

16th LDGI Land Watch Note : Emerging political goodwill and stakeholder support good for land reforms

Posted on Dec 02, Posted by [Mwathane](#) Category [Land Governance](#)

Recent developments in the land sector provide reason for optimism. Following a Petition placed before it by the National Land Commission after endless differences with the Ministry of Lands, Housing and Urban Development, the Supreme Court decided to withhold advise and instead give the two key land institutions three months within which to negotiate and agree on persisting differences else revert to the Supreme Court for ruling.

This decision was closely followed by some high level intervention by the Executive with the President and his Deputy overseeing an agreement by the Commission and the Ministry binding them to work in complementarity. While the details of the working agreement are not yet public, it is hoped that the Commission and the Ministry will seize the spirit of the agreement and work together in the future discharge of their public duties. This would be most a most welcome development for Kenya's land sector programmes and service delivery.

Moreover, in a high level National Stakeholder Consultative Forum organized by the Land Development and Governance Institute at the Panafric Hotel on Wednesday 26th November, 2014 and attended by key stakeholders such as the Lands Ministry, the Land Commission, Line Ministries, State Agencies, County Governments, Private Sector, Training/ Research Institutions, Professional Associations, Religious Institutions, National Council of Elders, the media and Civil Society, stakeholders pointed out that they remain ready to provide support to land reforms and land sector programmes provided these key institutions make efforts to work together, provide leadership and regularly inform and engage them.

The joint participation of the Cabinet Secretary and the Land Commission Chair in such a public forum was historic and needs to be encouraged. In their policy remarks, Cabinet Secretary Charity Ngilu and the Land Commission Chair Muhammad Swazuri raised the hopes of stakeholders when they each indicated that the President-initiated agreement is working and that a joint technical committee earlier formed in this regard has already submitted its report. Once approved, this report, which aims to clarify specific roles, will be forwarded to the Supreme Court and will form the basis of their complementary relationship.

The Ministry and the Commission need to work smart, seize and utilize the above political and stakeholder goodwill to move programmes in Kenya's land sector. Among others, the two should move with speed and attend to the key areas below:-

1. Complete pending legislation and amendments

The Ministry and the Land Commission should work with other line Ministries, government agencies, other stakeholders and Parliament to conclude/enact the legislation below:-

- Community Land Bill (CoK, Art 63),

- Amendments to the Land, Land Registration and National Land Commission Acts

- Subsidiary legislation to effectively operationalize the Land, Land Registration and National Land Commission Acts and other recently enacted land sector laws

- Physical Planning Bill,

- Eviction and Resettlement Bill,

- Revised sectoral land use laws (CoK, Art 68 (b))
- Legislation relating to Natural Resources(CoK, Art 71),
- Legislation relating to the Environment(CoK, Art 72)
- Legislation on resolution of historical land injustices (National Land Commission Act)

2. Issue Title Deeds/ Complete pending titling programmes

Pending titling programmes (adjudication schemes, subdivision of large company and cooperative farms, group ranches under subdivision or urban (re)settlement schemes (informal settlements)) should be expedited. Communities keen on converting their community land to private ownership should also be facilitated once a Community Land Act is in place. This will give more Kenyans title deeds and a sense of security over the pieces of land they own and in return reduce disputes and promote our economy.

During the consultative stakeholder forum, the Cabinet Secretary informed that some 200, 000 title deeds will soon be issued in Meru County. Some of the associated adjudication schemes had been pending since pre-independence. This illustrates why the Institute advises that titling be expedited as a national priority. The opportunity lost to such citizens and our national and local economies when there are inordinate delays in the issuance of titles is enormous.

3. Computerize/ Develop a Comprehensive Land Information Management:

The Ministry needs to computerize its records and procedures and develop a comprehensive modern land information management system. This will require the digitalization of existing ownership records and cadastral maps. While this is expensive and will take long, it is the best way forward for the effective management of our land registries and general land administration. It will reduce corruption in service delivery and also boost the collection of land revenues countrywide. The national and county governments ought to place high premiums in the development of such a system. While the Cabinet Secretary informed that this process is on course, it would be helpful if she unveiled a clear road map for the development of our national land information management system, indicating clearly the roles of relevant stakeholders at each of the stages.

4. Establishment of a stakeholder engagement framework

In order to have a structured and systematic way of harnessing the goodwill and support of key stakeholders (line Ministries, Private Sector, Civil Society and Development Partners) as during land policy formulation, the Ministry and the Land Commission need to put in place a stakeholder engagement framework. During the stakeholder forum, the Lands Cabinet Secretary and the Commission Chairman were agreed to this matter in principle. They will need to provide leadership to ensure that the details to this are worked out to ensure early operationalization.

Issued by the Land Development and Governance Institute on 2nd December 2014

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