

National Conference on Emerging Land Issues in Kenyan Agriculture and their Implications for Food Policy and Institutional Reforms

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CONFERENCE REPORT



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This report was prepared by Daniel Kyalo Willy and Grace Mwailemi Wawuda. The ideas, interpretations and conclusions presented in this report are those of the authors and conference participants and may not necessarily reflect the views of the Kenya Land Alliance or Michigan State University.

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LIST OF ABBREVIATIONS

AATF:	African Agricultural Technology Foundation
CoK:	Constitution of Kenya
DRC:	Democratic Republic of Congo
EAFF:	East African Farmers Federation
FDI:	Foreign Direct Investment
GDP:	Gross Domestic Product
IDS:	Institute of Development Studies
KLA:	Kenya Land Alliance
LADM :	Land Adjudication Domain Model
LIS:	Land Information System
MSU:	Michigan State University
NLC:	National Land Commission

1.0 INTRODUCTION

1.1 Conference Background

For a long time sub-Saharan Africa has been considered to have abundant and under-utilized land than any other continent. On the contrary, recent studies show that many rural Africans live in increasingly densely populated areas where all arable land is allocated or under cultivation. This has led to a long-term decline in farm size and reduced fallows. For example, over 50 percent of the Kenyan rural population lives in areas exceeding 250 persons per km², and 40 percent resides on 5 percent of Kenya's arable land. The clustering of rural Africans into relatively densely populated areas could be due to non-profitability or feasibility for smallholders to use more land because of the following factors: lack of financial or technical (labor, animal traction, or mechanization) resources to exploit more land; inadequate land policies; and institutional and cultural factors that inhibit productive use of land and impede labor migration from densely to sparsely populated areas. In addition, land considered "potentially cultivable" lacks economic potential because of poor infrastructure, adverse terrain, poor soil and water resources, or excessive disease burdens.

The relationship between farm size per adult and household income is positive and very steep at low farm sizes. Beyond 0.5 hectares per capita (roughly 2.5 hectares farm size when adjusting mean family size), the relationship flattens out. Because most smallholder farms in Africa are well below 2.5 hectares in size, measures to promote access to land may reap very high payoffs in rural poverty reduction. Possible models of promoting access to land include – through markets, public investment and land transfer programs. More systematic analysis on what works and what doesn't will prove invaluable for guiding future land policies in the region. Conversely, a further shrinking of farm sizes could potentially be a major drag on efforts to reduce poverty and food insecurity given the limited employment opportunities generated by the Africa's manufacturing and services industries.

1.2 Conference Objectives

To support evidence-based policy making and advocacy, Kenya Land Alliance jointly with Michigan State University organized a National Land Conference to disseminate recent research findings on emerging land issues in Kenya and sub-Saharan African. The Conference participants also shared their ideas, perspectives and experiences on how the declining farm sizes are affecting agricultural production in the country. The Conference convened policy makers, government institutions, civil society organizations, farming communities, farmer organization and universities. The objectives of the conference were to provide:-

- (i) Empirical analysis of the linkages between population density, farm size and rural welfare outcomes, using both cross-country analysis and in-depth case studies of several African countries (Kenya included);
- (ii) Fresh insights on how land allocation policies are affecting the farm size structure based on case studies of several African countries and a broader Africa-wide review;
- (iii) A timely appraisal of the implications of our analysis for African agricultural development and poverty reduction strategies, including policies on land allocation and development.

1.3 Structure of the Conference

The Conference discussions were structured around three themes: (1) Emerging Land Issues in Kenyan Agriculture and Policy Perspectives, (2) Land Constraints in Kenyan Agriculture: Perspectives on Small-holder Farmers; and (3) Responding to Land Constraints: Adaptation, Reforms and Technology. The discussions were based on seven presentations delivered under the three themes. The conference ended with a panel discussion synthesizing key conference highlights.

2.0 CONFERENCE PROCEEDINGS

2.1 Opening Session

Chair: Dr. John Omiti, Executive Director of the Kenya Institute for Public Policy Research & Analysis

2.1.1 Key highlights from Kenya Land Alliance

The opening remarks for the conference were made by Mr. Odenda Lumumba, the Chief Executive Officer of Kenya Land Alliance (KLA). The Speaker started by thanking the participants for coming and recognizing the diversity of organizations represented. Further, he highlighted the objectives of the conference, emphasizing on the timeliness of the conference given the several land issues that the country is grappling with at the moment. Mr. Lumumba observed that research plays an important role in providing current information that can guide policy makers in making informed decisions. The Speaker applauded the role played by institutions such as the Michigan State University, Tegemeo Institute of Agricultural Policy Research and Development (Egerton University) and other like-minded research think tanks for availing data that has been instrumental to policy makers.

