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### **Fresh response to new land policy challenges, what Africa needs now for a secure future**

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The administration of land in the continent of Africa remains a critical and delicate issue that requires robust and comprehensive policies and actions also taking into consideration the fact that Africa is mostly occupied by young people who are unemployed, landless and on the road to poverty. The rhetoric of most governments has been to promote welfare of their people through diverse empowerment schemes which cannot be realized if the land issues are not corrected. There is therefore need for radically new policy options, management regimes or technical solutions to remain relevant to the current and future needs of people.

The much needed change lies with the political machinery through its mandated institutions. While a lot is expected from these institutions and agencies, they are often marred by chronic scandals of open corruption which has been a cancer devouring the African continent ever since we can all remember. As this might be debatable, the existence of these institutions themselves serves as a breeding ground for corruption and mostly their existence or mandates can easily be confused with serving the interests of their masters, namely the politicians. Closely related to corruption is the problem of institutional inefficiency and bureaucratic red tapping which is not only complex, not accessible but also politically charged with top people being direct political party agents.

Corruption, Lack of coordination and harmonization with other related policies renders all efforts fruitless and unproductive. It is no surprise that in most cases policy advocates, policymakers and development planners rely heavily on 'common knowledge', anecdote and narrative to develop and argue policy alternatives. This therefore calls for policies that promote comprehensive and holistic approaches which should help to complete puzzle of many years.

It will therefore be the argument of this paper that the land problems in Africa lies with policies that are marred by chronic corruption, lack of political will, lack of detailed research, weak and inefficient institutions which need radical transformation. This was primarily a qualitative desktop research that was based on secondary sources such as journals, books, newspapers, websites and other internet sources.

In a quest for answers and solutions these will be explored:

- 1) Is there enough political will when it comes to land policy issues?
- 2) Is there enough technical technological expertise to tackle contemporary land policy issues?
- 3) How relevant and adequate are the land policies in modern day Africa?

## Introduction

Land issues in Africa have serious historical connections dating back to the time of colonization. Most of the African countries had most of their productive land forcefully or subtly taken away from them. This was the basis of war for most liberation regimes who promised their people land once they gained independence. It is therefore imperative that when discussing present land governance issues be cognizant of the colonial arrangements that were later taken over by the new governments. Africa is a vast region that is heterogeneous, which poses a challenge when trying to analyze an issue such as land administration or corruption. New land pressures has obviously created much more complex challenges that demands an urgent intervention through pragmatic policies in order to ensure that the basic human right to land tenure is respected more especially in cases where indigenous people and minority populations are involved. Ironically, the issue on land governance is a common rhetoric for most African governments but with less implementation and as expected, output has been disastrous.

There is a common saying that says that you can take a horse to the river but you cannot force it to drink. It would be pointless for us and everyone else with a desire of seeing a different picture of Africa if the main actors have a differing view about the issues. Political actors as individuals or collectively play a crucial role in realizing the goal of winning the fight against corruption in the land sector. The concept of political will is a very slippery one which has left many scholars raising more questions than answers in trying to unpack its meaning while its chants have increased over the years. Its usage in the policy circles does not seem to generate a lot of complexity as if to assume that by referring to political will everyone has the same understanding. It must be said though that it's not the scope of this paper to be entangled in the quagmire of trying to define its multi-dimensional facets but rather to operationalize the concept and place more emphasis on the actual political actors themselves. The absence or presence of political will is seen as a main catalyst if not the key factor in achieving any reform that is needed. Political actors are the drivers when it comes to national resource management and allocation. Political leadership and commitment to fight corruption at the highest levels is a pre-requisite for initiating and implementing reforms over time, this is according to Transparency International (2015) brief.

