

Land governance: Enthusiasm as EAC Partner States begin to share best practices

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Land issues under the EAC

Discussing matters land in the East African Community has been difficult. Because land, its policies and laws, aren't easy to agree on. They are quite jurisdiction-specific. What works in one country may be inapplicable in another. Indeed, the Protocol on the establishment of the East African Community (EAC) Common Market, which is informed by the Treaty of Establishment, is quite explicit on matters land. The Common Market Protocol provides for the free movement of goods, persons, labour, services and capital. It also provides for the rights of establishment and the rights of residence of EAC citizens. Article 15 of this protocol is on access to and use of land and premises. It tersely provides that Partner States are agreed that access to and use of land and premises shall be governed by the national policies and laws of the Partner States. This therefore limits the depth of discussions on matters land within the Community.

The above notwithstanding, EAC Partner States will in future able to share lessons and best practices on land policy formulation and implementation following recent developments. This will not negate the provisions of the Common Market Protocol, but will instead result in improved land governance in the respective Partner States. Besides, lesson sharing will enhance collaboration in the management of transboundary issues that require convergence. These include the management of transboundary infrastructure, wildlife ecosystems, cross-border towns and the management of transboundary environment and natural resource ecosystems.

Continental land agenda

The African Union (AU) Agenda 2063 on the “*Africa We Want*” seeks to transform the continent

into a global powerhouse of the future. To realise this agenda, which is framed around 50 years from year 2013, will call for improved land governance around the continent. This because land plays a central role in national development processes of African Union Member States. Land plays primary roles in national interventions targeted at reducing poverty, improving infrastructure, environmental management, enhancing gender equity, strengthening governance, conflict resolution and enhancing food security. The African Union agenda on land, which is based on *the African*

Union Declaration on Land Issues and Challenges

of 2009, complements the realization of some of the components to the AU agenda 2063.

Among other things, the AU Declaration on land invites Regional Economic Communities to convene platforms to facilitate the sharing of lessons and the dissemination of best practices in land policy formulation, implementation and monitoring. Such platforms will enable States to share lessons and information on best practices documented during their land policy formulation, implementation and review processes.

Regional Platform and lessons

In keeping with this call, the EAC has recently been in partnership with the African Land Policy Centre, based at the Economic Commission for Africa in Addis Ababa, to establish such a regional platform. The first regional platform forum was held on the 17-18 August 2022 in Kampala, Uganda, and was attended by experts from the EAC Partner States, the EAC Secretariat, the Lake Victoria Basin Commission and the African Land Policy Centre. Experts from the Partner States were drawn from State Ministries and Institutions responsible for EAC affairs, land policy development, land use planning and land administration.

This regional forum was preceded by a n assessment study on the status of land policy development within the EAC region. From the experiences and lessons shared, the region has done quite well in land policy development. All the six States that participated in the assessment study have made good progress in their land policy development processes. Other than the Republic of South Sudan which is yet to complete its national land policy process, the Republics of Burundi, Rwanda, Kenya and Uganda, and the United Republic of Tanzania, all have comprehensive national land policy documents to guide their land governance. Indeed, some countries have already gone ahead to review their policies after years of implementation, while others are in the process of doing so. More importantly, during the forum, these countries were able to share their lessons and best practices. These were mainly on land use planning, digitization of land records and land services, land titling, enhancement of food security and land policy processes.

Priority issues flagged from across the region included the digitization of land records and the establishment of modern land information management systems. Sustainable land use planning, compulsory land acquisition and the pertinent compensation were also flagged as priority concerns. One can appreciate why. The increased numbers of physical land records in land offices are beginning to overwhelm institutions while the management of land use is becoming increasingly pertinent as land becomes fragmented with increased population and competing uses. The development of road, rail, oil and power infrastructure within the region, which is needed to move people and goods, and to support sectoral development, requires the compulsory acquisition of private and community land. This attracts due compensation, based on the applicable national laws. Compensation is a sticky issue around the region and any delays around it easily escalate project timelines and costs.

Emerging issues identified included land grabbing and the resolution of land conflicts precipitated by the numerous land and boundary disputes. Climate change and soil fertility are other emerging issues, with the latter getting pronounced where quality has declined with land use.

Peer learning and benchmarking

From the mood of the participating experts, such forums were long overdue, as they seemed to provide a priceless peer-learning opportunity, without necessarily binding any State to adopt another's practices. Yet, it provided both material and networks from which States could borrow or benchmark to improve national initiatives, or to avoid process pitfalls. It is anticipated that post-forum policy briefs will help to inform and improve land governance across the region, with obvious regional development dividends. It's also expected that such platforms will become regular within the region, and will involve more stakeholders.

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