

UGANDA LAND ALLIANCE INPUT INTO THE EU LAND POLICY GUIDELINES

The practice in Uganda is that the law has always been developed before the policy, which of course makes it difficult terms of implementation. The Land policy is just in its informative stages of development and so far what has been done is the development of a Land Policy Concept paper which was consultative and involved key stakeholders CSOs inclusive. It is worth noting that the concept paper which should be the guiding document for the Consultants does take into consideration Gender, environmental, HIV/AIDS issues. The Land Use Policy is its final stages of development and should be presented to cabinet sometime next month. Please find specific comments as laid down:

On Page 7: Please include the following policy areas: Gender; HIV/AIDS because they are very critical in sub Saharan Africa especially when looking at inheritance in the event that some one dies. My view is that they need to be specifically stated or they may be subsumed.

On Page 9: Generally speaking Conflicts in Eastern Africa & the Horn of Africa: Uganda, Kenya, Tanzania, Somaliland, Eritrea, Ethiopia & the Sudan are closely linked to pastoral issues which arises out of scarce resources & increased competition on the use of scarce resources. Consequently this has resulted into cross border conflicts and loss of life & property. There are implications in as far as land use planning & Conservation of natural resources are concerned.

Resolution of conflicts should therefore explore this issues and existence of traditional/ cultural dispute resolution mechanisms.

Please take note of this point on P.9 &12 of the Guidelines.

On Point 3.6, Page 11 of the Guidelines thereof there is a need to stress clarity of roles of the Central Government and the Local Governments in as

far as natural resource management is concerned. The roles of the other stakeholders and the requirement for a consultative process cannot be over emphasized. Closely linked to the management of natural resources is the management aspect, which raised questions of corruption given the fact that Government in Uganda for instance holds natural resources in trust of its citizens.

Point 3.6.2 addresses the issue of decentralization: The key question here is what to decentralize because decentralization has lead to the break down and further enhanced the inaccessibility of services to the detriment of the poor and vulnerable communities.

On Point 3.7, what are the implications of land taxation? Will it not deprive poor vulnerable people of this one and only rescuer that they derive their livelihood thereby marginalizing them further? I would recommend land taxation for urban setting and leave the rural free off taxation policies.

Concerning Point 3.8 which touches on issues of land use, I would like emphasis and clarity to be made on definitions such as "use rights"

On Point 3.8.4 the practice varies but on the whole experience has shown that African Governments may have legislation in place but it is far removed from the practice as opposed to their Western counterparts.

Point 3.9 raises issues of "prompt and fair compensation" which in essence concerns Governments power of eminent domain and the right to compulsorily acquire in the public interest. Who defines Public interest and for whom and who sets the parameters that are "fair and prompt" and what is prompt? And to whom does it benefit? These are questions Ugandans are grappling with today as a result of cabinets submissions to the Constitutional Review Process where "land for investors" was being tabled as one of the grounds to compulsorily acquire land. As a lead CSO in land laws and policies we are saying policies should adhere to the paramount interest of the poor and marginalized

who are key stakeholders. Investment in the interest of the country's economy is a good initiative but not at the risk of creating a landless society.

On page 12 still related to land use planning it's important to appreciate the role of tenure and the issue of sovereignty over land in the development of the land use component under the Land policy. In Uganda Article 237 (1) provides that land belongs to the citizens of Uganda in accordance with the various tenure systems. To develop a land use plan you need to consider the tenure and try as much as possible not to tie them together otherwise you have a plan, which you cannot implement because of the tenure systems!

In addition to the above, land use planning is a very costly venture given the processes involved: land evaluation, soil sampling and developing a map thereof.

Regarding Point 4 on Page 12 key to note is the fact that resource both financial and resourceful humans are very instrumental and effective realization of gains in Land administration institutions. In Uganda, it was advised that land administration and dispute resolution services be decentralized but it was not possible to have these services in all the 56 Districts hence the circuit basis approach.

Point 4.2 Recognizing secure tenure and rights of women is one thing and actually realizing it is another. What the policy possibly need to address and lay emphasis on is the rights based approach to women's property rights as a rights issues and also a means through which their livelihood can be realized thus dealing with poverty issues as well. Because how comes that women who are the majority of the population in the world are also the poorest. Policies need to move one step further beyond the user rights/access provisions and concretize on secure tenure and control.

On Page 15 please add resources (monetary) as a key element in setting up institutions and enforcement mechanisms because once the policy merely states without taking into consideration the financial implication that there is

in enforcement. This is a problem and has continued to be a huge challenge in Uganda at least if not anywhere.

On Point 5.2.3 I do not know whether it should be added here or somewhere else but it is very very important. The pastorals question has not been given prominence in most of our policies, neither have they been consulted/involved in the policy making processes yet they are key stakeholders and their lifestyle continues to threaten the very basis of other people's livelihoods as well. Please note that pastorals do not recognize borders but rather the need to access resources that is important for the survival of their animals and not other users.

On Page 17 please note capacity building goes hand in hand with creation of land administration and management institutions. In Uganda at least it is an issue we are facing and requires money. Uganda is not only using judicial systems but alternatives dispute resolution mechanisms including traditional ones. In spite of decentralization on a circuit basis there's still access issues on the part of the end beneficiaries.

On Page 20 please include conflict and instability because most of the Countries in Africa region alone have conflict situations. The question is who ultimately owns land that has been in conflict situations for the last 17 years for the case of Uganda for instance? The fact is that the land tenure does not change but ownership may change either legally or illegally thus causing situations of insecurity of tenure? What happens if Government comes up with a development initiative at making the land productive considering the different interest? Need to consider the rebel/tenants/Government factor. There's a fear that people may lose their land as they are forced to live in concentration camps and their land lays bear to risk of being occupied by other groups.