

The silence over national Land Policy Review process in Tanzania: A call to rethink

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Background: Land in the global South has remained an area with challenges for many years due to changes in legal regimes, social and economic sphere. Tanzania being not an isolated island in the global has been struggling to bring changes in the legal framework on the land sector. In 1995, it formed its first National Land Policy after an intensive community consultation that was done by the presidential commission formed in 1990. This was also coupled with other engagements before the final draft of the policy was out for public consumption. The policy informed enactment of the two land legislations, Village Land Act and the Land Act both of 1999.

In march, 2016 the Ministry of Lands initiated process for the national Land Policy review by forming different ministerial teams to collect stakeholders' opinions from selected eight regions. Each region was given two days for consultation. According to the Ministry's records, a total of 1470 people were consulted. In six months, the Ministry issued the first draft of the Policy. Since November, 2016 when the draft was shared, the Ministry has been silent or not transparent on the next steps up to date. Unlike the 1995 Land Policy, the current review has been very limited with time for effective and sound public consultation. Moreover, the Ministry conducted the process in extreme secrecy.

This study indulges in suggesting initiation of fresh and impartial dialogue on using the overwhelming silence of the National Land Policy review process as the only avenue to forgoan opportunity for an effective engagement in the process putting community (including youth and women) at the center.

This also finds refuge from the concept that emanates from recently laws passed by the parliament on Natural Wealth and Resources Contracts¹ which in its preamble makes

¹The Natural Wealth and Resources Contracts (Review and Re-negotiation of Unconscionable Terms) Act, 2017

reference of the people as the entrusted protectors of natural resources of which land is inclusive as provided in the constitution and supported by different court records.

What can Tanzania borrow from *Kenya*?

While acknowledging historical differences, this study uses experience from Kenya as best practice for National land policy review process to justify the process as critical and needs to provide broad public participation for durability and authority.

The formulation of a comprehensive National Land Policy in Kenya commenced in February 2004. In April 2007, a draft National Land Policy was adopted by stakeholders through a National Symposium. The Seventh Cabinet meeting held on 25th June, 2009 approved the draft National Land Policy and directed the Minister for Lands to proceed with the preparation of the Sessional Paper for presentation to Parliament². The National Land Policy based on views and expert opinions collected and those collected through a structured all-inclusive and consultative process that brought together stakeholders drawn from the public, private and civil society organizations. The broad based process of consultations was carried out around identified thematic areas that formed the nuclei of stakeholder engagement and consensus building, and conducted through workshops, seminars, submission of memoranda and topical research papers³. The various sectoral policies and strategic plans that were developed by other Government Ministries and Agencies were consulted to ensure that the Land Policy recommendations are relevant and roundly consistent with other policy standpoints⁴. In a large measure, the Land Policy benefited from the Report of the Commission of Inquiry into the Land Law System of Kenya, the report of the Constitution of Kenya Review Commission and the Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land⁵. Further, the Land Policy Formulation Process was informed by various key Government Policy standpoints including the Poverty Reduction Strategy Paper, the Economic Recovery

²Sessional Paper No. 3 of 2009 on National Land Policy presented in August, 2009.

³Ibid

⁴Ibid

⁵Ibid

Strategy Paper for Wealth and Employment Creation and the National Environment Management and Coordination Policy⁶.

Why Kenya?

The rationale for comparison between the two but distinct land policy review process in Kenya and Tanzania is based on the reason that, the two countries share the same history of colonialism, both got support from the World Bank for the Land Policy Review and finally they both form among east African countries and therefore it is most important to learn the best experience. As a country and with experience from other jurisdictions of the globe, a dialogue on the way forward is inevitable. This is also informed by the current government regime focus and industrialization policy.

Questions for dialogue

To ensure the dialogue for influence, this paper suggests the use of women and youth movements like Land Rights Monitors (LRMs) and or paralegals initiatives used by various land related Civil Societies like Tanzania Natural Resource Forum, HakiArdhi, Legal Service Facility (LSF) and land alliances or forums initiatives like the Tanzania Land Alliance (TALA) and the National Engagement Strategy (NES) as channels to influence and enhance the dialogue for bringing back the process to the community and obtain moral authority.

It is the argument for discussion that, taking back the discussion to the community and in particular inclusion of women and youth will ensure conviction of assessing progresses and find direction that people want and contribute on to the Agenda 2063 and the Sustainable Development Goals (SDGs). This will finally enhance achieving socio-economic transformation through inclusive and equitable access to land by all.

⁶Ibid

Qn. 1. What contributions do youth, women movements, development partners and country initiatives have on policy change?

Qn. 2. Tanzania being part of the international community, what contribution does it have on the agenda 2063 and SDGs through policy change?

Qn 3. Taking into consideration of the current situation stated above, what advocacy strategies are necessary to influence room for inclusive consultation of the public to ensure policy durability and authority?

Qn 4. What contribution do private sectors have on policy change?

Conclusion

This dialogue is necessary to inform stakeholders on the way forward after uncertainty facing the Land policy review process and suggest advocacy strategy for Civil Societies and development partners on ensuring public participation in the process of policy making.