Odenda noted that the agricultural sector continues to face multiple challenges, one of them being lack of financial commitment by the government. Currently, only about 3-4 percent of the GDP is being allocated to agricultural sector which is way below the 10 percent requirement to sustain at least 6 percent annual growth in the sector as per the 2003 Maputo Declaration on Agriculture and Food Security by the African Heads of States. So far, only nine countries have achieved the 10 percent target, namely: Ethiopia, Zambia, Rwanda, Malawi, Congo (Republic), Mali, Burkina Faso, Niger and Senegal. He further reiterated the importance of the agricultural sector in the process of development and referred to the World Bank Development Report of 2008, which focused on economies of scale in agriculture as a tool for poverty eradication. Over the years, agricultural production has been dominated by small- and large- scale farmers. However, the medium-scale farmers, who for a long time were considered the ‘missing middle’, have started to emerge with critical implications on agricultural production and food security. For instance, the emerging medium-scale farmers are likely to affect land access by the smallholder farmers and by extension their productivity. The smallholder farmers have limited options for expansion and are losing their land through distress sales to the emerging middle class.

Given the weight of these challenges, Mr. Lumumba observed that the conference was timely, brought together key stakeholders, and looked forward to very fruitful deliberations on the key emerging issues on agricultural land and their implications on land reforms and agricultural production in the country.

2.1.1 Opening Speech from the Ministry of Agriculture

The opening speech was delivered by Dr. Samuel Gutto, on behalf of Hon. Felix Kosgei, the Cabinet Secretary, Ministry of Agriculture, Livestock and Fisheries. He started by noting that at independence, the government’s goal was to fight illiteracy, hunger and diseases. Although some strides had been made towards achieving these goals, hunger was yet to be eradicated 50 years after independence. He pointed out some important aspects that are relevant to the land-food security nexus.

First, land is a factor of production besides labor and capital. Land unlike other factors, is inelastic. With limited land resource, it must be used wisely to attain food insecurity. In Kenya, the demand for land resources exceeds supply.

Second, the country continues to face the challenges of incompatible land uses, land use conflicts, population pressure, rapid urbanization, poor land use planning, underutilized agricultural land, abandonment of agricultural activities, uncontrolled subdivision of land,

overstocking in rangelands, inadequate planning mechanisms, and limited capacity for planning at all levels.

Third, the productivity in agriculture is declining as a result of uncontrolled subdivision of land. Given that farm size has an inverse relationship with agricultural mechanization, farmers with small units of production can only use traditional tools and implements leading to inefficiency of production. He noted that this trend could be changed, given that Article 66 of the Constitution of Kenya (CoK) (Republic of Kenya, 2010), provides for regulation of land use and property by the state. In addition, Article 68(c) (i) obligates parliament to enact legislation to prescribe minimum and maximum land holding size in respect to private land. However, the regulations to operationalize the constitutional requirements are not yet in place. Dr. Guto stated that the Ministry had come up with a framework for determining the minimum land sizes as it involved non-technical issues. The framework does not include the maximum landholding sizes, which according to him was a political issue. However, he noted that some foreseeable challenges in developing these regulations would be establishing the criteria to be used in setting minimum and maximum land size, regulating agricultural land use, and enforcement of the regulations. He concluded by noting the importance of recognizing the role of urban and peri-urban agriculture on food security.

2.1.2 Keynote Speech

The keynote speech was delivered by Prof. Karuti Kanyinga, a professor and renowned scholar at the Institute of Development Studies (IDS), University of Nairobi. He started by observing the resurgence of the land question revolving around land rights, access and control rights. He noted that issues that were debated in the 1960s are being debated again today. These issues have been influencing agricultural development debates, national politics and policies on development. Currently, the debate on land question has a new dimension in Africa, where issues on land and agriculture are increasingly informing how national and international politics are steered. For example, countries constitutions are increasingly incorporating land issues. Another recent entrant into the land debate is land grabbing where international corporations are increasingly seeking land in African countries to grow food for their citizens. These new dimensions have complicated the land issue and agricultural productivity aspects. To deal with the increase in population and food security adequately, it is important to conclusively deal with the land question. According to Prof. Kanyinga, good policy decisions will depend on appreciation of the wider definition of land and land rights in

relation to the economy and society. Five points on inadequacies in land reforms in the region emerged from his speech.

Prof. Karuti Kanyinga is a Professor at the Institute for Development Studies (IDS) at the University of Nairobi. He is an accomplished development researcher and scholar with extensive national and international experience and exposure. He has been involved in many research programmes and projects in the last 20 years. He has published extensively on development and governance in Kenya and is renowned for his contributions to scholarship and knowledge in that area. His research interests include but not limited land rights in Kenya; civil society and development; ethnicity and development; and electoral politics and development. Karuti has also been engaged in graduate teaching and training as well as undertaking various administrative responsibilities at the Institute. Karuti is widely travelled and has participated in many international academic conferences and events and presented papers on development issues. He has served as a resource person in the area of development studies for many international organizations in Kenya and Africa in general.

