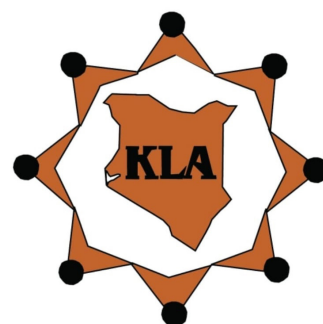




LAND SECTOR STAKEHOLDERS PLATFORM: ***ARDHI CAUCUS***

*Engagement Strategy on Land Tenure Security
for All in Kenya*



KENYA LAND ALLIANCE



1. Introduction

The land reform process in Kenya has witnessed a lot of institutional, ideological and practice changes and challenges from 2009 when the Sessional Paper No. 3 (National Land Policy) was adopted. The momentum was further reinforced by the 2010 Constitution, which is very progressive on land rights. After the passing of the Constitution, the country developed very progressive land laws which ignited a lot of hope on transitioning from Land Questions

to Land Answers. The stakes in the land reforms discourse remains high as it is embedded in economic growth, distribution of resources, social cohesion, poverty reduction and wealth creation.

Even though good progress was made in the development of relevant land laws immediately after the promulgation of the 2010 constitution, there have been bottlenecks on the implementation. Several players within the land sector have registered their displeasure with the slow

process of the land reform agenda, others feel it is 'ok' while others have disengaged altogether. This frustration reflects the burning desire to have equitable access to resources and secure land tenure systems that the enacted legislations sought to provide.

One of the challenges contributing to slow implementation of land policies and laws is the multiplicity of stakeholders' roles and the diversity of stakes, interests, positions, perceptions and ideologies without a common space/platform to discuss, build consensus and move together as stakeholders in the sector. The divisions and disjointed interventions amongst the State and non-state actors on the implementation of the land policy and land laws has emerged as a critical threat to securing land tenure rights for all in the country. Building consensus amongst the land sector stakeholders is critical in sustaining momentum and pressure for positive change. However, it is not possible for joint initiatives to work if there are no consultations and dialogue amongst the land stakeholders. The Ardhi Caucus initiative therefore seeks to provide the land sector stakeholders (State and non-State actors) with a common platform to engage on matters of land reforms to secure land rights for all.

To develop the Multi-Stakeholder Platform (MSP), Landesa has partnered with the Kenya Land Alliance (KLA), which is an umbrella network of Civil Society Organizations and individuals in the country, who are committed towards effectively advocating for land and policy reforms in Kenya. In this regard, Landesa and KLA carried out an assessment on the work of other existing MSPs in the country and held a meeting as part of the assessment in February 2023 at the Nairobi Safari Club Hotel in Nairobi. Subsequently, on February 13th, 2024, Landesa and KLA held another meeting with various stakeholders, as a means of introducing the idea of the MSP, at the Jacaranda Hotel in Nairobi. Finally, a technical team from Landesa visited the KLA offices in Nakuru on April 2nd, 2024, and formed a technical committee to draft an engagement strategy for a state and non-state actors platform. Thus, this document provides some of the proposed components of the MSP, based on the meeting in Nakuru and with input from the State and Non-State Actors

who participated in the previous two meetings.

2. Partnerships & Collaborations

It is recognized that there are other Multi-Stakeholder Platforms (MSPs) and networks in the country that deal with matters of land. For instance, the Kenya Land Alliance (KLA) in itself is a form of network for various members to advocate for land reforms in the country. Other networks include: the Community Land Action Now (CLAN), which is a network of communities and community-based organizations, which are focused on community land rights in Kenya, the Land Sector Non-State Actors (LSNSA), which brings together various organizations, except the State, to advocate for various aspects of land reforms in Kenya, the Kenya National Farmers Federation (KENAFF) and the National Land Coalition among others.

Based on an assessment of existing networks, a gap was noted that there is no existing network/platform that currently brings together the State and other actors within the land sector, to dialogue and find solutions on why and how to improve land tenure security for all. Thus, the need for a multistakeholder platform that brings together the State and non-state actors in the land sector to engage, dialogue, share, learn from each other and inform policy, legal and administrative processes on how to improve land tenure security in Kenya.

3. Name and focus of the MSP

The platform shall be called ***Ardhi Caucus***. Hence, it should be a loose network that allows different stakeholders to come together and constructively engage on how to improve aspects of land tenure security for all (women, men and young people) in Kenya, including implementation of the Community Land Act, 2016.

