

**Learning lessons from
the implementation process
of AU Agenda on land**

ABRIDGED VERSION

Foreword

A little over ten years ago, leaders of African nations came together under the auspices of the African Union (AU) to adopt the “Declaration on Land Issues and Challenges” in Africa. This signalled the wide recognition of the importance of effective land governance for the development of Africa and her people. Along with the Declaration, a number of other important policy instruments and guidelines, including the Framework and Guidelines on Land policy in Africa (F&G) were adopted and these are seen collectively as the AU Agenda on Land.

The Land Policy Initiative (LPI) initiated by the tripartite African Union, the Economic Commission for Africa and the African Development Bank consortium, was established to carry forward this agenda. The LPI, now the African Land Policy Centre (ALPC), involved a range of stakeholders, including national governments, Regional Economic Communities and non-government organisations. It was supported by different multilateral agencies, to input on the continuous development of AU Agenda on Land and contribute towards its promotion and implementation. The LPI and its partners also supported the organisation of various platforms to facilitate particular stakeholder involvement, including the African Civil Society Organisation (CSO) Platform on Land.

This assessment study on land policy in Africa was initiated by the Civil Society (CSO) Platform, and supported by UN-Habitat, Global Land Tool Network (GLTN), International Land Coalition (ILC) and Welthungerhilfe (WHH). It sets out to learn lessons from the implementation process of AU Agenda on land and stimulate discussion on the way forward to further improve land rights and

land governance in Africa as a basis for equitable progress and prosperity. As the CSO Platform and partners who supported the implementation process of AU Agenda on Land, we see this as a contribution to taking forward this Agenda, including the commitment to monitor and assess its effective implementation. It is also a continuation of the inclusive approach that has been part of the spirit of the development of the AU Agenda on Land from the beginning.

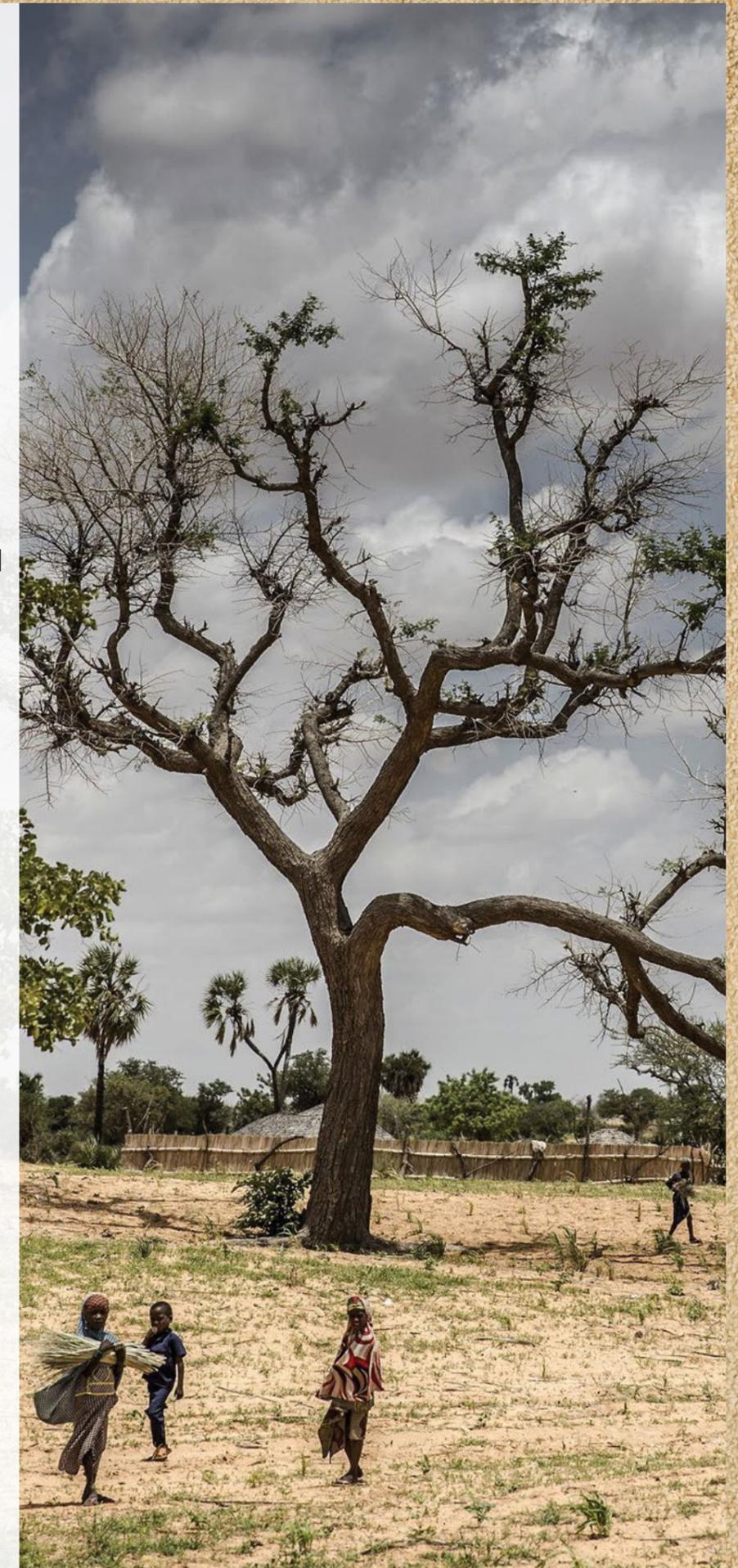
What this report clearly shows is that there has been progress in improving land policies and governance across the continent. The AU Agenda on Land and the initiatives put in place to support it have contributed to this progress. Unsurprisingly there is still more to do. There remains work that has been started that we still need to pursue, especially on women’s land rights, and on monitoring and evaluation of land policy. There are also new challenges and opportunities that have emerged, for example in urbanisation and new digital technology, that require new responses. We believe this report can assist to inform this essential work going forward.

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Table of contents

- 1**
Introduction
- 2**
Background
 - 2.1. Key African land-related challenges
 - 2.2. An African response : The AU Agenda on Land
- 3**
The assessment of land policy in Africa
 - 3.1. Scope of the assessment
 - 3.2. Key Achievements
 - 3.3. Level of influence of AU Agenda on land
- 4**
Suggested focus areas for future work
 - 4.1. Continued land challenges
 - 4.2. Going forward
- 5**
Conclusion



1. Introduction – Background, justifications and objectives

This document is the summary of the report titled “Assessment study on land policy in Africa : learning lessons from the implementation process of the AU Declaration on land”. The assessment study was commissioned by the African Civil Society Platform on Land that brings together a range of civil society actors to engage at a continental level on land policy and governance. The full assessment report, was financed by ILC, GLTN/UN-Habitat and Welthungerhilfe.

Land issues are central to social and economic development, but continue to pose serious challenges in many African countries. This is due to the history of massive colonial land dispossessions, distortions of land administration systems, and new challenges, such as rapid urbanization and land fragmentation that many governments have not been able to adequately respond to. In response

to these challenges, member states of the African Union (AU) have adopted a range of positions on land governance and have committed to improving land governance in their countries and across the continent. This set of commitments are referred to as the AU Agenda on Land.

