AN ASSESSMENT OF CITIZENS’ AWARENESS AND INTERACTION WITH LAND ADMINISTRATION AND MANAGEMENT INSTITUTIONS

The 17th Scorecard Report
Full Report

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Land Governance Institutions in Kenya

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EXECUTIVE SUMMARY

In the last decade, the lands sector has experienced reforms that have led to enactment of new laws to guide the administration and management of land. New institutions have been established with roles to play in land administration and management. The current institutional framework of land governance involves the Ministry of Lands, Housing and Urban Planning (MoLHUD); the National Land Commission (NLC); the Environment and Lands Court (ELC) as well as the National and County Governments all playing a role in land administration and management.

The Land Development and Governance Institute commissioned the 17th Scorecard to gauge the performance of the new institutional framework based on citizen interaction and lands officers’ perceptions. A total of seven hundred and ninety-three (793) respondents were interviewed.

The Ministry of Lands was the most frequently visited institution with 95% of the respondents seeking services at this point. Most respondents who visited the Lands Ministry sought land search services (60%). Other services sought at this institution were issuance of a title deed (29%), issuance of a map (6%), lease extension (3%) and land transfer (2%).

Majority of the respondents (87%) had not interacted with the National Land Commission. 73% of the interviewed respondents were not aware of the existence of County Land Management Boards (CLMBs) put in place to perform NLC functions at county level. Only 29% of the respondents were aware of CLMBs and had interacted with them. But this can be partly attributed to the fact that 13 out of 27 visited counties did not have a CLMB in place. It was also established that 52% of the citizens had interacted with the Land Control Board seeking for consent to transfer and/or subdivide land. The study also revealed that 92% of the respondents had not interacted with the county ministries/departments in charge of lands.

In conclusion, the report established that there is low awareness on the current institutional framework, more so on the different roles each institution plays in land administration and management at national and/or county level. This low awareness is evident among the public as well as the officers charged with performing duties at these institutions and has negatively affected service delivery in the land sector. The report therefore recommends focused
awareness campaigns for the public as well as for officers executing different functions at land institutions to realize benefits of the new land administration and management institutional framework. There is also an urgent need to fast track the establishment of County Land Management Boards in all 47 counties and delineate clear engagement frameworks to promote cooperation between the different institutions at national and county level.
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LDGI Land Development and Governance Institute
MoLHUD Ministry of Lands, Housing & Urban Development
NLC National Land Commission
CLMB County Land Management Boards
LCB Land Control Boards
ELC Environment & Land Court
1. **INTRODUCTION**

Kenya’s land sector has in recent times undergone reforms aimed at efficient, sustainable and equitable use of land for prosperity and posterity. These reforms have resulted in the enactment of new laws relating to the administration and management of land (The Land Act, 2012, the Land Registration Act, 2012, the National Land Commission Act, 2012, the Environment & Land Court Act, 2011, and the Urban Areas & Cities Act, 2012). Consequently, new institutions have been established to play a role in management and administration in Kenya, adding to the customary Ministry of Lands. The main institutions mandated with land administration and management under the current framework are the MoLHUD, NLC and the ELC, with other roles being played by the national government, county governments and land control boards.

The Ministry of Lands Housing and Urban Development is in charge of the overall administration of land in Kenya. It has a Directorate of Lands with five departments which ensure that land resources are efficiently and sustainably administered; formulates and implements land policies; undertakes physical planning; registers land transactions; undertakes land surveys and mapping; land adjudication and settlement; land valuation and administration of public and community land\(^1\).

The National Land Commission was established by the Constitution of Kenya, 2010. The Commission is expected to among other things, manage public land on behalf of the national and county governments, recommend to the national government a land policy, provide advice to the national government on a comprehensive title registration of all land in Kenya and investigate into historical land injustices. In addition, the Commission has oversight responsibility on land use planning in the whole country. The Commission was expected to set up county organs (County Land Management Boards) in each county to perform their functions in accordance with the provisions of the National Land Commission Act, 2012.

In addition to these institutions, there are Land Control Boards and county ministries/departments in charge of land also playing a role in land governance. Land Control Boards were established by the Land Control Act of 1967 and play the role of controlling transactions on agricultural land. County executive departments/ministries execute county government functions pertaining to land as highlighted in the Fourth Schedule of the Constitution of Kenya, 2010.

The Land Development and Governance Institute (LDGI) commissioned the 17th Scorecard under the theme “Land Governance Institutions in Kenya” to get more insight on citizen awareness and interactions with the various institutions involved in land administration and management. This scorecard also aimed at determining how these institutions are serving citizens and how they’re relating with each other in terms of institutional cooperation and support in service delivery to Kenyans.