4. Vision

The main vision of the caucus is: ***To improve land tenure security for all.***

5. Mission

This mission is to:

Mobilize, synergize, and capacitate land sector stakeholders towards the realization of land tenure security through promoting gender-transformative, community-responsive and inclusive climate-resilient land governance.

6. Shared Principles and Values

- Transparency and Accountability
- Learning and Sharing
- Equity
- Equality
- Participation and Inclusion
- Coordination and Value Addition
- Collective Responsibility

7. Rationale and Objectives of the Caucus

The realization of land reforms necessary for land tenure security has been faced with many challenges in the country. The challenges include ineffective participation of marginalized communities in decision making, duplication of efforts by land stakeholders, weak governance and administration of land and natural resources and deliberate or inadvertent lack of adherence to the constitution by both duty bearers and right holders among others.

The Ardhi Caucus seeks to offer solutions to the challenges by fostering a united front and harnessing resources through a well-coordinated approach. The Caucus, which involves both state and non-state actors, seeks to leverage on each other's technical expertise, capacities and strengths towards expediting the actualization of gender transformative, community responsive and inclusive land tenure security. Through the Caucus, community voices in different spaces, from county to national levels, will be amplified and the political goodwill needed for the implementation of land reforms will be generated to see fast tracking of land reforms in the country.

Objectives of the Caucus include:

- To become thought leaders on matters of land tenure by collectively developing evidence-based action research-studies, policy, legal and administrative proposals to improve land gender responsive land governance in the country.

- To bolster the capacities of the different stakeholders towards the effective realization of tenure security.
- To mobilize resources towards the achievement of gender transformative land tenure security
- To align climate change mitigation and adaptation strategies to the current trends/discourse that promotes land tenure security
- To establish remedy mechanisms towards the facilitation of land tenure security in the country.

The objectives will be achieved through the following thematic areas.

8. Thematic Areas

The Ardhi caucus would involve formation of working groups around five themes, namely:

1. Protection, Recognition and Promotion of Communally-held Land.
2. Tenure Security for Smallholder Farmers
3. Access to Land Justice
4. Women's Land Rights
5. Climate Change Adaptation and Mitigation

The details of each of the thematic areas are as follows.

Theme 1: Protection, Recognition and Promotion of Communally-held land

Approximately 70 percent of the land in Kenya is communally held. In order for the women and men who live in the community land areas to feel tenure secure, the land needs to be protected, recognized and registered in the name of the community.

Promulgation of the Constitution of Kenya, 2010 and subsequent enactment of the Community Land Act, 2016, provides a unique opportunity and legal means of protecting and registering community land.

However, despite the legal provisions, implementation of the Community Land Act, 2016, has been slow and not effective where it is largely needed. Therefore, there is a need for collective dialogue, through a caucus, on how to best unlock the community land registration, as

a means of protecting the rights of the women and men who live within them. The strategies that may be used by the community land thematic group are as follows.

Strategies for promoting and securing community land rights include:

- i. Strategic multi-stakeholder policy and legal dialogue fora to inform and shape the implementation of Community Land Act 2016.
- ii. Research, document and disseminate experiences, lessons, successes and challenges in the recognition, protection and promotion of community land rights in the country to inform implementation of land reforms.
- iii. Bolster knowledge of various stakeholders, synthesizing and dissemination of policy, legal and administrative information to bridge the information and knowledge gap in securing and strengthening community land rights.
- iv. Collaborative development of tools, guides, and regulations to facilitate the implementation of CLA, 2016.
- v. Hosting annual Multi-stakeholders Community Land Act 2016 Implementation Status Conference.
- vi. Joint mobilization of resources for the recognition, protection and promotion of community land rights in the country.
- vii. Promote community mobilizing and organizing for registration and management of community land.

Theme 2: Tenure Security for Smallholder Farmers

In Kenya, smallholder farmers contribute about 70 percent of the food that is consumed in the country. Incidentally, most smallholder farmers are in rural areas where land tenure security is challenged by myriads of issues such as succession, land boundary disputes and associated conflicts, customs and traditions that deny women access to land, and informal land transactions among others. The associated land tenure insecurity arising from these factors negatively affects investment confidence and options by smallholder farmers, thus jeopardizing livelihood opportunities. Hence, it is critical to address the issues for the smallholder farmers to have land tenure security.