This summary report highlights some of the key findings from the more detailed assessment done. As a summary report, it does not aim to cover all achievements, challenges and lessons identified.

The summary report starts with presenting a brief background on land challenges in Africa and explaining the responses proposed by the AU. It then sets out the findings on progress and challenges with land policy. The report finishes by setting out suggested focus areas for work to make further progress on improving land governance.

The CSO platform on land

The African CSO Platform on Land was established in 2014 in Dakar, Senegal, with support from the African Land Policy Centre (ALPC). It is made up of a range of civil society organizations from across the continent that are working on land issues. The platform aims to ensure a continued and organized civil society engagement in support of the implementation of the AU Agenda on Land with a focus on strengthening the voice of marginalized groups and advocating for stronger women's land rights.

The work of the Platform is organized around six thematic areas: i) women's land rights; ii) land tenure security and customary tenure; iii) land governance for natural resource management; iv) large scale land-based investments (LSLBIs); v) transparency and accountability; and vi) monitoring and evaluation of land policy.



2. Background

2.1. Key African land-related challenges

Throughout history, the control and use of land formed the basis of endogenous political organization, economic development and social cohesion. In pre-colonial Africa land was governed by a diversity of customary systems that tended to be deeply rooted in established community practices and religious beliefs often associated with forms of ancestor worship. As a result, land is not just an economic asset, it is also perceived as a sacred gift of nature there to secure the people. Land resources were held by the community, while families within the community granted land use rights to meet their respective needs. Across the continent, land resources were generally managed by different forms of traditional leadership structures led by chiefs. These had the responsibility of ensuring that the ritual practices needed for peaceful and fruitful occupation and use of the land were observed; they also played a critical role in land dispute prevention and resolution. This was based on their deep knowledge of the complex and overlapping land rights within their communities.

These land governance systems, deeply rooted in local norms and social structures, tended to function quite well and be appropriate for handling the more limited pressures on the less populated land in those times. A strength of these customary systems was the balancing of the collective and individual rights to land, often including complex overlapping rights to the same pieces of land. Land administration was of course not perfect in these societies, as it has not been perfect anywhere. From time to time there were conflicts over land within and between communities. Sections of society were marginalized; notably women were often excluded from land related decision making and denied the right to own land. They generally acquired access to land only through male partners or relatives. Members of certain castes or clans were also deemed inferior in some societies and excluded from the right to own land.

Colonial domination and its legacy on land issues

European colonization of most of Africa severely disrupted existing land governance and cut-off the process of land governance evolving in Africa on its own terms. The conquest and exploitation of land and related natural resources in Africa was a key part of the

colonial project that focused on providing resources needed to support the booming industrialization in 19th and early 20th century Europe. The clash between local customary systems and imported statutory land laws became a major land policy issue across the continent that remains today. In cases where traditional leaders cooperated to facilitate access to land for colonial companies, customary tenure systems were tolerated, but also distorted by the colonial administration. When customary land tenure became an obstacle for colonial investors, land seizure and privatization were imposed to support the economic systems of the colonial powers. One of the enduring results of this was the creation of dual land systems broadly comprising forms of statutory (in terms of western and colonial law) land on the one hand and customary land on the other.

In settler colonies, like Zimbabwe and South Africa, large tracts of land taken from Africans were allocated for the ownership and use of white settlers, leaving a legacy of highly unequal land ownership in these countries that still persists today.

The post-independence land question

African nationalist leaders quickly understood the land dimension of the colonial domination. The issue of land formed a basis for mobilization of people in the struggle for liberation and wars were fought to defend and then to regain control of land.

Unfortunately, the post-independence period in Africa did not result in significant improvements of land access, rights and tenure security for the majority of African people, mainly those in rural areas. Many of the new African elites perpetuated, and became beneficiaries of, the unequal colonial land systems. Post-colonial attempts to restructure land systems, including through land redistribution, often ran into political and technical difficulties. Recognizing customary land rights and harmonizing statutory and customary land laws and administration systems remain unresolved challenges in many countries. At the same time changing land administration technology has opened new possibilities for 'fit-for-purpose' land surveying and land administration systems based on digital technology.

2.2. An African response : The AU Agenda on Land

It is against this backdrop that the African Union Commission (AUC), together with the United Nations Economic Commission for Africa (UN-ECA) and the African Development Bank (AfDB), decided to support and facilitate the efforts of African governments, with a view to enabling land to play its proper role in development. A continental initiative was launched by these three institutions in 2005 to address land issues and challenges in Africa. This was known as the Land Policy Initiative (LPI), which was later changed to be the African Land Policy Centre (ALPC). The objectives of the LPI included : i) to develop a tool to guide national land policy processes; ii) to garner political will in support of land policy development, implementation and monitoring ; and iii) to enhance partnerships for adequate resource mobilization in support of land governance.

Through a participatory and inclusive process, the LPI was able to develop the Framework and Guidelines on Land Policy in Africa (The F&G). The F&G is a set of principles resulting from experiences and lessons (positive or negative), learnt across Africa in the field of land policy development and implementation. The

F&G was endorsed by the African Heads of State and Government through the adoption of the AU Declaration on Land Issues and Challenges in Africa (the Declaration) in 2009. The F&G underlines the importance for African countries building a common vision on land through comprehensive national land policies developed in a participatory manner. Such land policies should constitute the basis for effective land reforms, including aligning laws and land administration systems with the policy, in order to provide land tenure security to all land users. The F&G also calls for monitoring and evaluation of land policies with a view to allowing proper identification of successes and timely redress when there are inadequacies. In adopting the Declaration on land, AU member states committed to prioritize the development and implementation of appropriate national land policies and the allocation of adequate budgetary resources for national land policy development and implementation processes. Among key commitments made by African leaders is the decision to pay specific attention to strengthening the land rights of African women.

Land governance is “the political and administrative structures and processes through which decisions concerning access to land, use of land resources are made and implemented, including the manner in which conflicts over land are resolved.” Framework and Guidelines on Land Policy in Africa, 2009.



All members of the LPI consortium (namely AUC ; ECA and AfDB) and the Regional Economic Communities (RECs) were called on to work toward the establishment of an institutional framework to facilitate the implementation of the AU Declaration on land across all African countries. The Consortium was also requested to report progress periodically to the AU summit.

These commitments – combined with the Nairobi Declaration on Large-Scale Land-Based Investments, the Guiding Principles on Large-Scale Land-Based Investments and other AU positions, such as the African Charter on Human and People’s Rights and its Maputo protocol on the rights of women – set the scene for what was named, the AU Agenda on Land. The AU Agenda on Land aims at promoting improved governance in the land sector through the development, implementation and monitoring of comprehensive land policy.