First, African governments have not been consistent on policies that they pursue. For instance, after independence, the Kenyan government had a bias towards export crops such as tea and coffee. However, in the 1980s, there was a drastic change in a policy orientation in favour of cereal crops especially maize, while neglecting other crops. Such policies also focused on large scale producers while ignoring smallholder farmers.

Secondly, one of the major root causes of the land-related problems in agriculture is the fact that land policies and reforms have focused on land narrowly-- a commodity or physical material, but ignored the wider meaning of land and its relation to politics. Good land policies must appreciate the wider meaning of land and land rights in relation to social, economic and political contexts. Land ownership in any agrarian society reflects the structure of political power and consequently the amount of land owned by any society or individual is equivalent to the structure of political power that is demonstrated by these individuals. That is why in most agrarian societies, there is no political leader without land.

Inequalities that characterize land ownership are reflected in economic and political inequalities. Several land initiatives by the government have not addressed the land question. They include titling process, land redistribution in the white highlands and resettlement. As a result, land inequalities have not been addressed adequately and landlessness has been increasing.

Third, land issues across the country are diverse. Consequently, land reforms should take into consideration the diversity of land issues in different regions of the country. Whereas land reforms may mean different things to different people and regions, past attempts to resolve land issues have ignored this diversity and offered a 'one-size-fits-all' approach to solving land issues.

Fourth, there have been many contradictions and unforeseen effects in the land reform programmes. For instance, there has been duplication of powers vested among different state agencies. Further, although land titling is seen as a solution to land ownership issues, in most cases land titling has created new challenges such as emerging disputes and loss of rights by some people, elite capture, and corruption. Land titling has also been cited as one of the main causes of distress land sales and land fragmentation, a serious threat to food security. It is therefore important to recognize that although land titling gives secure rights to farmers, it is not a sufficient condition for improving agricultural productivity.

Fifth, there is an increasing elite interest in land. Given that majority of the elites hold land for speculative rather than productive purposes, this has serious implications on agricultural productivity. Further, land issues are marred by massive rent seeking where the elites influence the process of policy making in their favour. Elite interest in the fragile ecosystems such as wetlands and riparian areas is also on the rise. The rise in elite interest in land has implications not only on sustainability but also on smallholder agricultural productivity.

2.2 Presentations: Session I

Theme- Emerging Land Issues in Kenyan Agriculture and Policy Perspectives

Chair: Dr. Fibian Lukalo, Director Research & Advocacy, National Land Commission (NLC)

2.2.1 Connecting Land Policy to Africa's Agricultural, Employment and Poverty Reduction Challenges

Presenter: Prof. Thomas S. Jayne, Michigan State University

Presentation highlights:

- Approximately 50% of the remaining arable land in the world is found in Africa. However, 90% of this land is found in just 9 countries: DRC, Angola, Congo, Cameroon, Sudan, Mozambique, Central African Republic and Gabon. Most of these are fragile states and therefore the land cannot be put under productive use.
- About 62% of Kenya's rural population is below the age of 25. Projections of non-farm employment expansion indicate that only 35 to 60 percent of the additional 19 million young workers entering Kenya's labor force before 2035 will be able to find wage jobs. This means that farming has to provide gainful employment for at least a third of Kenya's young labor force. However, for agriculture to successfully provide employment, young people will require access to land whose demand and value remain high.

Thomas Jayne is a Professor, Department of Agricultural, Food, and Resource Economics at Michigan State University. His research focuses on agricultural productivity, markets and policy in Africa. Jayne is a Fellow of the African Association of Agricultural Economists and sits on the editorial boards of two professional journals. He co-authored a paper that was awarded the T.W. Schultz Award in 2009, received the 2009 Outstanding Article Award in Agricultural Economics, and co-authored a paper awarded First Prize at the 2010 tri-annual meetings of the African Association of Agricultural Economists. He also received a Research Excellence Award in 2011 from MSU. Jayne currently serves on the advisory boards of several initiatives to build institutional capacity in Africa, including the Global Development Network's Global Research Capacity Building Program and the Regional Network of Agricultural Policy Research Institutes of East and Southern Africa

- The most revolutionary change in Africa's farm structure has been among medium-scale holdings. In spite of the international media's focus on "land grabs" by foreign investors, the land controlled by medium-scale farms now exceeds that of foreign and domestic large-scale holdings combined. In Kenya, the medium-scale farms control 0.84 million hectares while the large-scale farms, both foreign and domestic, control 0.69 million hectares. The remaining 2.63 million hectares is controlled by smallholder farmers. However, there is a strong inverse correlation between landholding size and the proportion of landholding under cultivation. The rise of medium-scale farms reflects a rising demand for prime land by upper-class urban and rural people. Income growth in urban areas is contributing to land scarcity and higher land prices in Kenya.
- Medium-scale farms generally produce greater value of output per acre cultivated and marketed surplus than small-scale farms. This is particularly the case for medium-scale farmers whose primary employment has been in farming for many years. However, medium-scale farms owned by urban professionals and business people are found to be somewhat less productive users of land.
- "Life history" surveys of medium-scale farmers reveal that they are predominantly men; their primary jobs were in the non-farm sector, the majority of these being in public service. Many of these farmers live in urban areas. They are relatively well-educated. Using their savings from their non-farm jobs, they acquired farms and entered farming during their mid-life stages. This profile fits roughly 60 percent of the sampled medium-scale farmers in Kenya. A smaller but still important category of medium-scale farmers was the privileged rural-born men who were able to acquire large landholdings as they started out their careers. Only a small proportion of medium-scale farmers started out as smallholders with less than five hectares of land. This provides room for optimism that

given the necessary policy support and favorable conditions, including access to land; small-scale farmers can expand into medium-scale stature.

