

Role of Professional Bodies in Formulation of Government Policy Through Research

**A case Study of the Institution of Surveyors
of Kenya's Research on Devolved System of
Governance**

**Winnie MWANGI-NYIKA & Eunice MACHARIA,
Kenya**

Key Words



- Professional Bodies,
- Devolution,
- Research,
- Land Management.

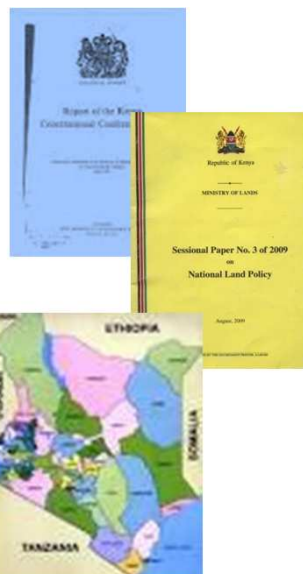
Institution of Surveyors of Kenya



- ISK is a Professional organization in Kenya of valuers, land surveyors, registered estate agents, property managers, building surveyors, geospatial surveyors, land managers, project managers, facility managers and GIS experts.
- Managed by a Council elected by membership,
- Committees: Executive, Finance & Audit, Professional Practice & Ethics, Editorial, Education and Research and Young Surveyors

Background

- Clamour for devolution due to poor management of public resources
- Enactment of National Land Policy in 2009
- Promulgation of the new constitution in 2010
- New laws: Land Act, National Land Commission Act, Land Registration Act, Housing Bill, Urban Areas & Cities Act



ISK's Participation



- Members in committees that drafted the laws
- Members reviewed drafts laws
- Seminars and educational forums for stakeholders
- Advocacy – MPs and Parliamentary committees
- Key Commissions - 7 out of 9 Commissioners including the Chairman of the National Land Commission are ISK members
- Evidence based Research whose outcomes were shared with key decision and policy makers

Research Papers, 2012

- Research on Maximum and Minimum Land Holding
- Research on Devolution and Land Administration
- Study on effective ADR Mechanisms
- Monitoring of Piloting LIMS implementation at Nairobi, Nakuru & Mombasa registries
- Guidebook on Property Rights for Business owners: Developed & training undertaken in Nyeri, Mombasa and Nakuru

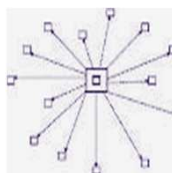
Research on Devolution and Land Administration – Case Study

Introduction – Land Administration:

- Management of public land
- Recording and registration of private rights in land
- Recording, registration and publicizing of the grants or transfers of those rights in land through e.g. sale, subdivision, consolidation
- Management of the fiscal aspects related to rights in land, including land tax, historical sales data, valuation for a range of purposes, including assessment of fees and taxes and compensation for state acquisition.
- Control of the use of land, including land use zoning and support for the development application/approval processes.

Forms Decentralization

- **Deconcentration:** Administrative decentralization process; central government designs a structure that enables its agents to work close to the local people in field units/ agencies of central government;
- **Delegation:** Transfer of responsibilities from central government to semi-autonomous bodies; directly accountable to the central government;
- **Devolution:** Process of transferring decision making and implementation powers, functions, responsibilities and resources to legally constituted local governments;
- **Delocalization:** Spatial distribution of central government socio-economic development facilities and activities such as schools, hospitals etc in peripheral regions



Study Objectives

- To document the best practices on devolution systems and model on land administration
- To identify the issues within Narok County that would benefit from a devolved system of governance
- To recommend a model that integrates all players and categories of land within Narok County with possible replication

Why Narok County?