The AU Agenda on land is a complex architecture designed to spearhead continuous improvement of land governance across the African continent. From the analysis of the AU Declaration on land, it can be considered that the overall objective underpinning this African Agenda on land is to strengthen tenure security while achieving

greater equity in land access, especially for women, the youth and other disadvantaged groups. Such an objective is expected to be achieved through making adequate use of the guidance provided by the F&G, while taking into consideration the specificities and peculiar needs of each country. However, it is important to take note that the implementation of the AU Agenda on land is not a static but dynamic process. Beyond the F&G which was adopted in 2009, the African land agenda was further strengthened by different other frameworks and tools which served the above-mentioned objective derived from the AU Declaration on land. All these frameworks and tools including the Nairobi Action plan on LSLBIs and different STC recommendations, especially the recommendation on the allocation of 30% documented land to women, constitute an integral part of the AU agenda on land.

In addition, the AU agenda on land is tightly connected to global land-related processes. As an example, while the FAO, IFAD and other development partners supported the preparation of the F&G which was endorsed in 2009, the F&G influenced the development process of the VGGT adopted later in 2012 under the auspices of UN Committee on Food Security (CFS).

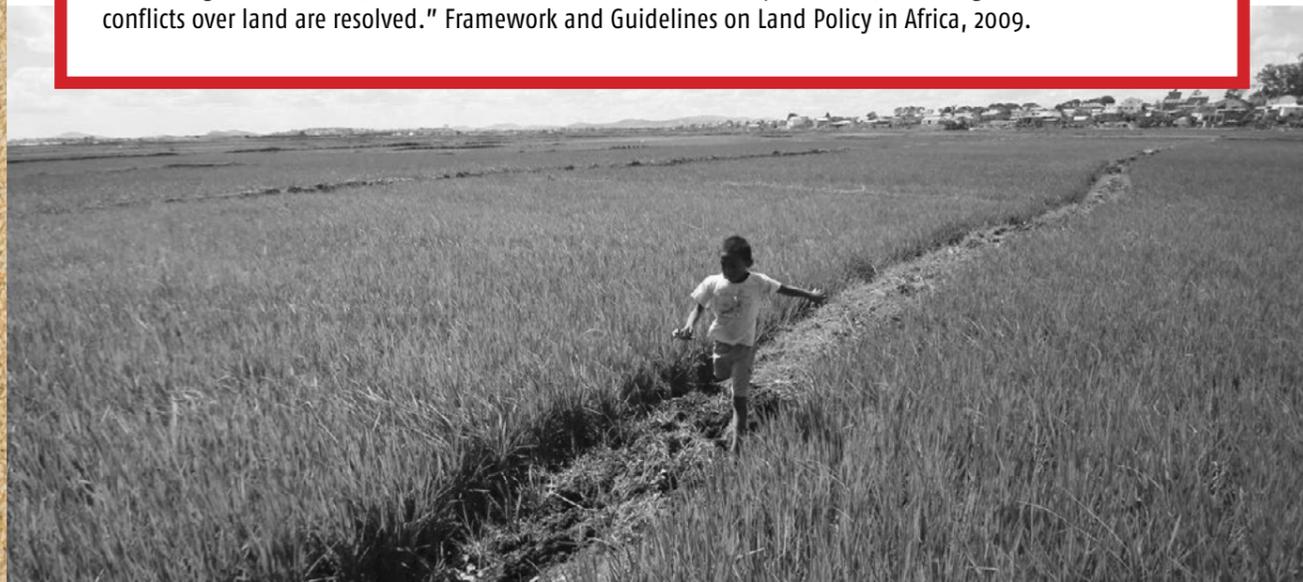
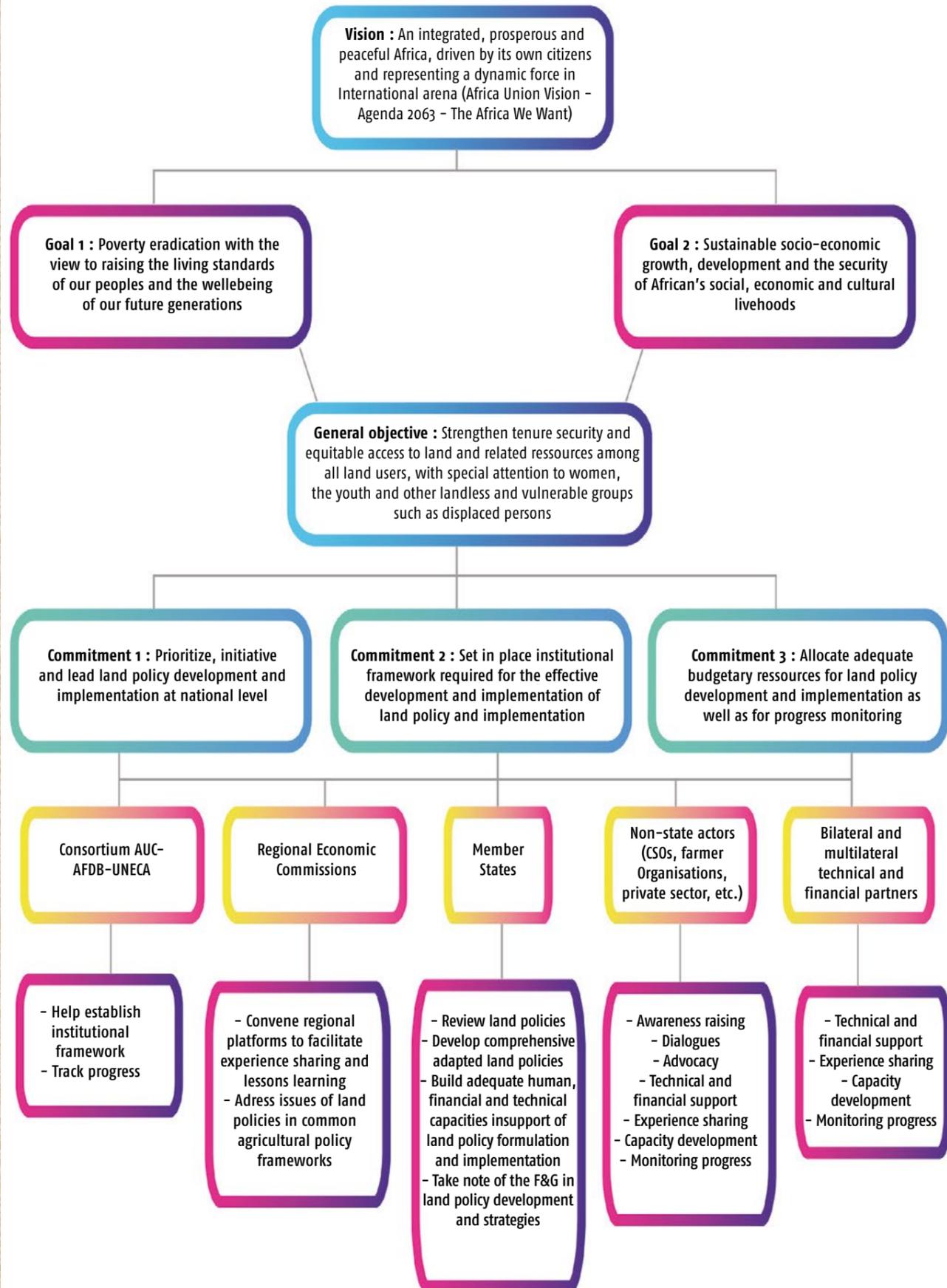