- There is emerging evidence that security of tenure influences crop productivity. Further women are reluctant to make land-augmenting investments in their plots if they perceive that they may lose them. Statistics indicate that improved security of tenure among the women managed plots could generate an additional 0.2 metric tons of maize per hectare translating to 15.2 million metric tons or 30 percent more maize output using 2013 production levels. Therefore, improving security of tenure/land rights could significantly raise food production and reduce poverty in Africa.
- There is need for a more holistic policy framework that acknowledges the importance of land allocation policies in achieving African countries' food security, agricultural development, employment and poverty reduction goals.

2.2.2 Emerging Agricultural Land Issues in Kenya

Presenter: Dr. Milu Muyanga, Michigan State University

Presentation highlights:

- Generally, there is evidence of increasing conflicts over land.
- Population growth in smallholder farming areas is contributing to land pressures and unsustainable forms of intensification. Rural populations in sub-Saharan Africa are highly concentrated in fertile areas. 20 percent of Africa's land contains 83 percent of its rural people. Mounting population density is associated with a trend toward smaller farm sizes, more continuous use of land, reduced fallows, and only marginal increases in fertilizer use and irrigation. Migration from such areas may be advantageous for those with skills and education, but has major limitations. Urban migration is already occurring at too rapid a pace to prevent rising unemployment and underemployment, as the rise in urban slums and shanty townships attest. Migration to more sparsely populated rural areas continue to play an important role in relieving land pressures in densely populated rural areas provided that land continues to be accessible in the receiving areas and tribal conflicts do not arise.
- Land scarcity is becoming a binding agricultural production constraint because of mounting population pressure. Population growth in densely populated smallholder farming areas is contributing to growing land pressures. Some districts (e.g. Emuhaya, Hamisi, and Vihiga) are more populated than Nairobi city was in 1980s. The mounting

population pressure is resulting in unsustainable forms of agricultural intensification in some counties.

Milu Muyanga is an Assistant Professor, International Development, in the Department of Agricultural, Food, and Resource Economics at Michigan State University. Milu holds a PhD. in Agricultural, Food and Resource Economics from Department of Agricultural, Food, and Resource Economics, Michigan State University. He holds both Master and Bachelor of Arts degrees in economics from the University of Nairobi. Milu is widely travelled and has published on agricultural and resource economics policy research. His interests include but not limited to agricultural lands and markets analysis; rural development and livelihoods analysis. Between 2004 and 2012, he was a Research Fellow at Tegemeo Institute of Agricultural Policy and Development (Egerton University), Kenya. Before then Milu worked as an Economist in the Ministry of Finance and Planning in the Government of Kenya. Milu was the first prize winner of the 2007 Global Development Network's medal on the best research on household exposure to risk theme.

- Kenya has little unutilized arable land (approximately 1.01 million hectares), productivity growth on existing farmland will be the most desirable way of raising food production. Sustainable productivity growth will minimize the competition for remaining arable land and adverse environmental impacts. However, it is almost certain that agricultural growth will require bringing new land under cultivation.
- There are concerns as to who is getting access to the unutilized arable land in Kenya. The rise of medium-scale farms reflects a rising demand for prime land by upper-class urban and rural people. Income growth in urban areas is contributing to land scarcity and higher land prices in Kenya.
- Governments' strategies are oriented to promote agricultural growth and food security for the millions of their rural constituents who are small-scale farmers. However, these strategies assume unhindered access to land. In spite of rhetorical support for small-scale farmers, there are increasing concerns that *de facto* agricultural land policies have encouraged, the transfer of land to medium- and large-scale interests without due recognition of how this is affecting land access by future generations of indigenous rural communities. Median farm sizes are quite small and clearly declining in the densely-populated areas where most of the rural populations reside.

