

The nature of good land governance By Yaw Sam – GhIS

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The nature of good land governance

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Outline

- ❖ Interest in land governance and UN-FAO/WB/AU response
- ❖ Land governance definition & critical elements
- ❖ 'Good land Governance' – Principles
- ❖ Land governance: some good practice and tools

Why the interest in land governance?

- It is now widely realized that privatization and titling without greater attention to the legality and legitimacy of existing customary land governance and institutions will not work.
- Indeed, issues of governance, conflict resolution, and corruption, are among the key reasons why land is now at the forefront of the economic reform discussion in many countries.

Continuing interest in land governance?

- Failure to resolve land issues increasingly recognized as a barrier to achieving other development objectives, i.e SDGs
- Land becoming a global asset and coveted good
- Existing approaches have not been widely successful: technical focus, not pro-poor or gender-sensitive, capacity issues, sustainability issues, etc.
- Long term structural global change_ global restructuring of agro-food (fuels) production and control.
- Recognition of the need for new approaches

Why global demand for improving the governance of the land sector?

- including the Principles of Responsible Agricultural Investment (PRAI), highlighted at the 2013 G8 Summit.
- The application of the Land Governance Assessment Framework (LGAF), the diagnostic tool developed by the World Bank
- the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security (VGGT)
- Under the Open Data Charter highlighting the importance of spatially referenced information about land and natural resources and open public access identified at the 2013 G8 Summit.

Global demand for improving the governance of the land sector.

- FYI:
- **Forest sector issues** have become even more significant - especially given the **Reduced Emissions from Deforestation and Forest Degradation (REDD)** agenda.
- the United Nations Initiative on **Global Geospatial Information Management (UN-GGIM)**.
- the United Nations' **System of Environmental and Economic Accounting (SEEA)**, and the SEEA standards

Customary Land Tenure Dynamics

- **Customary rural land rights still not formalized**, and often not secured and protected;
- **Informal land markets**, emergent rural land markets: big men (elite capture) and distress sales;
- **Unclear 'rules of the game', weak institutions**, and insufficient human resources, ambiguous roles of various authorities (customary, statutory, judiciary, local administrators, local politicians).
- **The alternative - State land administrations often costly, with difficult access for the poor** and not literate, not much public service minded, rent seeking, corruption;

A second fundamental challenge is

- The question of **accommodating customary rights** in a transitioning market-led economy - a key challenge in almost all African countries.
- unique urban challenges due to the **rapid increase in the urban populations**.
 - It is projected that by 2030 urban populations in the Africa region will amount to thirty percent of the total global urban population.
- **Specific urban challenges** include urban expansion, land use planning, and strain on physical infrastructure, informal land occupation, illegal land markets, land grabbing and speculation.

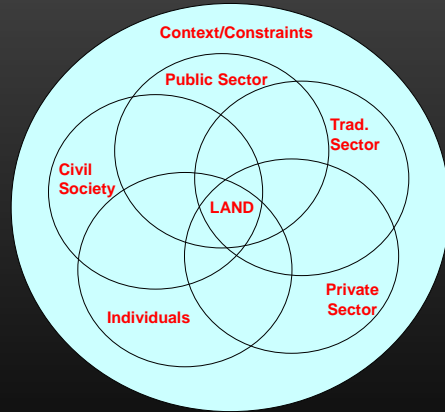
Unfortunately:

- **Land policies** in many countries in the Africa region have been influenced by colonial legacies and also customary practices;
- **Transition towards market economies** has not been accompanied by the development of appropriate policy instruments or administrative regulation to enable sustainable land management.

Land Governance - Stakeholders

- Actors with interests in land

- Public sector
- Traditional authorities
- Private sector (formal & informal)
- Civil society
- Households/individuals



Conflicting Interests in Land



Source: Campbell 1999

a simplified working definition of land governance

Land governance is the process by which decisions are made regarding the (a) **access to and use of land**, (b) **the manner in which those decisions are implemented** and (c) **the way that conflicting interests in land are reconciled**.