Fig. AU Agenda on Land: a theory of Change for strengthening tenure security and improving equity in land access in Africa



3. The assessment of land policy in Africa

3.1. Scope of the assessment

A decade of efforts to translate the AU Agenda on Land into concrete actions on the ground, offer an opportunity and relevant timeframe to reflect on key progress realized in the field of land governance in Africa. In particular, it is important to highlight the key achievements, while identifying challenges that remain, and indicating potential areas of focus for work on land governance in Africa over the coming decade. The African CSO Platform on land decided to embark in such a reflection and

learning process, through conducting this assessment study on land policy. The assessment was carried out in the second half of 2021 and focused on 13 countries from different regions and on some of the Regional Economic Communities (RECs) as well as African continental institutions. It was mainly based on a desktop study of land policy documents and existing reports. This was supplemented by interviews with land experts in each country, in the RECs and in continental institutions.



The Selected Countries

- Burkina Faso
- Liberia
- Senegal
- Sierra Leone
- Togo
- Cameroon
- DR Congo
- South Africa
- Zambia
- Ethiopia
- Kenya
- Tanzania
- Uganda

3.2. Key Achievements

- National level

The national level is very important as that is where land policies are developed and implemented and where land related decisions and programs impact on land governance and people's lives. Progress is observed at country level in that many African countries have developed and adopted national land policies and related land programs.

An increased number of countries have engaged in land policy formulation. At the time of the development of the AU Agenda on Land only few African countries

(namely Ghana, Tanzania, Mozambique and Rwanda) had a national land policy. Today, around 19 countries have adopted a national land policy document (see Annex 1). Among those countries some reviewed their existing land policies with a view to aligning them with the AU Agenda on Land. This is the case for Rwanda which revisited its 2004 land policy, established a centralized land administration system and rolled out a comprehensive land certification process. Other countries are now in the process of developing or reviewing their national land policies as is the case for DRC).

The case of land policy in Zambia

As with most African countries, Zambia has three types of land tenure : customary land; statutory leasehold land; and state land. Most land in the country is under customary land systems, which are recognized in the constitution and land policies, but with no uniform land administration system or data gathering on land rights.

A draft land policy developed in 2006 was never adopted. A new process to develop a land policy began in 2014 with significant inputs from a range of stakeholders. The ALPC was requested to assist with this process and made technical inputs. A comprehensive draft land policy was produced out of this inclusive process. To the surprise of many, however, the government released a new "National Lands Policy" in May 2021 (months before a hotly contested national election), that was a shorter and less comprehensive document than the one drafted with stakeholders. While some see it as positive that a land policy has finally been approved, there are also concerns that it is too broad and does not give enough direction on important issues.

In 2016, a commitment was made to ensuring that women get at least 30% of land and the new National Land Policy aims to "ensure 50% of available land for alienation is allocated to women". But with no comprehensive data collection on land rights there is also no information on the proportion of land held by women in the country.

Securing women's land rights

As per the call by the African Heads of State and Government in their 2009 Declaration on land, there has been considerable attention to the advancement of women's land rights in many countries on the continent. Legislation calling for equal treatment regardless of gender has come into force in many countries over the last decades. The call for 30% of land to be allocated to women has been heard in many countries and is being built into national land policies, laws and programs. Requiring a minimum proportion of women to be in land administration structures has become the norm rather than the exception

- Continental level

The ALPC, despite its limited resources, has to a large extent lived up to its mission.

Looking at what has been specifically achieved at the continental level, we can see that the ALPC has kept land issues on the agenda of the AU and member states with a range of activities on particular land issues, such as women's land rights, Large Scale Land Based Investments and, through the preparation and submission of annual reports on the status of implementation of the AU Agenda on Land. These reports are submitted to the AU Specialized Technical Committee (STC) on Agriculture, Rural Development, Water and Environment. This ministerial level structure that also passes on key issues of importance to the AU head of state summits. Across the continent, the ALPC collaborated with supportive members states, the Pan-African Parliament and civil society groups to promote the commitment of African Heads of State and Government to strengthen women's land rights and to call for further implementation of this. Notably, with support and participation of ALPC, the Kilimanjaro initiative in October 2016 mobilized rural women from across Africa to take up the cause of women's land rights in their countries and to join an assembly at Mount Kilimanjaro where a charter of demands on women and land was adopted. The ALPC took recommendations to the STC, which adopted the commitment

that 30% of land should be allocated to women by 2025. Several countries have since adopted similar targets. For example, Burkina Faso decided that 30% of lands on government-led agricultural schemes are to be allocated to women. It is not possible, however, to accurately assess progress in strengthening women's access and rights to land due to a lack of sex disaggregated land data.

The majority of countries in Africa have now committed through their constitutions and other legislation to not discriminate against people based on sex, religion and ethnicity. This is significant progress given that only a few decades ago, almost all African countries had laws in place that were explicitly discriminatory against women. A range of activities have continued to push for the improvement of women's land rights. In the context of the IGAD land policy and governance project initiated by ALPC, a meeting of ministers responsible for land held in 2021 adopted the "IGAD Regional Women's Land Rights Agenda: 2021 – 2030".

The ALPC has shown agility in addressing concerns raised by AU member states, as shown by their response to the surge in large-scale land acquisitions.

During the process of preparing the F&G which culminated with the Summit during which the Declaration on land issues was made, large-scale large acquisitions were not yet a major global concern and were therefore not fully addressed in the F&G and the AU Declaration on land. Given that Africa was and remain a key target in raising demand for land by investors and land speculators, the AUC and ALPC responded by adopting the Nairobi Action plan on LSLBIs and facilitating the development and promotion of the Guiding Principles on Large Scale Land Based Investments (LSLBIs). This is a useful set of principles that have, among other things, advanced approaches to ensuring women's rights are secured and promoted transparent and inclusive processes of decision making. The promotion and implementation of these guidelines has, however, been limited so far.

As called for in the AU Declaration on Land issues, significant efforts have been made by ALPC. to build capacity in land administration and governance.

This is illustrated mainly by the conceptualization and establishment of the Network of Excellence on Land Governance in Africa (NELGA), with the support of partners (mainly GIZ and World Bank). NELGA is a partnership of more than 50 African universities and research institutions that provide increased levels of high quality training to build the capacity needed on the continent. The Guidelines for curriculum development on land governance appeared to be a very relevant tool developed by the ALPC, as it helped Universities across the continent to successfully develop, review or strengthen their curricula on land governance.

The last ten years have witnessed a greater awareness on land issues and a higher profile of land reform and governance in Africa.