2.3 Presentations: Session II

Theme- Land Constraints in Kenyan Agriculture: Perspectives on Smallholder Farmers

Chair: Dr. Mohamed Swazuri, Chairman, National Land Commission (NLC)

2.3.1 The Effect of Land Grabbing on Small Scale Farmers in Kenya

Presenter: Philip Kiriro, Eastern Africa Farmers Federation

Presentation highlights:

The presenter highlighted the failure of the government of Kenya to commit to the Maputo Declaration on Agriculture and Food Security. He indicated that compared to the Asian experience, agricultural development in Africa is stagnating. Land is one of the main challenges that the continent is facing and therefore hindering agricultural development among the small-scale farmers. Some of the challenges that smallholder farmers are facing include:

- Global food crisis
- Acquisition of land by foreign investors
- Bio-fuel production and its implications on land availability in Kenya
- Land grabbing by elites

These challenges have impacted smallholder farmers through loss of access to land, and increasing conflicts between farmers and pastoralists. To deal with these challenges, farmers need agricultural policies to focus on promotion of alternative investments such as production systems that does not depend on land. Further, farmers call for efficient land reforms and adjudication which can be benchmarked on successful experiences from other countries, such as Rwanda.

Philip Kiriro is the president and founder of Eastern Africa Farmers Federation (EAFF). He is also founder and board member of the Pan-African Farmers Organization (PAFO). Mr. Kiriro is also a member of CAADP-partnership committee and up to 2013 he has been a board member of ASARECA. Mr. Kiriro has been involved in farmer organization's leadership for the last twelve years focusing on farmer organization and capacity building. He has worked closely with international institutions such as FAO, IFAD, CTA, IFDC, AGRA, DFID, IFPRI, AGRITERA, SCC, GIZ, SDC, USAID, COMESA, EAC and many others on capacity building of produce organizations, policy, trade and food security issues. Mr. Kiriro is also farmer and holds a BSC and MSC in Animal Science from Texas A&M University, USA.

2.3.2 Emerging Land Constraints among Smallholder Farmers in Kenya and Implication on Food Security

Presenter: Kateiya Edward, Kenya National Farmers Federation

Presentation highlights:

The following highlights emerged from the presentation:

- Land is a major resource and small holder farmers are the main custodian of this resource.

- Land constraint is a major challenge among small holder farmers. This challenge is proven by the fact that over 80 percent of small holder farming households operate on less than 3 ha per household and approximately 28.9% of Kenyan households are landless. This challenge is aggravated by rapid conversion of agricultural land to other land uses, particularly urbanization.
- Land issues in Kenya are also greatly influenced by cultural aspects. Some cultures encourage land subdivision and greatly curtail land productivity.

Most Arid and Semi-Arid Lands (ASALS) are still unexploited. With investment in necessary infrastructure, such as irrigation systems, it is possible to put a substantial amount of land under productive use.

Edward Kateiya is a program Officer at the Kenya National Farmers Federation. He is a land expert holding a MSc.Agriculture and MSc.Agricultural Economics, both from the University of Nairobi. He is currently pursuing Doctor of Philosophy in Agricultural Economics specializing in land as a critical factor of production in farmer entrepreneurship for empowerment, at Kenyatta University. He has over 20 years professional experience working in different capacities for different organizations such as Farmers Organization, Government, and River Basin Development Authorities. He has a wealth of knowledge in community development, multi-stakeholders lobby and advocacy strategies (engagement, consultation, participation and representation) that foster the interests of farmers by stimulating beneficial changes in the dialogue process. He is a member of Kenya Private Sector Alliance (KEPSA) Land Sector Board and actively contributing to various Technical Working Group in Ministry of lands representing farmers' interests in the National Land reforms process.

2.4 Presentations: Session III

Theme- Responding to Land Constraints: Adaptation, Reforms and Technology

Chair: Dr. Mohamed Swazuri, Chairman, National Land Commission (NLC)

2.4.1 Adaptation to Rising Population Density: Voices from Rural Kenya

Presenter: Dr. Daniel Kyalo Willy, University of Bonn.

Presentation highlights:

- Population density growth will continue to be a challenge facing agriculture in the next 2-3 decades. The challenges associated with population density growth will rotate around the food-water-environment nexus, land conflicts, agricultural productivity, unemployment and land fragmentation and the role of agriculture in provision of food and employment.

- As population density increases in rural Kenya, Agricultural communities over the years have sought strategies to adapt to the change. The most prominent strategies found in Rural Kenya include agricultural intensification, off-farm diversification and migration.

Daniel Kyalo Willy is a Lecturer and Post Doc Research Fellow at the Institute for Food and Resource Economics, University of Bonn. He is also a collaborating researcher with the Michigan State University. Daniel is an Agricultural and Resource Economist, holding a Bsc. Agricultural Economics (Egerton), Msc. Agricultural and Applied Economics (Egerton/Pretoria) and PhD in Agricultural and Resource Economics (Bonn, Germany). His research focus has been on agricultural and Resource Economics, agricultural policy and development issues and technology diffusion. He has a publication record of one book, and over 30 publications: peer reviewed journal articles, working papers, conference presentations, technical papers and policy briefs. Previously, Daniel has worked for Tegemeo Institute of Agricultural Policy and Development, Egerton University and African Agricultural Technology Foundation (AATF).

