6 years of legislative reform to align to constitution, NLC operations and experience and administrative actions– eg digitization and issuance of tile deeds
- However, new and Continuing challenges
 - Discovery of extractives- *cujus doctrine* and implications
 - Alignment of legislative provisions to Constitution
 - Our vision of land reform- willing buyer willing seller versus land as justice
 - Continuing “private tenure” mentality despite article 61 COK
 - Infrastructure projects, compulsory acquisition and tests on tenure security
 - Competing land uses-----
 - Multiple and contesting “owners’ “managers” of land as result of devolved governance

SUSTAINING THE REFORM MOMENTUM

- 2010 Constitution and place of public participation
- Meaningful participation envisages use of information
- The influence in policy making and the concept of evidenced-based policy making
- However, limited current, rigorous and responsive research on land tenure, use and management
- Article 67 : NLC roles:
 - to conduct research related to land and the use of natural resources, and make recommendations to appropriate authorities
- Constitutional recognition of the place of research in resolving land problem and sustaining land reforms

SOME REFLECTIONS ON RESEARCH APPROACHES AND PRIORITIES

- Ivory Tower research versus NGO research- creating the linkages
- Giving voices to communities through research inputs
- Linkages between research and policy inputs
- Some priority areas
 - Land rights versus rights to NR – tenure implications
 - Ecological imperatives for land tenure security
 - Role of County Governments in land management and use
 - Balancing competing land uses (conservation versus development, pastoralism versus extractives..etc)
 - Operationalizing the Community Land Act
 - Food security and land reform
 - The place of land reforms in achieving the SDGs