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

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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 members.

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.
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

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**Proposed Decentralized Land Mngt & Admin Model**

<table>
<thead>
<tr>
<th>Land Administration function</th>
<th>National Govt</th>
<th>County Govt</th>
<th>NLC</th>
<th>Local Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Cabinet Secretary</td>
<td>County Land boards</td>
<td>Sub-county offices</td>
<td>Sub-county</td>
</tr>
<tr>
<td>Management of public land</td>
<td></td>
<td></td>
<td></td>
<td>Subject to NLCs &amp; County Govt's agreement</td>
</tr>
<tr>
<td>Registration of rights in private land</td>
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<td>For public land</td>
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<tr>
<td>Recording, registration and publicizing of grants or transfers of those rights in land through e.g. sale, subdivision, consolidation</td>
<td>For private lands</td>
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<tr>
<td>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.</td>
<td>On mgmt fiscal aspects of private rights</td>
<td>On land acquisition &amp; compensation matters</td>
<td>On land rates and valuation rolls preparation</td>
<td>All functions</td>
</tr>
<tr>
<td>Control of the use of land, including land use zoning and support for the development application/approval processes.</td>
<td>To LCBs</td>
<td>For public land</td>
<td>For public land</td>
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</tr>
</tbody>
</table>
Thank you
Asante