- Agricultural intensification has been through adoption of high value crops, increased use of fertilizers, adoption of hybrid seeds, soil and water conservation, increased labour and capital input per unit of land and reduced fallow periods. However, it was noted that in most cases farmers have engaged in unsustainable forms of intensification. This has been attributed to uncontrolled land fragmentation, over use of the same type of fertilizers causing soil acidity and nutrient mining causing depletion of macro-and micro nutrients. Consequently, agricultural productivity has been on the decline over the years.
- Both rural-urban and rural-rural migration has been witnessed in rural Kenya. However, as most rural areas continue to get saturated, rural-rural migration may not be long term option. Against expectations, migrations are not necessarily from densely populated areas to sparsely populated areas. Most immigrants seek land in high potential areas, which also happen to be the most densely populated. This has continued to drive the cost of land in densely populated areas further up. In addition, due to cultural reasons, immigrants do not always relinquish their land ownership rights in the areas they migrate from. Therefore, we are not likely to see substantial impacts on the size of land holdings as a result of migrations.
- Off-farm diversification in rural areas was through employment in both farm and non-farm sectors. However, agricultural labor does not offer competitive wages compared to the non-agricultural employment. Further, declining agricultural productivity is causing a shrink in agricultural employment at a time when the non-farm sector is not expanding fast enough to absorb all the surplus labor force in agriculture. The result is a mass of unemployed youths in Kenyan rural areas, who are likely to engage in crime or migrate to

the already congested urban areas. Education was also found to enhance the capacity of rural population to engage in gainful employment in the non-farm sector.

- Agricultural technology growth has not coped with the pace of population density growth. Techniques that enhance productivity per agricultural worker are necessary, as well as dealing with issues that curtail productivity such as land fragmentation, soil degradation and anti-agricultural productivity cultural practices.

2.4.2 Land Reforms and Smallholder Agriculture in Select Eastern African Countries

Presenter: David Owiro, Institute of Economic Affairs

Highlights from the presentation:

- Land reforms are important for smallholder farmers and have to address these challenges: Enhancing tenure security for smallholder farmers, establishing independent land allocating institutions and redistributing land into more private owners in rural areas.

David Owiro is a Programme Officer, Regulation Competition Policy (RCP) at the Institute of Economic Affairs. David holds a degree in Economics and Statistics from Egerton University, a post-graduate training in Applied Economics and Statistics from Makerere University, Uganda, and Economic Policy Management (land and housing regulations) from the Institute for Housing and Development Studies (IHS) of Erasmus University, Netherlands. He has middle-level program management experience, vastly experienced in donor funded projects on research and advocacy public policy reform programmes, as well as monitoring and evaluation, and international development programmes in Kenya and the region. His core experiences are in research and analysis, public policy advocacy, monitoring and evaluation, and project fundraising.

- Land reforms in East African states have had different impacts.
- In Uganda, land reforms in both pre-colonial and post-independence era have led to reduced access to land by smallholder farmers and mostly benefited the elites.
- In Ethiopia, land rights vested on the state and management of land issues by non-independent institutions has led to limited access to land by smallholder farmers.
- In Tanzania, land reforms during both pre-and post- constitutional reform eras have had negative impacts on the smallholder farmers.
- In the Kenyan case, the pluralism in land tenure systems (mix of customary, private and public land tenure) that existed before and after independence impacted smallholder farmers negatively. However, after the constitutional review, creation of independence of the land allocating institutions has enhanced access to land by smallholders.

- In the Rwandan case, pre- and post-colonial land reforms did not favour smallholder farmers. However, the organic law reforms implemented in 2010 have facilitated security of tenure and therefore securing the rights among smallholder farmers.
- Land reforms that favour agricultural productivity among smallholder farmers must have these features: (1) must enhance tenure security particularly for customary land regimes; (2) must establish independent land allocating institutions; and (3) must provide redress for historical displacements particularly to rural communities as this will enhance smallholder agriculture production.

2.4.3 A Land Information System Recognizing both Formal and Informal Land Holdings and its Bearing on Agriculture

Presenter: Dr.Kuria David, Director, Land Information Management System, National Land Commission

Presentation highlighted:

- Land tenure is crucial for agricultural production. Recognition of a variety of tenure rights is critical to enhancing land's potential for both agricultural and non-agricultural use. Robust and efficient land administration system is important to sustainable development. Land management facilitates effective land use. Land management activities may be described by land policies as land information, infrastructures and land administration functions.
- Formally recognized landholding allows capture and storage in Land Information Systems (LIS) conveniently. However, informal land tenure arrangements are difficult to capture using formal LIS syntax. Formal LIS systems cannot store these relationships as they are sometimes compounded by their transient nature. Unfortunately, most of the land in developing countries is under informal landholding arrangements, e.g. trust lands or community land, land yet to be adjudicated.
- The National Land Commission (NLC) is developing a Land Administration Domain Model (LADM) that is able to overcome these limitations. It addresses the limitations of formal LIS and introduces the notion of continuum of rights, allowing recognition of all rights, spanning the entire rights spectrum from completely informal arrangements to formal rights. It has been adopted as an ISO standard.
- The system consists of a cadastre, which is a parcel based, and up-to-date land information system containing a record of interests in land (e.g. rights, restrictions and responsibilities). It includes a geometric description of land parcels linked to other records

describing the nature of the interests, the ownership or control of those interests, and often the value of the parcel and its improvements.