According to Robert Martinez (2015), political will can be loosely defined as demonstrated credible intents of political actors to a particular issue or might be conceptualized as commitment of political actors and bureaucrats to undertake action in order to achieve set objectives. The emphasis placed by these definitions is on the actual political actors as individuals or collectively to act upon a pre-determined objective which should produce a desired outcome. The assumption therefore is that this objective that has to be acted upon is widely accepted by the wider society and that all things being equal the outcomes should be desirable or able to enhance the lives of the people. The emphasis of this paper therefore is on the willingness of the political actors to set the objectives and implement through the mandated institutions in order to achieve that which the people deem as desirable. The desirability of the outcomes must not rest with the political actors but the people who will be affected by them. The premise is that the political actors are individuals whose interests are to serve the people who voted them into power. Having

established that we will therefore turn and look at how or to what extent are political actors in Africa willing to set the agenda in addressing land issues and implementing them in order to achieve the desired outcomes for the people.

Land is not just a distinct resource but very useful, does not expand with the increase in population, source of conflict, political and economic power and has always been used by those who rule over others to maintain their ruler-ship. It should not come with surprise therefore that it is a source of conflict. Those who have access to land want to keep their grip and continue to manipulate systems to their advantage while those don't have access are fighting tooth and nail to be among those who have that privilege. In times past traditional authority in the form of chiefs, headman or tribal leaders wielded all authority when it came to land. To some extent it is correct to say that they owned all the land that was under their domain because people could not do anything without having to consult with these leaders or put differently, these traditional leaders were custodians of land on behalf of their people. With the introduction of the new government systems that particular privilege was snatched from traditional leaders and now under the State. The state on the other hand is the domain of political actors who then function legitimately or illegitimately to execute ideally according to the dictates of the constitution of that particular State or the set policies that have to be implemented in order to meet societal aspirations. Land as alluded earlier is a great source of power for political actors hence management should be of concern to them or has to be done cautiously.

The political will of these actors should be assessed based on the fact that they are acting on the interests of the people or the masses. We therefore need to be weary of chanting "political will" for the sake of it, but to ask what purpose is it serving. A classic example that we can explore is that of Zimbabwe. During the Lancaster House negotiations in the late 70s to 80s between the new government and the British, the core of the discussions was on the land issue and how it had to be dealt with. The new Zimbabwe government of the time wanted the land returned to its people while on the other hand British sought to protect the white minority farmers. It can be argued then that in that moment there was a wave of immense political will on the part of the Zimbabwe government to make sure that there was a land reform. This willingness was premised on the fact that the basis of the liberation war was to be able to give back people the land that was taken from them. No latter that by late 80s the Commercial Farmers Union (CFU) which was predominantly white now had expanded its net to include over 300 black farmers with a total of 10 cabinet ministers among the ranks (de Villiers, 2003:17).

The argument we are trying to make is that this meant that a new class of black land owners had just been created. What it then actively meant also was that this new class had to act in the interest of the CFU which were mostly white minorities where the land for distribution was to come from. It is safe therefore to say that willingness by the political actors to pursue the policy of land reform was not just to serve the ordinary people but to enrich themselves. This has been the situation that still faces Zimbabwe today that the land that was taken from white minority still landed in the new black minority class from the ruling Zanu Pf. An ordinary citizen does not have an opportunity to have access to such an important resource more especially the peasants in rural areas. In the current settings in South Africa, the call for land reform has taken momentum so well that it managed to pass through the parliament. The pressure has built up from the opposition parties such as the Economic freedom fighters (EFF), calling for expropriation without compensation which to some extent has proved to be controversial. The issue that is left to be

seen is whether this willingness to pursue this land policy will eventually end with ordinary South Africans having productive land and improving their economic state.

With a hope that Zimbabwe land policy can be used as classic example on the dangers of embarking on a clumsy land program, an expectation is that the one for South Africa will turn out to be sustainable and the outcomes will be desirable. What needs to be guarded against then is a situation where by after a mirage political will, the political actors then ceases an opportunity to enrich them instead of uplifting the lives of the ordinary peasants.