1.1 Objective of the study
The primary objective of this survey was to gauge citizens’ awareness and interaction with the land administration and management institutions in Kenya.

The specific objectives were to:

1. Establish the services citizens seek from the various land administration and management institutions
2. Establish the opinions of land officers on the land administration institutions

1.2 Scope of the study
The respondents engaged in this study were citizens who had sought services from any of the said institutions (MoLHUD, NLC, CLMBs, LCBs and County Ministries in Charge of Land). Officers in these offices were separately engaged in qualitative data collection to inform this report.
1.3 Data sources
Data used in this study was collected in land registries, CLMBs as well as county ministries in charge of land across twenty-seven (27) counties\(^2\) from 14\(^{th}\) to 30\(^{th}\) April 2015. The research team used two sets of data collection instruments - a structured questionnaire for members of the public seeking services in the land administration and management institutions; and an interview guide for the lands officials. During the study, a total of seven hundred and ninety-three (793) interviews were conducted for the quantitative analysis and 30 interviews with lands officers for the qualitative analysis.

\(^2\)Kiambu, Muranga, Nyeri, Kilifi, Mombasa, Taita Taveta, Embu, Isiolo, Kitui, Makueni, Meru, Nairobi, Kisii, Kisumu, Migori, Kajiado, Laikipia, Nakuru, Uasin Gishu, Bungoma, Kakamega, Machakos, Kirinyaga, Homabay, Narok and Kwale
2. Demography

2.1 Gender of the respondents

From the analysis, 65% of the interviewed respondents were male and 35% were female as shown in the figure below.

![Figure 1: Gender of Respondents](image)

2.2 Age bracket of the respondent

Most of the people visiting the land administration and management institutions were aged between 31-50 years representing 54.4% of the total sample. Those aged between 51 years and 60 years accounted for 27.9% of the respondents with the remainder being aged either below 30 years (12.4 %) or above 60 years (5.4%).

![Figure 2: Age of respondents](image)
2.3 Highest level of education

With regard to the level of education of the respondents, 36.2% had attained secondary education whereas 37.3% had completed tertiary education with a further 9.2% having acquired university education. Only 10.7% of the interviewed respondents had primary school education while 6.6% of the respondents had not received any formal education.

*Figure 3: Level of education*
3. FINDINGS

3.1 Ministry of Lands, Housing and Urban Development

Citizen’s Interaction with MoLHUD

95% of the respondents had interacted MoLHUD while 5% had not. This interaction was mainly at the registry where different services were sought.

Figure 4: Interactions with MoLHUD

Citizens sought various services offered at the Ministry of Lands registries at different stations countrywide. Majority of respondents visited these stations to conduct a land search, with this service accounting for 60% of those interviewed. 29% of those visiting Ministry of Lands registries sought title deeds, with 6% seeking to obtain maps and 3% seeking to extend leases on land. 2% of the respondents sought transfer services following purchase of land form the Lands Ministry. Respondents cited difficulty in information access, corruption and long turnaround times as the main challenges they face when transacting at land registries.

Figure 5: Most sought services
Reference from the MoLHUD

66% of respondents were not referred to other institutions after seeking services at the Lands Ministry while 34% were referred to other institutions. Those referred to other service points were either sent to financial institutions or DC’s/PC’s offices for payments. Disputes were referred to LCBs and some to the Environment and Land Courts (ELC)/High courts for dispute resolution. A small number of the respondents had been referred to other institutions due to misinformation on where to get the different services.

Figure 6: References by the MoLHUD
3.2 National Land Commission

Citizen’s Interaction with the NLC
A majority of the respondents (87%) had not interacted with NLC. Only 13% of them had dealt with the Commission at least once as shown in the figure below. Those who had interacted with the NLC had engaged the commission to resolve land disputes, follow up on compensation for compulsorily acquired land and to report incidences of land grabbing. Citizens also engaged the Lands Commission on matters regarding resolution of historical land injustices.

![Figure 7: Interaction with the NLC](image)

Citizens who had interacted with this institution cited poor access to services as a significant impediment. Citizens suggested that the Commission should work hand in hand with the MoLHUD in offering services. They also felt that NLC should act to prevent grabbing of public land.

Reference from the NLC
53% of the respondents who interacted with the Commission were referred to other land administration and management institutions (mostly the MoLHUD and ELC). From the analysis it emerged that some incidences of being referred to other institutions was due to lack of awareness on the Commission’s mandate leading to citizens seeking the wrong services at this
institution. The remaining 47% were not referred to any other institution as presented in the chart below.