- The basic model consists of attributes of a land holder (name, date of birth, profession, civil status and address), the rights accorded to the holder (security and stewardship) and attributes of the parcel of land (identification, use, location, acreage, value and nature).
- LADM supports the management of different tenures in one environment. Design of LAS should take into account the dynamism of land tenure, land market, and government intervention in private property rights.
- The use of the Social Tenure Domain Model, a subset of the LADM focusing on informal rights, has been successful in various jurisdictions. This approach while strengthening land tenure arrangements will also afford financial institutions a tool through which to offer financial products to land owners.

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2.5 Panel Discussion

Moderator: Prof. Willis Kosura, University of Nairobi

Key highlights from the panel discussions:

Institutional challenges and the role of State Organs in Land Reforms

Land reforms are critical in the population-land-agricultural productivity debate. Different land reform models can be applied in Africa. In the Kenyan case, land reforms have involved the establishment of an independent land institution such as the National Land Commission. However, the process of implementing land reforms is likely to face multiple challenges such as vested interests on land issues hence facilitating elite capture, rent seeking and corruption, all which slow down the process of reforms. A major challenge to land reforms in Kenya is the failure of the responsible institutions to provide timely legislation as provided for in the law to guide land allocation, use and distribution. For example delays in

the community land bill has serious implications on agricultural productivity and hence food security. Land reforms in Kenya have not adequately addressed important land questions such as increasing unequal access and control of land which represents a real land question. The slow pace of formulating and implementing key legislation contributes to the inadequacy. For example, Article 68(i) (c) of the CoK obligates the Parliament to enact legislation to determine the minimum and maximum land holding sizes with respect to private land within one and half years after the promulgation of the Constitution (Schedule 4 of the CoK) in 2010. To operationalize Article 68(i)(c), Section 160(1)(f) of the National Land Act (2012) mandates the Commission or the Cabinet Secretary to make regulations prescribing the minimum and maximum land holding. This is yet to be done. In some cases, challenges in land reforms are not as a result of absence of laws but lack of implementation. This could be a result of poor working relationships between different state organs, bureaucratic procedures and rent seeking.

The role of civil society in Land Reforms

The civil society can play a crucial role of being honest intermediaries. The role of civil societies is normally justified by the presence of state and market failure in land issues. It is emerging that the market has played an important role in the re-distribution of land from the smallholder farmers to the urban/rural middle class. Civil society can help solve market and state failures by providing information to marginalized people who may not be privileged to have state support or have access to information. Access to information can enable the marginalized people access land. The civil society can be watch-dogs, to check on the government institutions excesses.

Gender implications of Land Reforms and the effects on marginalized groups

It emerged that access to land by all is paramount. However, in most cases women and youth access to land hinders their participation in agricultural production. Making women access more productive land and having security of tenure over such land is crucial to agricultural development given that over 50 percent of agricultural production is done by women. However, the debate needs to assess other key components of agricultural productivity such as technology access and climate change since these factors too affect the marginalized gender groups. It is emerging that the youth are increasingly starting to get involved in agriculture. The government and all relevant stakeholders should therefore create incentives to involve more youths in agriculture.

The role of data in informing policies on Land Reforms

The process of land reforms needs to be informed by factual data. However, data availability has been a major challenge in Kenya. Most research organizations have always concentrated on collecting data only in areas of interest to the government. Consequently, most of the existing data is available for smallholder and large-scale farming but data medium-scale farmers are missing. Further, after devolution, data for counties is not available since most of existing data bases contains data for the old administrative areas (districts). Hence, the need for new data bases to inform policy decisions at the county level. Research institutions should be supported to generate data.

Impacts of Foreign Direct Investment (FDI) and elite capture on smallholder farmers

There is need to manage FDI to fuels economic development without compromising access to land by smallholder farmers. Agricultural investment policy has favoured acquisition of land by large- and medium- scale farmers consequently marginalizing the smallholder farmers. Non-competitiveness of small-scale farming has reduced the farmers to ‘wailing sellers’, who engage in distress land sales to the ‘willing buyers’ who are mostly medium- and large- scale farmers. As a result their farm sizes are shrinking. The small-scale farmers will only survive if they are competitive.

There is bias against smallholders in different policies that regulate investment promotion and control over land and natural resources. Changing the policy bias includes investing in small-scale agriculture, infrastructural and market development to make smallholder farming productive and competitive. Government action should be geared towards equitable inclusion of smallholders in value chains to promote inclusive forms of agricultural investment and encouraging forms of agricultural production that are less land intensive. Further, elite capture that has persisted is a major drag to smallholder agricultural development.

