

RECONCILE

CONSENSUS STATEMENT

Land and Natural Resource
Reforms Conference

At Sarova Panafric Hotel, Nairobi
on 12th and 13th March 2015

Preamble

We, participants at the Land and Natural Resources Conference on the theme, “Building Consensus on Community Engagement Within Land Reforms and Extractive Sector in Kenya”,

Drawn from National and County Governments, Civil Society Organizations, Private Sector, Community Groups, Development Partners and Research Institutions;

Representing stakeholders in Land, Natural Resource and Extractive Sectors met in Nairobi, Kenya, from 12th to 13th March 2015;

Aware of the immense natural resources in Kenya in the form of land, minerals, forests, wetlands;

Cognizant of the important role which natural resources in the country can and should play in the social and economic transformation of the Kenyan people by promoting rural and urban livelihoods, growth and development, good democratic governance and peace;

Acknowledging the modest progress made so far in establishing policy, legislative and institutional frameworks effective and efficient land and natural resource governance in the country;

Fully Conscious of the incessant institutional conflicts, inadequate political will for land reforms, inadequate budgetary allocations for the implementation of land, reforms, bills yet to be finalized to improve communities’ rights over land and natural resources, lack of adequate involvement of communities and other stakeholders across levels in designing and implementing land reforms and the increasing cases of corruption, impunity and hoarding of information from the public/citizens;

Noting that many Kenyans especially women have suffered due to poor governance of land and natural resources and are not fully involved in land reform processes especially with regard to civic education for empowerment;

Recognizing that there is an increased local and international interest in and demand for Kenya’s natural resources and aware that this provides an opportunity for inclusive development if properly managed within a human rights framework and accountable governance;

Concerned that the slow pace of land reforms is jeopardizing opportunities for development, social transformation;

Committed to the creation of an inclusive, just and peaceful society;

ADOPT THIS CONSENSUS STATEMENT AS FOLLOWS:

1 Fast tracking land reforms in the Country

The slow pace of land reforms is frustrating and wearing out the faith and trust of communities on the possibilities of addressing their land concerns through structured channels. Almost five years since the constitution was promulgated, communities are yet to have enforceable rights over community land. The policy and legislative framework for the management and administration of community land is yet to be finalized and long standing historical land injustices are yet to be addressed to promote reconciliation, healing and integration of communities.

The communities’ disenchantment and frustration with the status of land reforms and the future it portends for them is demonstrated by increased violent land related conflicts in the country for instance: Lamu, Kapedo, and Isiolo among others. To address this situation before it degenerates further, we propose the following interventions:

- i. **Enactment of Bills by August 2015:** The government must fast track the finalization of the pending land and natural resource bills. The bills include: Community Land Bill, Mining Bill, Natural Resource (Benefit Sharing) Bill, Eviction and Resettlement Bill and Historical Land Injustices Bill.
- ii. **Institutional Conflict Resolution:** The government and the stakeholders in land and natural resource sector should urgently initiate and steer a process to solve and rationalize the working relationships between the Ministry of Land and Urban Development and the National Land Commission.

- iii. **Resource Allocations to land reforms:** The government and development partners should prioritize land and natural resource reforms as the country prepares for 2017 General Election by allocating adequate financial and human resources for the implementation of these reforms.
- iv. **Implementation of findings on Land injustices:** The National Land Commission should put in place mechanism for addressing land issues identified in the previous land inquiry commissions in order to build confidence and trust among citizens that the commission is discharging its responsibilities. The implementation will also address corruption and cases of impunity in the land sector.
- v. **Dialogue Forums:** Stakeholders in the land sector should establish a biannual land and natural resource stakeholders' dialogue forum with the President and the Cabinet, in order to highlight, share key issues and get immediate feedback.
- vi. **Alternative Dispute Resolution and Traditional Dispute Resolution Mechanisms:** The National Land Commission and the Environment and Land Court should develop and roll out a comprehensive strategy in the application of Alternative Dispute Resolution and Traditional Dispute Resolution Mechanisms to resolve land cases and build relations between individuals and conflicting groups over land.

2 Promoting Community engagements in land reform process

For land reforms to succeed in the country, communities must be involved and must be empowered to be the drivers of the reforms. So far, major hindrances to communities' meaningful participation include: high illiteracy levels, high poverty levels, lack of information, inadequate capacities, and lack of recognized participation structures among others.

