

LAND REFORMS IN KENYA: AN INSTITUTION OF SURVEYORS OF KENYA (ISK) INITIATIVE

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ABSTRACT

Land is, in most forms of society, the most important of natural resources required for the creation of wealth. As a direct result, control of the land brings economic power, which in turn, is often the basis of social and political power. The centrality of land in human life made it the main reason for the struggle for Kenya's independence from British colonial rule. Land has been, and will continue to be the mainstay of Kenya's economy, where over 80% of its population derives its livelihood from agriculture. This resource has continued to play a significant role in the socio-economic and political development of the country. Therefore, its ownership, allocation, distribution and utilization is of great concern to most Kenyans.

The present legal and institutional framework of land tenure, land use, and the system of acquisition and disposition of land rights which have been in place since the colonial times has brought about tension, strife and litigation in land matters. The structural framework and principles for the management and administration of land inherited from the colonial times and developed over the three decades since independence has largely failed to instill confidence in the land market. Some of the problems within the land sector in Kenya may be attributed to its colonial history, a proliferation of statutes governing ownership and use of land (some of which are conflicting), broad socio-economic patterns and demographic trends that have exerted pressure on usable land. Other issues that have taken centre stage in the land debate in Kenya include the optimal economic use of land, rural and urban development, squatting, the quality and security of tenure and the protection of the environment.

This paper is essentially a summary of the issues raised in the booklet – "*Land Reforms in Kenya: The Institution of Surveyors of Kenya Perspective*", which is the result of extensive consultation and deliberations by a committee of ISK Council on broad land reforms in Kenya. It gives the position of the Institution on the Terms of Reference (ToRs) given to the Presidential Commission of Inquiry into the Land Law System of Kenya that was commissioned on 17th. November 1999. The Commission was to, among other things, undertake a broad review of land issues in Kenya and to recommend the main principles of a land policy framework which would foster an economically efficient, socially equitable and environmentally sustainable land tenure and land use system. The booklet and this paper gives proposals on the main tenets of a national land policy, and a reform of the entire land delivery system in Kenya, such as survey, registration and the preparation of official records relevant to such survey and registration. It also makes proposals on land distribution and redistribution, inheritance of land and access of land to women.

It is recognized from the outset that the (booklet) paper does not give a conclusive treatise on land reforms, – there are many more players (professional and civil society)

within the land sector – but the issues raised will stimulate an informed discourse in Kenya on the all important land issue.

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