Another view to consider is that political will has to be managed or should have checks and balances in order to avoid unnecessary extremes. Good intentions may as well turn out to breed disastrous results that may bring havoc to the country. Political actors may be too applied to the policy that it obscures their judgement on tactical issues. This usually happens when too much has to be achieved in a short space of time without taking into consideration the scope of the project in terms of planning, cost, expertise, institutional capacity, implications and possible outcomes. Political actors may become too insensitive to the process with a focus on the end goal which might not even come to pass. There are multiple ways an analyst can use to assess political will but on this paper the focus is on the motives, desires, ideology, feelings, and associations to pursue the objectives. It should be said though that this is not an easy task as it might involve a multi-disciplinary approach, ranging from psychology, sociology, economics and other related fields in order to get a much clearer picture. Not to mention also that human beings don't necessarily follow a pre-determined course but might change along the way as situations suit.

In the case of selected countries in Southern Africa, political will is very difficult to measure or assess and this is the case with the rest of Sub-Saharan Africa. Many political actors claim to be supporting anti-corruption measures while in reality the practice becomes different. No one has openly announced their embrace of corruption but while the actual practice speaks otherwise. This has been the case with many African countries who have renounced land corruption but if we look deeper into the waters the same people are in the middle of the same waters doing the opposite of what they say. It is therefore the argument of this paper that willingness of politicians to address land corruption has fallen short when it comes to actual practice. The rhetoric has been well established while practice languishes in the depths of a bottomless abyss. In most cases the willingness to act upon policies that brings transparency and results has been marred also by in-genuine motives, selfish desires, deceptive moves and actions and the end result has been deprivation of the ordinary people languishing in poverty.

Relevance and Adequacy of Land Policy in Africa, Botswana in Perspective

### **Botswana Case**

It is universally accepted that land as a resource carries multiple values and undoubtedly forms part of people's identity (Isaacs & Manatsha, 2016). Botswana has a unique history considering that it was never colonized like other African countries but a British Protectorate. What it effectively means is that its land issues have nothing to do with a foreign power having grabbed land from indigenous people but rather its challenges have to do with equitable resource allocation, corruption, and efficiency and management issues. Between 1973 and 2015 the country has had approximately 17 policies that have been proposed and passed. On paper this sounds progressive but the reality is far from the black and white pages. As of 2015 (latest land policy), Land policy practitioners were of the view that land tenure system in Botswana

has served the country well over the past hence there was no need for any radical changes except for a few administrative shortcomings within the system (Isaacs & Manatsha, 2016). This might sound a little controversial for an ordinary citizen who has had to wait for plot allocation for over 20 years, as this has been the case with many Batswana. Some applicants from the peripheries of Gaborone the capital have cases of people who applied for land as early as mid-1990s but up to date they are still on the waiting list. Some of the common and frequent complaints lodged against Land boards is that allocation of land is not equitable with influential people especially politicians receiving preference over the ordinary and poor people of the society (Adams, Kalabamu & White, 2003).

The common challenges faced by land boards (State institutions tasked with Land administration) across the country include long waiting list from people who have applied for land. By 2016 the Minister in charge informed the parliament that the waiting list stood at just over a million applicants (Isaac & Manatsha, 2016). This information was from various land boards across the country and this is a country that has about 2 million people as its total population. As alluded above the waiting list has people who have been hopeful for over 20 years and others still counting. Botswana land policy outlaws multi ownership of residential plot through State allocation. This rationale has been to avoid having same people benefiting again and again while others are still on the waiting list. In the Gaborone peripheries this was one of the big problems faced by land boards. A number of people have benefited several times before others could even get a chance. Some people had taken advantage of the weak system and started getting land for free and selling it at exorbitant prices. This was/is due to poor record keeping among State land boards. The system was so poor that people could apply and re apply without ever being detected and still get away with it. This on its own is a big challenge that all land boards have to deal with in order to manage their affairs efficiently. Another big problem is the usual African Monster “corruption”, and interesting enough is that this can be attributed also to the above problems. It’s justifiable to make a claim that as a result of delayed allocations, poor record keeping and management and inefficiency due to maladministration corruption has been inevitable.