Its has heterogeneous land ownership and registration regimes

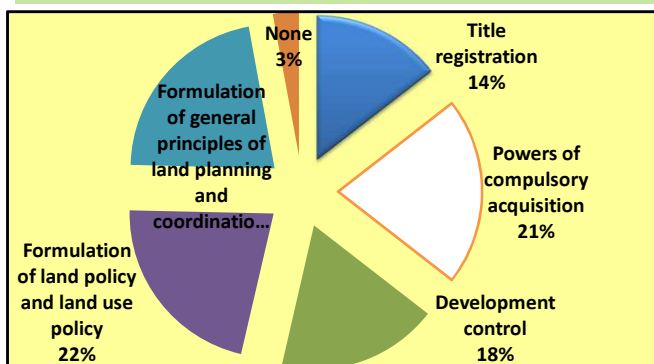
Devolution & Land Admin: Research Methodology

- Study methodology primarily qualitative.
- Data collected through questionnaires which were administered to individuals as well as focus group discussions.
- Targeted state actors included Narok District Commissioner, Land Adjudication Officers, District Surveyor, district Physical Planner, the District Chief Registrar and their deputies.
- The targeted non- state actors included NGOs, CBOs, local politicians/opinion leaders, professional organizations and



Citizen's Expectations

- Information on land admin will be brought close to the people;
- Community to be involved in decision making with regard to management of land based resources, revenue collection, planning and allocation of revenue
- Devolution offers them a chance for community participation in the local land institutions.



Preferred Functions of National Government

Types Land Tenure in Narok



- Community land-registered group ranches
- private land
- trust land

Challenges to Land Administration Services

- Lack of information on qualified land-sector professionals:
- Lack of information on land laws, processes and fees charged therein.
- Difficulty in accessing acquisition of survey maps
- Conservancies are leasing a lot of land thus blocking locals from pastures.
- The resultant is encroachment of the reserves and forests by herders.

Challenges in Evolving Land Tenure

- Change in way of life and livelihood
- Individualization and agricultural crop production restricting movement.
- Increased human-animal conflict
- Secretive and incoherent sales of land following subdivisions
- Imbalances in sharing group land
- Poor capacity and incompetence of local land boards
- Lack of Alternative Dispute Resolution mechanisms:

Identified Benefits of Devolution of Land Administration Services

- Land services and related information will come close to the community.
- Access to information to locals on land administration services and procedures will be enhanced
- Community representation, inclusion and participation in decision making will be entrenched.
- Cost and time savings when seeking services.
- Devolved local offices will mostly enhance downward accountability.

Possible Limitations from Devolved Units

- Extent to which autonomous devolved units exercise their powers,
- Capacity of the county governments to raise funds & carry out their roles,
- Availability of competent and capable personnel
- Effective and efficient administration of the units institutional memory some of people in the current systems would be retained.
- Apprehensive on pace and successful implementation of the legislations on devolution land administration services.
- Maintenance and the upholding of downward accountability

Conclusion

- Need to include 3 dimensions of decentralization i.e. political, institutional and fiscal.
- The county's poor socio-economic development is due to mismanagement of communal resources - land included.
- Devolution preferred form of decentralization
- Institutionalization of land administration decentralization to be geared towards clear and non-conflicting, responsibilities and functions commensurate to the budget; enjoys political will, local legitimacy, financial independence and have decision making powers.

Recommendations

- Land boards should have reps from diverse professionals meeting minimum level of requisite education.
- Land & Environmental Courts and land tribunals be decentralized.
- ADR be encouraged to handle land disputes at village level.
- Information flow be decentralized and accessible at local level
- Rigorous civic education
- Infrastructure and relevant human resource should put in place in devolved units.
- Maps be digitized and decentralized to location levels.
- Relationship model designed

Proposed Decentralized Land Mngt & Admin Model

→ Devolve; - - - - - Deconcentrate

Land Administration function	National Govt	County Govt		NLC			Local Authority
	Cabinet Secretary	County Land boards	Sub-county	NLC	County offices	Sub-county	
Management of public land		→		→			
Registration of rights in private land	○						Subject to NLC's & County Govt's agreement
Recording, registration and publicizing of grants or transfers of those rights in land through e.g. sale, subdivision, consolidation	○ ↑ For private lands				For public land		
Management of Fiscal aspects related to rights in land, including land tax, historical sales data, valuation for a range of purposes, including assessment of fees and taxes and compensation for state acquisition.	On mngt fiscal aspects of private rights				On land acquisition & compensation matters	On land rates and valuation rolls preparation	
Control of the use of land, including land use zoning and support for the development application/approval processes.	To LCBs				For public land	All functions	

**Thank you
Asante**