Summary of issues from question and answer session

- There is also need for incentives for non-land based production methods and scale neutral enterprises that are not land intensive. Further, agricultural infrastructure and support services such as irrigation and agricultural mechanization are necessary. However, for these strategies to be effective, they should be preceded by legislation on planned land use and controlled land fragmentation.

- Historical land issues across the country are diverse. Consequently, land reforms should take into consideration the diversity of land issues in different regions of the country. Whereas land reforms may mean different things to different people and regions, past attempts to resolve land issues have ignored the diversity in land issues. Further, land reforms need to take the approach of zoning different regions of the country according to the uniqueness of land issues. Each county should make policies to address the heterogeneity in land aspects in Kenya.
- It emerged from the presentations that some arable land is still available. However, it is important to understand who is controlling this land and whether the current policy and land reforms can ensure that this land is given to those who need it the most and can utilize it in the best way.
- Land fragmentation is also driven by urbanization, leading to encroachment of agricultural land by real estate especially in the metropolitan regions. There is need therefore for policy to regulate this and help in striking a balance.

APPENDICES

A1. Conference Programme

National Conference on Emerging Land Issues in Kenyan Agriculture and their implications for Food Policy and Institutional Reforms

Programme

8.30-9.00am: Registration

- Kenya Land Alliance

9.00-10.00am: Opening Session

Chair:	Dr. John M. Omiti , Executive Director of the Kenya Institute for Public Policy Research & Analysis
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Introduction of Conference Participants

- *M.O.C (15 Minutes)*

Introductory Remarks: (5 minutes)

- **Odenda Lumumba**, National Coordinator, Kenya Land Alliance

Opening remarks: (5 minutes each)

- Ministry of Land, Housing and Urban Development
- Ministry of Agriculture, Livestock and Fisheries

Key note speech (20 minutes)

- **Prof. Karuti Kanyinga**, Senior Research Fellow, Institute for Development Studies, University of Nairobi
- **Floor Discussion (10 Minutes)**

10:00-10.30am: Tea/coffee Break

10.30am-12.00pm: Presentations- Session

Theme	Emerging Land Issues in Kenyan Agriculture and Policy Perspectives
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Chair:	Dr. Fibian Lukalo , Director Research & Advocacy, National Land Commission
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- **Prof. TS Jayne**, Michigan State University -- Land Policy and the Trajectory of Agricultural Development in Africa: A Review of the Issues and Evidence [20 minutes]
- **Dr. Milu Muyanga**, Michigan State University -- Emerging Agricultural Land Issues in Kenya [20 minutes]
- Discusant: **Dr. Steve Ouma**, Executive Director, Pamoja Trust[10 minutes]
- **Floor discussion: [40 minutes]**

12.00pm-1:30 pm: Lunch Break

2.00pm-3.00pm: Presentations - Session II

Theme	Land Constraints in Kenyan Agriculture: Perspectives on Small-holder Farmers
Chair:	Dr. Mohamed Swazuri , Chairman, National Land Commission

Presentations:

- **Dr. Kiriro Philip**, President, East African Farmers Federation—The Effect of Land Grabbing on Small Scale Farmers in Kenya [12 *minutes*]
- **Dr. John Mutunga**, CEO, Kenya National Farmers Federation (KENAFF): Emerging Land Constraints among Smallholder Farmers in Kenya and Implication on Food Security [12 *minutes*]
- **Floor discussion:** [20 *minutes*]

3.00pm-4.00pm: Presentations - Session III

Theme	Responding to Land Constraints: Adaptation, Reforms and Technology
Chair:	Dr. Mohamed Swazuri , Chairman, National Land Commission

Presentations:

- **Dr. Daniel Kyalo Willy**, University of Bonn-Adaptation to Rising Population Density: Voices from Rural Kenya [12 *minutes*]
- **Owiro David**, Institute of Economic Affairs - Land Reforms in Selected Eastern African Countries: Impact on Smallholder Agriculture [12 *minutes*]
- **Dr. Kuria K Moses**, Director NLIMS, National Land Commission -- A Land Information System Recognizing both Formal and Informal Land Holdings and its Bearing on Agriculture [12 *minutes*]
- **Floor discussion:** [24 *minutes*]

4.00-4.15pm: Health break

4.15pm-5.30pm: Panel Discussion

Moderator: **Prof. Willis Kosura**, University of Nairobi

Panelists:

- | | |
|------------------------|--|
| • Hon. Sekuda Moses | Vice Chairperson, Senate Committee on Agriculture, Lands and Natural Resources |
| • Dr. Mohamed Swazuri | Chairman, National Land Commission |
| • Mr. Odenda Lumumba | National Coordinator, Kenya Land Alliance |
| • Hon. Joanne Nyamasyo | County Executive Member for Agriculture, Livestock & Fisheries, County Government of Kwale |
| • Dr. Timothy Njagi | Research Fellow, Tegemeo Institute of Agricultural Policy and Development |
| • Dr. Samuel Gutto | Ministry of Agriculture, Livestock and Fisheries |

5.30pm-7.00pm: Cocktail/ networking

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