Illegal allocation and purchase of plots, bribes paid to public officials has been rampant including those who have allocated themselves without government approval. A few months before this paper we had an interesting situation that I was personally confronted with. This also become the basis for seeing the need to pursue this paper and contributing to the land policy issues in Africa. I was tasked with facilitating the purchase of land for a particular organization (Names withheld) and the land was under the jurisdiction of Mogoditshane Land board which is just adjacent to Gaborone the Capital. Because of the challenges discussed above, processing land transfer takes a bit of time (minimum of three months) especially with the land board under discussion. In this scenario we met one of the junior officers (for the lack of a better description) who were willing to go and do the transfer for us within 24 hours. This was so unthinkable hence I decided to go and do a thorough check on the procedures which I discovered that there are a number of steps that need to be taken upon lodging the application. The same officer had access to people’s files hence his confidence to process everything without having to go through the normal procedures. As it might be unusual, I declined the offer after discovering also that the land in question had missing information and in the past was subject to some controversy after two unnamed parties were fighting over it which was later settled by an out of court order. These are some of those incidences that are prevalent within the country.

## Adequacy and Inadequacy of the Land policy

The new land policy introduced an improved system of making sure that the new allocations of tribal land was surveyed and effectively registered to make sure that the holders have that assurance and security which they can go and register the same with Deeds office in order to obtain title deeds. What then this means is that the same land can even be used by beneficiaries as collateral with financial institutions (Isaacs & Manatsha). This was welcomed as a great move that can help elevate economic state of the ordinary people. It's worth noting also that land without security cannot be accounted as a valuable resource that can alleviate poverty. Constraints to insecure land tenure and non-transferable land has been cited as some of the issues that discourage the development of agriculture in many African countries. Lack of security does not give the reason to invest in the land when the uncertainties are very high (UNDP, 2006) also as echoed by De Soto who says that land without security is dead capital which is just an illusion for those wishing to benefit from it. According to De Soto poverty in developing countries and of the communist bloc should be understood in relation to the inability of poor people to convert what he calls "dead capital" into live capital. Thus having live functioning capital would give rise to capitalism that would then bring about economic development. His claims are that the granting of titles to poor people to some extent could be a solution to underdevelopment in most developing countries (Ahiakpor, 2008) even though all these claims are refuted by Ahiakpor who calls it a misdiagnosis.

None the less this might be a move that will decrease cases of illegal land transactions within the country (Isaacs & Manatsha, 2016). Such a move should be adopted by most developing countries especially those who have or are embarking on land reform programs. These programs would be meaningless if security on the land is not guaranteed. For many people in Africa, it's like having a mobile phone with passwords that you don't know.

A controversial element of the policy is that in cases of married couples, only one of them has the right to apply for a plot. Such a practice would prove to be discriminatory especially if it denies people land on basis of marriage (Isaacs & Manatsha, 2016). This tendency is not an uncommon practice especially where cases of marriage are concerned and it is the women that are normally at a disadvantage. Certain groups of citizens find themselves at a disadvantage especially where there are no provisions by the law to protect them. The policy can be commended for its efforts to identify vulnerable groups and some provisions it has for them. The problem comes when the main purpose of the policy that is to achieve social equity and justice seem to run contrary to some of the provisions.

## New perspective

The argument of this paper is that good policies on paper if not translated into reality will never amount to anything but rather produce a disgruntled citizenry that is sinking in poverty. Most of the times, the marginalized and vulnerable groups such as the women, children and disabled people are likely to suffer

the most. The rural economy is heavily dependent on Agriculture as its life line hence if land policies don't actively address land issues the poor will continue to suffer. As it should be expected, each and every policy must have a clear goal or objective as would be the driving force behind pursuing such a policy. The biggest problem faced not only by Botswana but majority of Sub Saharan countries is Maladministration within the land sector which inevitable breeds' corruption. One would wonder whether the perpetrators of corruption are species from another planet that we are yet to discover. The answer is an obvious no, since the culprits are usual the same people tasked with being custodians of national resources. A recent move in Botswana has been that all senior public officials have to declare their assets and liabilities when assuming duty and when leaving office. It's a move aimed at addressing issues of embezzlement of state resources by senior officials through corrupt means. What it effectively means is that all senior officials will be expected to account for each and everything they own. Probably met with weaknesses here and there but this would greatly discourage abuse of office. Land as we all know is common targeted resource by corrupt officials. The position of this paper therefore is that they must be mechanisms put in place such as the one mentioned above to create transparency and scrutiny in order to reduce the abuse of office by Senior officials. An emphasis is here by placed on the Senior officials premised on the fact that if the top is in order it becomes easy to enforce the same on those under. One of the big challenges that Africa has met is that the call to end corruption and mal administration has been made by the same people in those compromised positions. It becomes hypocritical to arrest the one who stole ten thousand dollars while there are millions missing just three levels up the hierarchy.