The context of the global rush for arable land in the Global South has indeed been among the major reasons of the higher profile of land in debates and development processes in Africa. In addition, it should be mentioned that many actors, including ALPC, development agencies and civil society actors, have significantly contributed to awareness raising efforts on challenges and opportunities related to the governance of land in Africa. One of ALPC's major achievements is the convening of the Conference on Land Policy in Africa (CLPA) that is organized biennially. The CLPA is today the premier academic and policy land conference on the continent. It provides the opportunities to share knowledge and information on land governance in Africa and has become an important space for networking between countries and between state researchers and non-state actors working on land issues.

As called for in the 2009 AU Declaration on land issues, progress has been made in the monitoring and evaluation of land governance in Africa.

The ALPC initiated the Monitoring and Evaluation of Land Governance in Africa project (MELA) to track progress in implementing the AU Agenda on Land. While a comprehensive approach was developed, the implementation

of this has stalled and monitoring and evaluation and learning from successes as well as failures. remain areas that need further attention. It is also worth noting that several civil society processes have been launched since 2009-2010 to monitor large-scales land-based investments, typically with a global focus with an African component. The Land Matrix launched by ILC and other partners is an example of such processes. More space and voice have been given to key non-state stakeholders that are typically marginalized in land and natural resources governance debates in Africa.

In addition to the civil society platform on land, ALPC has played a key role in organizing and creating space for traditional and customary leaders, for the youth. The support to the establishment and operationalization of National multi-actor platforms in some countries facilitated national policy formulation and implementation processes.

A wider range of actors have contributed to the implementation of AU Agenda on land in Africa.

These actors have conducted implementation activities at continental, regional and national levels. Some activities were part of ALPC led plans, others were led by RECs, national governments and civil society organizations. Continental institutions, such as the African Development Bank (AfDB) and the African Union Development Agency – New Partnership for Africa's Development (AUDA-NEPAD) also set up programs to support improvements in land administration. The AfDB is now implementing its own land governance flagship program focused on creating an enabling environment for its own responsible lending and for the implementation of AfDB "Feed Africa Strategy for Agricultural Transformation in Africa".

The AUC has always played a central role in the development of continental positions on land and supporting their promotion. During 2021 the AUC drafted an important Land Governance Strategy that builds on the existing AU Agenda on Land and it is hoped this will help guide the AUC and AU member states in improving land governance. Strengths of the document include that it envisages roles for a wide range of stakeholders, including the ALPC and civil society.

- Regional level

The performance of RECs in advancing the AU Agenda on land is far below expectations.

RECs were expected to play an important role in promoting and supporting the implementation of the African Agenda on Land and some took up this role. Efforts by the ALPC to develop a regional program for mainstreaming land in the programs and strategies of the RECs could not be finalized, mainly due to lack of financial resources. The RECs themselves also have different attitudes to their role on land issues. In Southern and Eastern Africa, the RECs – Southern African Development Community (SADC) and the East African Community (EAC)

in particular – are in general reluctant to address issues of land governance, as they consider land a matter of national sovereignty. West Africa, however, has a long tradition of discussing land issues across countries and building consensus at regional level (through CILSS, UEMOA and ECOWAS) on best practices in land reform in the region. Therefore, the AU Agenda on Land was welcomed by the Economic Community of West African States (ECOWAS). The Intergovernmental Authority on Development (IGAD) is probably the most successful REC in terms of developing and implementing a regional land program in the context of many land-related conflicts in that region.

A regional economic community example : the case of IGAD

The Intergovernmental Authority on Development (IGAD) is a Regional Economic Community (REC) in the horn of Africa. The region is made up of Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda. It covers 5.2 million km² and 70% is arid or semi-arid with large land users including farmers and pastoralists.

In 2015 IGAD, supported by the ALPC, established a Land Governance Unit to lead the Land Policy Governance Project. Swiss and Swedish funding as well as technical partnerships with FAO, Global Land Tool Network and the International Land Coalition supported the project.

This unit and project explicitly derive their mandate from the AU Declaration on land issues and challenges in Africa and draw on the Framework and Guidelines on Land Policy in Africa as well as other frameworks. Key areas of work are improving: member state land policy and administration; land use planning and management focused on arid and semi-arid land in the context of climate change and urbanization; land use for development; and equal rights for all, focused on gender equality. Land and conflict is a priority issue cutting across all areas of work. An example of progress is that every country in the region now has an agreed national women's land rights agenda and in 2021 a meeting of ministers responsible for land in the region adopted the "IGAD Regional Women's Land Rights Agenda: 2021 – 2030".

The Unit has eight staff, led by the Regional Land Governance Coordinator, who work directly with member states. Important for the work is the involvement of the member states that is facilitated through their Directors responsible for land. Monthly meetings of the Directors of Lands from each member state have built a level of trust among these officials that enables sharing on challenges and successes. A twice yearly steering committee also has representation from each member state as well as other structures including the Eastern Africa Farmers Forum, land NGOs, ILC Africa, GLTN and FAO. Working sessions, referred to as "hackathons" are convened from time to time gathering people from all member states and allowing them to come up with approaches to issues of common interest. An example of this was work on alternative dispute resolution systems out of which a technical guide was developed.

Progress has been made due to support of political leadership in IGAD and building good relations among the main actors that become the basis for developing solutions with the countries. The solutions developed are supported by the technical team and more could be done with greater technical and financial capacity to support implementation in all countries of the region.

3.3. Level of influence of AU Agenda on land

What is hard to assess is the precise influence of the AU Agenda on Land in relation to changes made, especially at country level. The perception of the influence of the AU Agenda and the level of awareness of it varies a lot between countries. For some countries it is clear that the AU Agenda is referred to in national land policy debates and decision making. In others it does not feature at all in national dialogues and there was a sense that referring to it may be counter-productive as it could be perceived as outside interference. However, even in cases where the AU Agenda on Land was not acknowledged as influential, there are different ways it has had an impact. Importantly key land experts who participated in continental and regional land consultation processes related to the AU Agenda on Land usually contributed to the formulation of their national land policies, making use of key messages conveyed by the F&G and AU Declaration on land.

The AU Agenda on Land is not well known at national level (and even less at local levels). The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGTs), have had more resources to put into their promotion and appear better known. It is worth mentioning that the AU Agenda on Land, in particular the Declaration on land and the F&G were adopted before the VGGTs and African land experts and diplomats played an important role in negotiating, shaping and adopting the VGGTs in the World Committee on Food Security. Strategic actors advising governments have knowledge of key instruments associated with the AU Agenda on Land, especially the F&G and it would appear that the general shift in the discourse on land policy has influenced country level processes. In practice, experts and civil society actors use the F&G and VGGTs to inform their work, often without explicit attribution.



4. Suggested focus areas for future work

4.1. Continued land challenges

Important land challenges that remain in Africa include: securing women's land rights; securing communal land rights; putting in place a unified land administration and data gathering system; the continued investor pressure on land; the need for continued redistributive reforms; and the need to make adequate finance, especially in the form of national government budgets, available. These are all elaborated below.