Strategies for enhancing land tenure security for smallholder farmers:

- i. Facilitate multi-stakeholder dialogues and processes that advocate for improved land administration services that can enable the smallholder farmers to carry out processes such as land succession, formal transactions, and mapping of boundaries in rural areas to reduce land disputes related to boundaries, among others.
- ii. Convene policy, legal and administrative dialogue to promote changes in lengthy land administration processes that might be hindering farmers from acquiring formal rights to land.
- iii. Promote formulation of policies, laws, regulations that are gender responsive, and promote sustainable land management and climate resilience.
- iv. Hold an annual multi-stakeholder smallholder farmers land tenure security conference.
- v. Research, document and disseminate smallholder farmers land tenure security challenges.
- vi. Promote sensitization of duty bearers at the county and community levels on smallholder farmer land rights and how to secure them.

Theme 3: Access to Land Justice for Women, Men, Youth and Persons with Disabilities

Multifaceted aspects of land lead to multiplicity of laws, thus frustrating the pursuit of justice for communities. Ambiguous procedures, arbitrary decisions and high transactional costs also hinder access to land rights for women, men, youth, and persons with disabilities. In addition, backlogs in judicial processes, duplication of legal interventions, and working in silos, slow down access to remedy to achieve secure land tenure. Further, several unresolved disputes on land around titles and boundaries also hinder access to land justice.

Ensuring access to land justice involves addressing historical injustices in land distribution, especially at the Coast Region, securing land rights for marginalized groups, and promoting equitable land governance. The mem-

bers of the working group would deliberate on efforts such as policy reforms on land titling, conversion of land, compensations, promoting transparency and accountability and inclusive land governance mechanisms in land-use planning, decentralized land administration systems, and mechanisms for resolving land disputes such as Alternative Dispute Resolution. They should seek to build the capacity of government institutions, civil society organizations, and local communities to effectively manage and govern land resources. This includes training on land law, land administration, conflict resolution, and sustainable land management practices.

The members will also discuss mechanisms to monitor compliance with land laws and regulations, and enforce penalties for land-related violations, including illegal land grabbing, encroachment, and land tenure insecurity. The members should also foster international cooperation and partnerships to support efforts to promote access to land justice, including sharing best practices, technical assistance, and financial support for land governance initiatives in developing countries.

Strategies to enable access to justice:

- i. Convene and facilitate multi-agency fora, round table dialogues on promoting access to land justice including the roll out of the Alternative Justice System (AJS) at the community levels.
- ii. Support multi-agency engagements on the historical and present land injustices
- iii. Support the formulation and implementation of policy, legal and administrative frameworks including guides and tools to enhance access to land justice, resolution of disputes and settlement of historical and current land injustices.
- iv. Bolster the capacity of state and non-state actors on access to land justice and land tenure security.
- v. Collaboratively develop relevant resources on land rights including simplification of land laws to make them more accessible to the communities, engage in media awareness creation.
- vi. Undertake joint land clinics in the counties to enhance access to land services.

Theme 4: Women's Land Rights

In most communities in Kenya, there has been generational exclusion of women in land governance, in which women only gained access to land through male relatives. However, the new Constitution of Kenya 2010, speaks to elimination of gender inequality as regards land rights, and is supported by other Acts of Parliament that allow women to own land.

Despite the Constitutional and other legal provisions that allow women to own land, social norms that hinder women from owning land continue to persist. Thus, even today, many women, especially in rural areas continue to be tenure insecure, because of social-cultural hindrances.

This thematic area is concerned with addressing gender disparities in access to land by promoting women's land rights, including equal inheritance rights, access to land ownership, and participation in decision-making processes related to land management. Through this thematic area, we will be intentional in raising awareness about the importance of women's land rights among policymakers, community leaders, and the general public; Empower women with knowledge and skills to assert their rights and advocate for gender-responsive land policies and programs; Foster dialogue and collaboration between men and women to challenge traditional gender norms and promote equitable access to land resources; and, Provide legal aid and support services to women facing land tenure insecurity or land-related disputes.

Strategies to promote women's land rights:

- i. Convene and facilitate multi-stakeholders dialogue on women land rights at national, county and community levels.
- ii. Bolster the capacity of the State and Non-State Actors on Women's Land Rights and gender inclusivity.
- iii. Facilitate grassroots women's movements on women's land rights and bridging the gender gap in the land sector.
- iv. Promote policy, legal and administrative dialogues and frameworks to secure women's land rights in the formulation and

- v. Collaboratively initiate and drive women land rights campaigns at national, county and community levels.
- vi. Support the collection of gender disaggregated data in the land sector.
- vii. Document and disseminate the impacts of insecure land tenure on women's well-being, livelihoods and socio-economic status.
- viii. Hold annual multi-stakeholder conference on women's land rights in the country.