Independent Institutions should be set up and if they are any existing should be revitalized and given a new look and mandate to oversee activities of the State land management. These should be set up and tasked with scrutinizing every activity on land policies with the overall objective of making sure that corrupt activities are averted, maladministration is identified and corrected, injustices are reversed and equity is achieved. If Africa recognizes land as a very key resource to its sustenance then we should be willing to sacrifice for it through investing resources such as research, training and sound management. Reforms will not produce much results if they are other underlying key issues that need to be addressed otherwise it will be another mirage that we are chasing hoping to benefit from it while it keeps vanishing in our site. What would need to be guarded against is having politicized institutions whereby they end up serving the interest of the ruling political party. Such institutions must remain rigid and totally independent from any internal or external influence. This can be achieved by creating regional integration systems that will see similar bodies within the region or international working together to promote good land practices. Such institutions would work with various stakeholders at national, regional and international level. At the end of the day what should be achieved is a sense of accountability that will make everyone to work towards the goal of enhancing the lives of Africans. The argument of this paper is that they must be multiple mechanisms put in place for the purposes of accountability and transparency. In order to avoid the same institutions being infiltrated and politicized they have to be other watch dogs in place that monitor the operations of the same institutions. Sovereignty of States has to be relooked as they have been a call for that. The respect that has been accorded to countries which are violating human rights has been overdue. It is the submission of this paper that African countries should relook its brotherhood stand and realize that there is a far greater need to combat corrupt activities through coordinated efforts such as creating accountability mechanisms among each other.

Another key perspective that needs to be emphasized is that there has been over reliance of what is commonly known as 'common knowledge'. It's true that Africans know a lot about theories of

evolutions, Karl Max and communism, World war one more than we know about own continent. Thus at the end decisions are made based on high abstractions of western economics and less of real indigenous issues than need context specific understanding and solutions. It is a common practice to rubbish anything with African origin as primitive while the same kept man and women of the past generations. Scholars have dismissed the fact that practices such as communal ownership were poorly managed but that these still played an important role in managing and conserving communal lands (Isaacs & Manatsha, 2016). More research is needed to understand how various communities live and thrive and the best practices needed to allocate land achieving productivity. Inadequacy of data and missing information has been detrimental to sound administration and this makes it easy for corrupt activities to thrive. Still on a similar note is that there is need for trained personnel who can be able to administer the much needed change. Computerization of systems also plays a critical role in preserving and monitoring information. This will help to reduce cases of duplication, missing information and other related ills. The ordinary people need to be educated on the right and responsibilities they have regarding land.

Policy dialogues are also very critical in coming up with policies or instances of policy reviews. It is very important that these dialogues should involve all the stakeholders (Ouedraogo, 2006) and this helps various groups to develop their own vision of land tenure and access for all.

#### Technical Issues

As alluded to above, lack of experts within the land sector is very common in most developing countries. There is an urgent need to invest in that area in order to have right expertise to diagnose and offer real solutions to African land policies. These also will include electronic data processing, control surveys, spatial data systems and the use of tools such as Cadastre.

#### Conclusion

It is very clear that land is very critical and vital resource that has become a source of conflict and survival at the same time. There is a clear need for fresh responses to this important resource. Institutional arrangements people a very critical role in making sure that ordinary Africans have an access to land that would in-turn help them to escape poverty if well utilized. The big monster has been corruption which has been bred by poor administration, abuse of office by public and senior officials. Most of these ills can be addressed by concrete and genuine political will which will see the existing and proposed policies being implemented fully.

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