![Figure 8: References from the NLC](image)

3.3 County Land Management Board

Citizen’s awareness of the CLMB

A majority of citizens are not aware that County Land Management Boards are in place. 73% of the respondents engaged in this survey were not aware that CLMBs are in place to perform NLC functions in the county while 27% of them were aware. This can be attributed to CLMBs being mandated to manage public land on behalf of county governments and citizens mostly transacting on private land. It should be noted that most counties are still without County Land Management Boards (13 of the counties visited in this survey did not have a CLMB in place). The prevalent reason for this delay in setting up these institutions was lack of approval of proposed CLMB members by respective county assemblies.

![Chart showing awareness of CLMB](chart)
Citizens’ awareness of the physical location of the CLMBs

Among those who are aware of County Land Management Boards established to carry out NLC functions (27% as mentioned above), 61% knew where the boards are located within the respective counties while 39% were not.

![Figure 9: Awareness of the physical location of the CLMBs](image)

Citizens’ interaction with CLMBs

County Land Management Boards have a mandate to manage public land on behalf of the counties. As established under the National Land Commission Act of 2012, CLMBs are mandated to: subject to physical planning and survey requirements, process applications for allocation of land, change and extension of user, subdivision of public land and renewal of leases; and perform any other functions assigned by the National Land Commission. From the respondents interviewed in this survey, only 29% had dealt with the Boards as most of the service seekers (71%) were handling issues dealing with private land.
Reference from the CLMBs

56% of the respondents who visited the CLMBs were referred to other institutions while 44% were fully served. This can be attributed to low levels of awareness on the respective mandates of the different land administration and management institutions.

Differences between CLMBs and LCBs

Most Kenyans cannot differentiate between the previously established Land Control Boards and the newly established County Land Management Boards. 89% of the respondents were not able to distinguish between functions of the CLMB and the LCB while 11% were able to as shown in the figure below. This lack of clarity on the different roles played by these two institutions can be attributed to the fact that most citizens have not interacted with CLMBs as earlier inferred. This is due to the delayed establishment of the CLMBs and that their mandate mainly relates to the management of public land and little involvement in private land.
3.4 Land Control Boards

Land Control Boards were established by the Land Control Act of 1967 for purposes of controlling transactions on agricultural lands. The Act defines agricultural land, as land that is not a township under the repealed Township Act, a trading centre under the Trading Centres Act, and land within Nairobi or the Municipality of Mombasa that it is declared agricultural land by a minister.

Citizen’s Interaction with the LCBs

Over half of the interviewed respondents (52%) had interacted with LCBs seeking for consent to transfer and/or subdivide land. The remaining 48% had not interacted with the Boards as illustrated in the figure below.
One main challenge that affected citizens when dealing with LCBs was that of the boards not having adequate resources to carry out their mandate. For example, citizens suggested that LCBs should avail maps when meeting with members of the public as opposed to being directed to obtain maps when engaging the control boards, thereby prolonging the turnaround time for transactions. These suggestions inform the need to increase resources allocated to Land Control Boards to improve their service delivery. Citizens also alluded to rent seeking by some Land Control Board members in carrying out their mandate.

**Reference from the LCBs**

As shown in the chart below, most of the respondents (74%) who interacted with LCBs were not referred to any other institutions. The 26% who were referred went to institutions such as MoLHUD and NLC to proceed with transfer procedures once consent has been granted. Some were referred to ELC to resolve disputes that arose and could not be handled by the LCBs.
3.5 County Ministry in charge of land

Article 183 of the Constitution of Kenya, 2010 provides for county executive committees that are in charge of implementing county legislation and managing and coordinating functions of county administration and its departments. The fourth schedule of the Constitution of Kenya, 2010 further provides that the county governments are responsible for planning and development under which counties are mandated to survey and map land. These functions necessitate the creation of a Land department/’ministry’ as an implementing arm of the county government. All the counties covered in this study have an established County Ministry in Charge of Land, led by a county executive committee member.