Theme 5: Climate Change Adaptation and Mitigation

The need to mainstream land governance, and specifically land tenure security discourse in climate change adaptation and mitigation is critical. This is because climate change interventions touch on land and thus land governance is significant to building climate resilience. Hence, there is a need to devise land tenure related mechanisms that can enable people, especially in arid and semi-arid parts of the country, to better adapt to and, or mitigate against climate change. The complexity of the issues around climate change demands a multifaceted technical conversation on how to leverage land tenure security to enable better climate change adaptation and mitigation.

This thematic area will look at how to integrate or mainstream climate considerations into land use planning, land tenure systems, and natural resource management policies to support building resilient communities. This requires collaboration across sectors and thus there is the need for the multi-stakeholders approach.

Strategies for linking land governance to climate change:

- i. Convene and facilitate multi-stakeholder dialogues on integrating climate change adaptation and mitigation objectives into land governance policies and frameworks, ensuring coherence and synergies between climate action and efforts to secure land rights for marginalized groups.
- ii. Review and assess the climate change policies, laws and strategies for the recognition and protection of land tenure security provision to safeguard the land rights of women and men as they engage in climate change adaptation and mitigation.
- iii. Bolster the capacity of stakeholders on integrating land tenure security into climate change policies, laws, and the associated frameworks and vice versa.
- iv. Promote policy and practice change dialogues that promote ecosystem-based adaptation approaches that conserve and restore natural ecosystems and conservation agriculture.
- v. Document and disseminate the impact of sustainable land management practices in building resilience to climate change.

9. Implementation Approach

9.1 The Ardhi Caucus stakeholders will convene at three levels:

- a. Whole caucus meetings – where all the stakeholders come together to deliberate on specific issues touching on land tenure reforms. These could be workshop meetings, breakfast meetings, policy dialogues etc. The Whole Caucus meetings/forums will be held after every three months. However, in case of any emergency arising from critical happenings in the land sector, the meeting will be convened as soon as possible to respond and engage with such developments. Landesa and Kenya Land Alliance play the secretariat role thus are the conveners of the Ardhi Caucus.
- b. Thematic working group meetings – where the focus of the meeting is one of the five thematic areas. In this case, only stakeholders working on that theme will dialogue and engage on the issues therein. However, the thematic area's deliberations will be shared with the larger Caucus for information and peer accountability purposes. Each thematic area will be led by one organization, who will work with Landesa and Kenya Land Alliance to convene the members. The thematic Working Groups will meet monthly either virtually or physically.
- c. Strategic convenings on land governance matters of importance to land tenure security – Ardhi Caucus will convene on strategic

national and county land governance matters to facilitate collective multi-stakeholders discourses on such matters.

9.2 Leadership

To ensure inclusivity and diversity, which a major necessity in the land sector, Ardhi Caucus will have the following structures to steer the convenings:

- a. Steering Committee – Ardhi Caucus will have a steering committee comprised of 1) the Conveners – Landesa and KLA, 5 Thematic Lead Organizations, the Convener LSNSA, Chairperson/Coordinator CLAN, National Land Coalition Coordinator/Host, Ministry of Lands Representative and NLC Representative. The Council of Governors (CoG) and Kenya Private Sector Alliance (KEPSA) representatives will also be part of the Steering Committee. The Steering Committee will be responsible for setting the agenda for the whole Caucus meetings. It is the collective decision-making organ for the Caucus.
- b. Thematic Working Group Committee – This will include the thematic areas lead organizations, Landesa and KLA. The key responsi-

bility is to plan and harmonize the thematic working groups work plans, mobilize resources to execute the work plans and give feedback on the progress.

9.3 Communication and updates

Landesa and KLA will be responsible for the Ardhi Caucus communications in terms of sharing updates, convening meetings etc.

9.4 Media and Visibility

Each participating organization will be responsible for media and visibility. The Caucus can put out joint communique only after it has been discussed and signed off by all the participating stakeholders.

10. Commitment

Cognizant of the need for the Multi-stakeholder Platform bringing the State and the Non State Actors in the land sector in one space for reflection, learning, sharing and dialogue, the success of Ardhi Caucus is dependent on each stakeholder's commitment to bridging extant gaps by intentionally committing to working together as guided by the principles of the Ardhi Caucus Platform.

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