Some key elements embedded in the definition

- ❖ Focus on decision-making, implementation and conflict resolution
- ❖ Emphasis on both process and outcomes
- ❖ Need to understand both institutions (rules) & organisations (entities)
- ❖ Recognize statutory as well as customary informal/extra-legal institutions and organisations
- ❖ Analyzes stakeholders, interests, incentives constraints

What about Urban land governance?

- Land governance determines how cities work; It is strategic for improving their productivity, equality and sustainability.
- Land governance focuses attention on land development issues in urban areas.
- It enables practitioners to understand and analyze land instruments that can shape cities and the socio-economic conditions of the inhabitants of a city through its economic, legal, financial and social dimensions.
- It directs practitioners to the implications land institutions have on urbanization; land markets, real estate markets, infrastructure development and finance,

What's the role for land professional organizations in upholding Good Land Governance ?

- *Nine Principles*

What are the 9 globally agreed principles for Good Land Governance?

1. Security

- Security of tenure; no forced evictions
- Recognizing legitimate Land and property rights
- Post conflict/post disaster contexts is particularly sensitive

2. Sustainability

- Land use balances social, economic and environmental needs
- Land administration systems are affordable, accessible to all, can be maintained and updated over time, capacity-building

3. Equity

- Pro-poor, gender sensitive
- Recognizing the continuum of land rights

Principles for Good Land Governance

4. Effectiveness and Efficiency

- Land administration
- Simplified rules and procedures
- Service orientation

5. Rule of Law

- Respect for legal pluralism
- Laws, rules and procedures consistently and impartially enforced
- Traditional and alternative dispute resolution mechanisms included

6. Subsidiarity

- Decentralization of decision-making and management
- Capacity-building needs addressed

Principles for Good Land Governance

7. Transparency

- Access to information regarding rules and procedures, costs
- Policy-making and decision-making processes
- Procurement, recruitment, expenditures

8. Accountability

- Land-use planning and management
- State-land and communal land management
- Prevention of corruption

9. Civic Engagement

- Dialogue and consensus building orientation
- Actively facilitating participation of all groups; active participation

What are some of the Consequences of bad land governance ?

- Weak institutions and legal frameworks;
- Weak incentives to produce and deliver public services;
- High levels of corruption;
- The poor and vulnerable groups are most affected because they are excluded from the benefits of public services.

Land professional's role

- Minimize risk for land right holders. **How?**
- Legalizing tenure rights to enable development: **What needs to be done?**
- Land in Economic Development: **What needs to be done?**
- Large land acquisitions: Who decides? **-who benefits?**

Lessons Learned and potential good practice

From R Ahene:

- Replace existing donor country strategies with **FIT-FOR-PURPOSE** local solutions;
- **Consensus building approach requires long term commitment**, dedicated and professionally skilled staff, sustained access to funds and technical capacity;
- **Political and other risk management** role by LRP secretariat ,
- **Ensure on-going process management and tangible delivery of results**

Lessons-Learned & Way Forward

❖ Lessons Learned

- Many experiencing slippage in development and implementation of land projects not for lack of technical, managerial or institutional capacity.
- Much to do with the political economy of land, nature of vested interests, etc.

❖ Way Forward for Land Governance

- Emphasis on the political economy of land to improve quality/efficiency
- Renewed focus on understanding land markets, especially urban and peri-urban
- Need to develop new tools to support the effective operationalization of a good land governance approach (including political risk management tools)

Finally,

- **Improved Land Governance should be Reinforced with more efficient knowledge management**
 - Documenting experiences, sharing knowledge.
- **Leadership and Pro-active partnership-building**
 - Land Professional members could involve CSOs in their project planning, through cooperation when relevant, and at project preparation and implementation level;
- **To interaction with other partners**
 1. Land Professionals should **reflect further on how it implements its partnership strategy**;
 2. How it could **be more pro-actively involved** with some of its main government partners in land governance and administration implementation plans;
 3. And with the **specific aim of ensuring that professional and technical leadership and opportunities are not lost.**

Africa Regional Network