To address the gaps in community engagement in land reforms and extractive sectors, this conference identifies and agrees on the following interventions:

- i. **Participation and Access to Information:** County Governments should formulate and implement participation and information laws taking into account the unique demographics in each county. These should provide for clear participation channels and funding.
- ii. **Legislation:** The executive at National and County governments should fast track enactment of legislation related to public participation on governance.

- iii. **National education programme:** The National and County governments should design and roll out a comprehensive nationwide Land and Natural Resource Education Programme paying particular attention to rural areas, youth and women. In developing the programme civil society organizations should be adequately involved.
- iv. **Strategic communication:** Stakeholders in the land and natural resource sectors should develop strategic communication materials in order to increase levels of knowledge, change attitudes, and influence policies and practices.
- v. **Enhancing trust in public institutions:** Governments and stakeholders should build the capacity of public institutions to efficiently deliver on their mandate and enhance confidence and trust among citizens.

3 Establish and promote the use of Alternative Dispute Resolution Mechanisms and Traditional Dispute Resolution Mechanisms

Land matters are complicated and entail layers of relationships. To speed up justice for communities, it is important to apply Alternative Dispute Resolution mechanisms such as negotiations, mediation and arbitration, traditional dispute resolution mechanisms which are consistent with the constitution. The judicial mechanism should be utilized after these other alternative mechanisms are exhausted.

In this respect, we proffer the following:

- i. **Alternative Dispute Resolution framework:** The judiciary should speed up the development of an Alternative Dispute Resolution framework.
- ii. **Documentation:** Document existing Alternative Dispute Resolution Mechanisms currently operational in the communities.
- iii. **Recognition:** Recognize Alternative Dispute Resolution Mechanisms as part of the judicial system.
- iv. **Civic Education:** Undertake civic education on alternative dispute resolution mechanisms and their efficacy in resolving potential conflict over land.
- v. **Inclusivity:** Alternative Dispute Resolutions and Traditional Dispute Resolution Mechanisms should be inclusive and gender sensitive.

4 Address Women land rights as a priority for equitable and sustainable development

- i. **Judiciary:** The judiciary to speed up cases related to women land rights and women offenders who commit petty crimes related to land claims to get non custodial sentences.
- ii. **Equal rights:** Appropriate legal measures to ensure men and women are entitled to equal rights to land and land based resources during marriage upon dissolution of marriage and after death of the spouse.
- iii. **Civic education:** Undertake civic education on women land rights in order to increase awareness and knowledge, change attitudes and practices and build platforms for advocacy for the advancement of these rights.
- iv. **Data:** Document and avail disaggregated data on women land ownership in order to secure and entrench access to land.
- v. **Increase ownership:** Sensitize women on the importance of owning land themselves and not only through affiliation and lineage.

LIST OF ORGANISATIONS

TUVUKE INITIATIVE PARTNERS

1. Kenya Women Holding (KWH)
2. Twaweza Communications
3. Go Sheng Services
4. Men for the Equality of Men and Women (MEW)
5. Association of Media Women in Kenya (AMWIK)
6. Centre for Conflict Resolution (CCR)
7. Kenya Land Alliance (KLA)
8. African Woman & Child Feature Services (AWCFS)
9. Ujamaa Centre
10. MUHURI
11. Smart Citizens
12. Il'Laramatak Community Concerns (ICC)
13. Hatua Trust
14. Centre for Rights Education and Awareness (CREAW)
15. Women Empowerment Link (WEL)

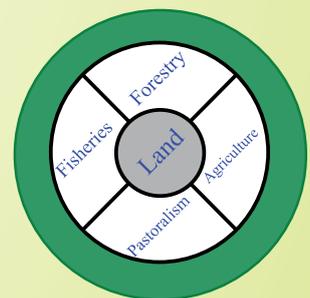
TECHNICAL WORKING GROUP ON COMMUNITY LAND

1. RECONCILE
2. MPIDO
3. Kenya Land Alliance (KLA)
4. Hakii Jamii
5. Pamoja Trust
6. Oxfam GB
7. Action Aid
8. Natural Justice
9. IMPACT

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