However, across the continent, women continue to have weaker rights to less and poorer quality land than men. This applies in rural and urban areas and within most customary land systems as well as freehold and other land systems that register individual land rights. Despite strong policy commitments made, where there is no concerted intervention to advance women's land rights, the overwhelming tendency is to have high levels of gender inequality. For example, an analysis by the Kenyan Land Alliance of land titles issued in Kenya found that women received only about 10% of the land titles issued and these covered only 1.62% of the land as the plot sizes women received were smaller than those acquired by men. Therefore more is to be done to achieve gender equal land rights and land governance.

Securing communal land rights

A persisting gap in effective documentation and securing of land rights continues to be noted in areas under customary land administration. Many countries continue to grapple with the dual land systems and how to give statutory legal recognition for customary land rights without negatively disrupting customary practice and without allowing or even consolidating problematic practices such as discrimination against women and youth. While progress has been made in giving recognition in law and policy to customary tenure systems, most countries continue to struggle with setting up appropriate forms of land registration and administration. Even where approaches are agreed, there often aren't the human and financial resources available for the full roll out of customary land registration. There is also surprisingly little sharing between countries on these issues despite the common

challenges countries face and the useful experiences that some countries have gained through addressing these issues. Stronger political support of securing communal lands is needed, complemented by peer learning from successes and failures on experiences of registering individual and collective customary land rights.

Putting in place unified land administration and data gathering system

Quite no country has in place a unified land administration and information system that includes customary land. While Rwanda is an exception to the rule, it is observed that limited land-related data is gathered in a systematic manner. In the few cases where land data is collected, it is rarely disaggregated, such as by sex of the land rights holder. This lack of data makes planning land reforms and land administration very difficult and the effective tracking of progress impossible. The need to set in place effective land information systems deserves to be paid greater attention in efforts to improve land governance in the continent.

Continued investor pressure on land

Large-scale land-based investments and acquisitions continue to take place in Africa without due consideration to emerging regional and international guidance and norms related to this phenomenon. All the evidence points to the shortcomings of LSLBIs that are generally failing to deliver the promised results, even for many of the investors, and bringing few if any benefits to local communities. Rather, in too many cases LSLBIs have led to displacement of local farmers and pastoralists, conflicts with communities, and environmental damage. Despite this, there is a shortage of clear alternative investment models that can bring greater and more equitable benefits, and be promoted instead. Medium-scale farms and investments have also been identified as a threat to equitable land access, but the implications of this trend have not been adequately explored. There is also a lack of attention to how local investments, including that of farmers themselves, can be enhanced.

Need for continued redistributive reforms

Redistributive land reforms in countries that had large settler population have generally not been very effective; yet the land inequalities these reforms set out to address remain real and politically contentious. They continue to underpin wider inequalities and social and political frustrations. At the same time, new pressures on land and processes of accumulation by investors, corporations and some elites are driving new forms of land inequality. Redistributive reforms need to be aligned with wider economic reforms aimed at countering increasing and unsustainable inequalities and need to use a full range of policy and program tools, including progressive wealth taxes. Importantly, a shift is needed from a mindset that sees redistributive reforms as short-term measures following momentous historic moments, like the end of colonialism, to rather focus on building systems of land governance that continue to facilitate the creation and maintenance of equitable land access and rights.

Need for adequate financing of land policy and governance

In implementing the AU agenda on land and attempting to address the above challenges, financial resources have continued to be one of the constraints at country and continental level. Despite commitments in the AU Declaration on land, few countries have made sufficient commitments in their own budgets for land reforms and land administration. Instead, African countries, as well as the ALPC and other continental and regional initiatives, rely heavily on funds from development partners. While the donor funds are invaluable for the work, such a dependence is not a good long-term solution and brings challenges, such as the different interest and priorities of donors at times, making coordination of initiatives difficult. To address the above challenge, advocacy efforts need to make a stronger case that from an economic standpoint it is smart to increase budget allocation for land management, administration and information systems. First, making adequate budgets available for land administration generates wider development benefits and contributes to reducing conflicts. Secondly, experiences are now showing that investing in improved land administration can, if done effectively, quickly pay

for itself due to increased income. For example, the National Land Information System implemented in Uganda from 2015, financed by the World Bank at a cost of \$66 million, resulted in additional revenues of \$114 million by 2018. This was due to the improved services and reduction in graft and clearly shows that governments should be investing in such initiatives.

Specific land challenges and opportunities in the context of a rapidly changing Africa

Since the declaration on land issues and challenges in Africa just over a decade ago, some key trends have raised new challenges and opportunities in relation to land governance in Africa. These relate to rapid population growth, the large youth population, rising land inequality and landlessness, as well as changes in technology.

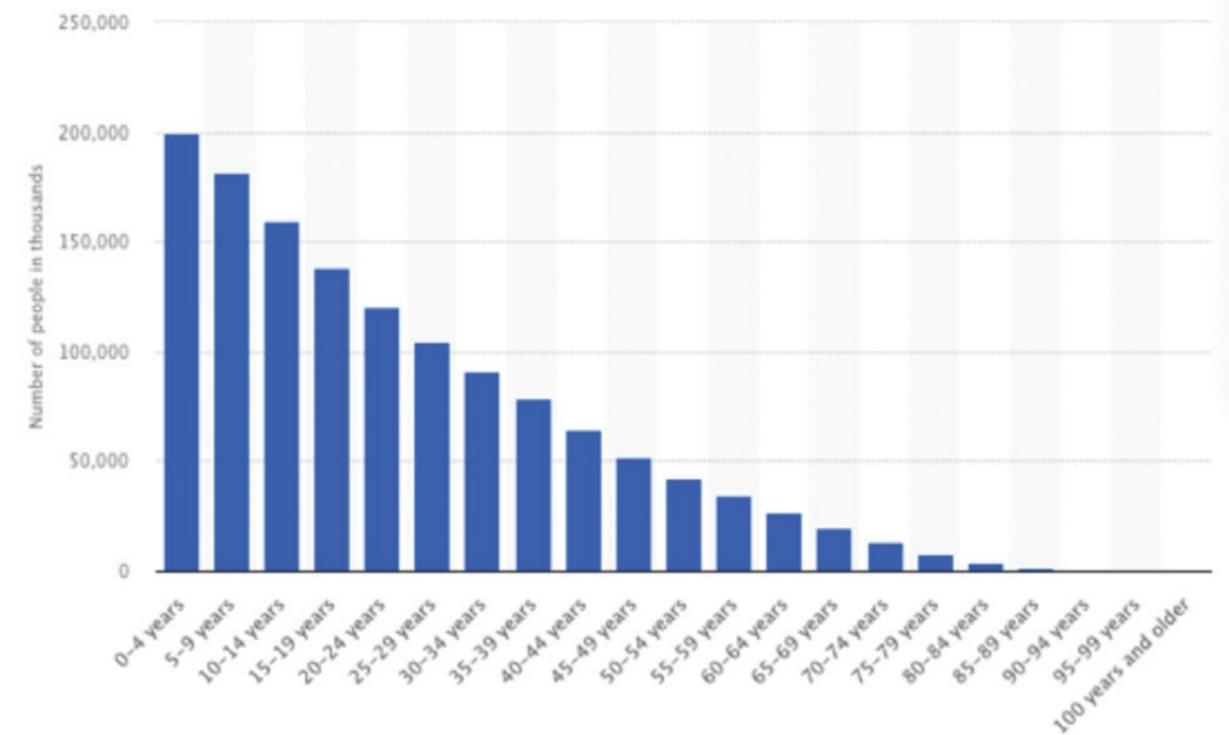
Africa has a fast growing, youthful and rapidly urbanizing population. Around 60% of the population in Africa are under the age of 25 and the population of the continent is projected to double by 2050. With just over 40% of its population in urban areas in 2018, Africa still had the lowest level of urbanization of any continent, but it now has the fastest growing and the fastest urbanizing population of any continent. Cities are spreading into customary and agricultural land. The land governance challenges within urban areas are growing with the need for better ways to secure land rights for residential, business and public uses. Related to this, there is a need to secure and protect the land rights of low-income and marginalized urban households. The protection of urban and peri-urban agricultural land is also critical, but often undermined by uncontrolled land markets, land speculation, and haphazard city expansion.

Climate change is also putting pressures on land as certain areas become less viable for production and residence.

The youthful population is a massive opportunity if young people's energy can be constructively channeled, which requires giving youth opportunities, including in land-based activities. Access and rights to land are, however, difficult for many youths as most do not have the resources to buy private land and at the same time customary systems tend to operate with strong age hierarchies that do not open space for the youth.

Population of Africa in 2020, by age group

(in 1,000s)



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If not adequately addressed the investment pressures on land, combined with the demographic trends, will result in the interrelated crises of land fragmentation, land inequality and landlessness. With less and less land available to be allocated to new families and farmers, plots of land are subdivided and millions are trying to rely on pieces of land that are too small to be viable. The growth in the number and size of large land holdings, as well as medium size farms, alongside the increasingly small plots of land others have to rely on, is part of fast-growing land inequalities that are socially unsustainable and can drive conflicts. A new threat that has not yet been wide spread in Africa, but could become a serious crisis, is the complete landlessness for a growing number of people, and this in the context of a lack of other pro-

duction and employment opportunities.

Advances in digital and geographic positioning technology have been rapid and offer new opportunities as well as posing new challenges. A range of countries are rolling out different forms of digitization of their records, but with different approaches and reliance on private companies, most from outside Africa, that do not always have the skills hoped for. The focus is often biased toward registering individual rights, which can be at the expense of community rights. The social digital interface is very important as digital systems and satellite-based images can show us a lot, but don't see social and administrative arrangements. The ownership and control of data gathered is also a potentially contentious issue.

4.2. Going forward

Effective land governance and administration in Africa is as important as ever to cope with historical and new challenges. Progress has been made across most countries, but there is need to shift into a new phase in order to build on the previous steps and respond to new challenges and opportunities. An overarching shift in this regard is from the focus on putting land policies in place, to ensuring a supportive legislative, suitable institutions, and effective land administration systems and programs are in place to give effect to these policies.

At the same time, some countries still need to adopt land policies and in other countries existing policies need to be reviewed. The changes going on in relation to land, and new lessons from implementation, are such that there need to be ongoing processes of reviewing and amending policies for them to remain fit to deal with the challenges.

Below, as a contribution to debates and hopefully actions, we suggest focus issues for work on land governance in Africa from country to continental levels.

Women's land rights

There is a great need to continue to promote and support the development of land policy positions and programs that advance women's land rights and women's participation in land governance. This needs to include:

- supporting the development of national land administration and land information systems that can facilitate and track the advancement of women's land rights and gender equality in land rights and administration in each country;
- Supporting the implementation and monitoring of gender responsive customary land administration systems that give an equal voice to women in land related decision making; and
- Putting in place Africa wide data compilation along with process to monitor, learn from and discuss progress and challenges in the advancement of women's land rights.

Addressing pressures on land and the need for investments in land that work for African progress

Pressure on land from international and local investors and the failure to manage investments in a way that

protects local land rights and advances local economies, requires continued attention to this issue. There is a need to more effectively :

- Monitor at national and continental levels the range of land pressures and their outcomes, such as land fragmentation, landlessness and land inequality;
- Promote the Guiding Principles on LSLBIs and defend land and natural resources from socially and ecologically destructive investments;
- Seek models of land-based investments that produce greater benefits for African farmers, local businesses, and communities; and
- Give greater attention to redistributive land reforms that address historically created land inequalities and injustices, but also redistribution and regulations that continue to address new processes of accumulation and resulting inequalities.

Effective land governance in an urbanizing continent

The context of rapid urbanization requires a new continent-wide focus on urban land governance. This needs to include setting up processes to:

- Assess the urban land governance situation and identify key lessons and challenges;
- Secure and protect land rights of low-income and marginalized urban households ;
- Share learning about urban land governance and planning; and
- Piloting improved urban land governance strategies.

Youth rights and access to land

Without practical interventions to improve youth access and rights to land, the talk of youth empowerment and involvement in land reform and land based-livelihoods, as well as other entrepreneurial activities, will not materialize. Areas of intervention need to focus on:

- Understanding and finding ways to address obstacles to youth land access and rights;
- Developing a continental youth strategy to address the obstacles youth face in gaining secure access to land;
- Exploring ways for customary land systems to evolve to make land accessible to youth; and
- Mobilization of youth movements to shape and then support the youth strategy.



Reviewing and aligning legislation and regulations with land policies

Many countries that adopted new land policies found themselves having to work with outdated legislation and regulations that made implementation difficult. They also found that amending existing legislation to align with land policy is a time consuming and expensive processes. Countries that have adopted new land policies need to be supported in:

- Carrying out a systematic review of all land legislation and related regulations;
- Drafting and putting in place new or amended legislation and related regulations;
- Winning political and parliamentary support for legislative amendments; and
- Mobilizing technical and financial support for such reviews.

Securing customary and communal land rights with just and equitable land administration

Some countries still need to give legal recognition to customary land systems, while others have done so, but have failed to roll out effective communal land administration systems. Their needs to be:

- Continued promotion of the legal recognition of customary and communal land systems;
- Sharing experiences and support further development of effective communal land governance and administration that balances customary practices with equity and inclusion;
- Integration of customary land administration and land data gathering into unified national land administration systems; and

- The mobilization of resources – human and financial – for effective communal land governance.

Monitoring and evaluation systems

Monitoring and evaluation is critical in land governance to plan and track progress and draw out lessons that can be shared and inform the improvement of practices going forward. Work already done, such as on MELA, needs to be picked up and built on for the development and promotion of effective monitoring and evaluation tools and coordination to enable a continental level perspective. This needs to be integrated with improved data gathering as touched on below.

Continent wide land information gathering, compilation and sharing

Without reliable data on land rights and administration, disaggregated in key ways, such as by sex, it is not possible to properly plan for effective land reforms and land and administration, nor is it possible to track progress. There is an urgent need to:

- Develop land information systems for national government that can provide common, comparable land data across the continent;
- Engage with national statistical organizations on the amendment of surveys and census to include key land rights information;
- Compile land rights data at an Africa level in support of tracking, to inform policy processes and for purposes of learning; and
- Ensure transparency and accessibility of this land information.

Budgeting for land reform and administration

Probably the weakest aspect of the roll out of improved land policies across African countries has been the failure to make available adequate budgets. Countries need to work on, and be supported in:

- Securing budget commitments for effective financing of required land reforms and ongoing land administration;
- Establishing functioning donor land platforms for the coordination of development partners support in line with agreed land priorities; and
- Looking at ways to generate revenue through progressive land and wealth taxes.

Implementation roles

In addressing the above focus issues and for the overall refinement and implementation of the AU Agenda on Land, there would ideally be a coordinated approach across a range of actors performing complementary roles.

The ALPC, working with its allies and supporters, is well placed to drive the continental level processes with a focus on facilitating the development of continental positions, disseminating information, organizing information sharing (especially on land governance successes) and coordinating activities among different actors. Mobilizing finance, including working on establishing a fund for land governance, and organizing and building the technical skills are important priorities. There needs to be synergy among the continental institutions - including the AUC, AfDB and AUDA-NEPAD - in contributing to land governance in order to maximize the impact of their efforts.

The RECs are a strategic articulation point between the continental level where commitments are made and the national level where land policies are developed and implemented. Specific land programs with at least a regional land expert need to be facilitated at the level of the RECs taking into consideration the regional specificities as well as the needs of the RECs' member states. It is hoped that all RECs can overcome the hesitancy to be involved in land issues and realize that working together to improve land governance is not a threat to national

sovereignty and is instead a key to achieving national and regional development goals. RECs can play a key role in facilitating countries in their regions in sharing experiences, jointly developing solutions to pressing land challenges and mobilizing human and financial resources. Building relations among those responsible for land governance in member countries, through regular interaction and joint problem solving, can strengthen land governance for all within regions.

The national level is where land policy and legislation are developed and implementation needs to be planned, budgeted for and monitored. Many countries are facing similar challenges; therefore, it is important to encourage countries to be more open to sharing their experiences and learning from others successes and failures. Most countries need to do more work on the focus areas outlined above, including making available the required budgets for effective land administration and governance.

Civil society organizations, in all their diversity, can play an important role in improving land governance in Africa. The African CSO Platform on land needs to broaden its membership and deepen the engagement of members in its work. It is hoped that civil society organizations will join in and contribute to this initiative. CSOs continue to have a key role to play from local to continental level in pushing for and assisting in the development and implementation of effective and equitable land governance. Just as with nation states, CSOs are facing many similar challenges and can learn a lot from each other's' experiences in relation to land governance. More information dissemination, training and sharing is needed. CSOs must continue to advocate for improved land governance and should focus campaign efforts on specific priority issues that need greater attention. CSOs have a critical role to play in demanding transparency and ensuring honest monitoring of land policy governance progress and challenges. CSOs also bring technical skills and practical experience to policy and program design, and they have the flexibility to pilot innovative approaches and share the lessons from such initiatives for scaling up when they are successful.

Annex 1 : Examples of some adopted national land policy documents in Africa

Country	Date	Denomination	Links
Botswana	July 2015	National land policy	http://extwprlegs1.fao.org/docs/pdf/bot196817.pdf
Burkina Faso	September 2007	Politique nationale de sécurisation foncière en milieu rural	https://www.agriculture.bf/upload/docs/application/pdf/2018-01/politique-nationale-de-securisation-fonciere-en-milieu-rural.pdf
Burundi	September 2008	Lettre de politique foncière	http://extwprlegs1.fao.org/docs/pdf/bur170203.pdf
Cote d'Ivoire	January 2017	Déclaration de politique foncière	http://foncierural.ci/images/pdf/Politique_fonciere.pdf
Ethiopia	July 2005	Rural Land Administration and Land Use Proclamation	http://extwprlegs1.fao.org/docs/pdf/eth95459.pdf
Ghana	June 1999	National land policy, review processes have been undertaken and new land administration systems initiated	http://www.lla.gov.lr/web/index.php/publications/resource-center
Kenya	August 2009	National land policy	http://extwprlegs1.fao.org/docs/pdf/ken163862.pdf
	October 2017	National land use policy	https://www.lands.go.ke/wp-content/uploads/2018/06/SESSIONAL-PAPER-NO.-1-OF-2017-ON-NATIONAL-LAND-USE-POLICY.pdf
Liberia	May 2013	Land rights policy	https://www.land-links.org/wp-content/uploads/2013/05/Land-Rights-Policy_Draft_4.14.13_Version-for-Pres-Cabinet-May-17_0.pdf
Madagascar	February 2015	Lettre de politique foncière	http://extwprlegs1.fao.org/docs/pdf/mad163912.pdf
Mali	April 2014	Politique foncière Agricole	http://extwprlegs1.fao.org/docs/pdf/ml1173848.pdf
Malawi	January 2002	National land policy	http://http://extwprlegs1.fao.org/docs/pdf/bur170203.pdf http://extwprlegs1.fao.org/docs/pdf/mlw169537.pdf
Mozambique	October 1995	National land policy	http://extwprlegs1.fao.org/docs/pdf/moz62325.pdf
Niger	October 2021	National land policy and land use plan	http://www.anp.ne/article/niger-le-gouvernement-adopte-un-document-de-la-politique-fonciere-rurale-du-pays (Adopted policy document not available online yet)
Rwanda	June 2019	National land policy	http://extwprlegs1.fao.org/docs/pdf/rwa195925.pdf
Sierra Leone	August 2015	National land policy	http://extwprlegs1.fao.org/docs/pdf/sie155203.pdf
South Africa	April 1997	White Paper on South African Land Policy. Various review processes have been undertaken	https://www.gov.za/sites/default/files/gcis_document/201411/whitepaperlandreform.pdf
Tanzania	June 1995	National land policy Revised in 2016	http://www.tzonline.org/pdf/nationallandpolicy.pdf
Uganda	February 2013	National land policy	http://extwprlegs1.fao.org/docs/pdf/uga163420.pdf
Zambia	May 2021	National Land Policy	https://www.mlnr.gov.zm/?wpfb_dl=127

Conclusion

Significant progress has been made in promoting pro-poor land policies, improving land rights, governance and administration in a range of countries in Africa over the last decade. We have seen in this study how the AU Agenda on Land and related continental and regional initiatives have influenced and assisted in achieving these improvements.

The energy and skills of a wide range of actors can bring greater progress with the application of their different strengths. This will involve organizations and people with different interests and opinions, as well as different styles and ways of working. What is important is to be working in a broadly common direction with a long-term vision that enables different pieces of work to contribute to holistic and sustainable solutions. The AU Agenda on Land helps to provide this vision and should be taken forward in the interests of a just and equitable land system that maximizes the value of land for the largest number of African people and addresses the key developing challenges of poverty, hunger and inequality. In order to move the AU Agenda on Land forward, there is also a need for focused work on particular priority issues, such as those suggested in this report.

Link to download the full report :

<http://www.cicodev.org/assessment-study-on-land-policy-in-africa/?lang=en>





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