Citizens’ interaction with the County Ministry in charge of land

Of the citizens interviewed in this survey, only 8% of had interacted with county departments/ministries in charge of land. Most of the respondents were not aware of the existence of these ministries.
3.6 Land Officers Feedback

The following section provides a summary of the views collected from officials working in various land administration and management institutions on their awareness of the current institutional framework, cooperation among the various institutions and challenges they experience in executing their duties.
<table>
<thead>
<tr>
<th>Variable</th>
<th>Findings</th>
<th>Way forward</th>
</tr>
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<tbody>
<tr>
<td><strong>Officers’ awareness on land administration and management institutional framework</strong></td>
<td>▪ NLC officers working in CLMBs across the country were aware of the different institutions as well as their respective mandate &lt;br&gt;▪ Some MoLHUD officers were not well conversant with the current institutional framework of land administration and management</td>
<td>▪ Need to retrain officers on the specific roles of each of the institutions as a way of creating synergy in operations for the realization of efficiency in service delivery.</td>
</tr>
<tr>
<td><strong>Cooperation with other land administration and management institutions</strong></td>
<td>▪ There were good levels of cooperation through provision of office space, field transport for CLMB, etc. &lt;br&gt;▪ The cooperation was mostly based on sharing of facilities rather than actual execution of mandate</td>
<td>▪ Training on the institutional framework to ensure that staff members comprehend their individual and institutional mandates and jurisdiction. &lt;br&gt;▪ Joint forums between the institutions of create a working relationship amongst them</td>
</tr>
<tr>
<td><strong>Comments on current institutional framework in land governance</strong></td>
<td>▪ The current institutional framework provides better guidelines in dealing with public land across the country.</td>
<td>▪ There needs to be coordinated efforts to ensure that guidelines as established in different land legislations ensure increased efficiency in service delivery and in overall management and administration of land</td>
</tr>
<tr>
<td><strong>Citizens’ awareness on institutional framework</strong></td>
<td>▪ Officers cited low awareness on the current institutional framework of the land administration and management. &lt;br&gt;▪ Awareness was linked to low levels of education, socio-economic status and proximity to urban centers/ county headquarters</td>
<td>▪ Undertake awareness campaigns to inform the public about the different services provided by the land administration and management institutions &lt;br&gt;▪ Have information desks that are well serviced and with competent staff that understand the institutions to guide citizens seeking services at the different stations</td>
</tr>
<tr>
<td><strong>Challenges experienced in service delivery</strong></td>
<td>▪ Lack of political goodwill particularly with delayed approval of nominees to CLMBs by county assemblies &lt;br&gt;▪ Delayed funding to CLMBs. &lt;br&gt;▪ NLC bureaucracy whereby CLMBs were not able to work due to delayed clearance of their work plans by head office. &lt;br&gt;▪ Lack of support staff and office equipment in CLMBs</td>
<td>▪ Advocate for increased political goodwill to ensure the setting up and operationalization of all 47 CLMBs &lt;br&gt;▪ Facilitation of the 47 CLMBs to ensure they are able to execute their mandate.</td>
</tr>
</tbody>
</table>
4. CONCLUSIONS AND RECOMMENDATIONS

4.1 Conclusions

- **Challenges encountered in dealing with land administration and management institutions:** Citizens transacting with the land governance institutions face challenges ranging from corruption and long transaction turnaround times at Ministry of Lands registries to poor access to services at the National Land Commission. Rent-seeking by Land Control Board members when dealing with approvals on agricultural lands is also affecting interaction with land governance institutions.

- **Awareness of land administration and management institutions:** Kenyans are generally aware of the Ministry of Lands and the National Land Commission. However, this study has revealed low levels of awareness on the different institutions mandated to manage and administer land at county level and the respective functions of these institutions. Citizens are particularly unable to differentiate between the Land Control Boards and County Land Management Boards, and are even less aware of a county department/ministry in charge of land. This has resulted in citizens seeking services at the wrong service points and generally reduced capacity to hold land administration and management institutions accountable for their actions.

- **Delay in setting up of CLMBs in all the 47 counties:** While some counties have already set-up County Land Management Boards, some county assemblies are yet to approve nominees to their respective boards. These delays are contributing to the lack of clarity on the institutional framework and the respective mandates of these institutions as citizens are not aware that this institution is supposed to be in place.

- **Limited Institutional Capacity of CLMBs:** While some counties have established County Land Management Boards, the boards still lack in institutional capacity to carry out their functions. Some CLMBs lack adequate officers to discharge services to citizens. Other CLMBs experience difficulties in performing their duties due to late disbursement of funds. Other offices cited delays in getting approvals from the National office as a factor affecting their speed in service delivery.

- **Challenges encountered by Lands Officers:** While most CLMB officers are well conversant with the current institutional framework of land governance, most officers
under the Ministry of Lands are not aware of the CLMBs role in land administration and management. In addition, officers stationed at the different institutions face challenges due to limited public awareness on the mandates of these institutions, lack of political goodwill and limited capacity to carry out their functions.

5.2 Recommendations

1. Streamlining of institutional framework by Parliament to ensure harmony in land administration

There is need for the Senate and the National Assembly to streamline the current institutional framework in land administration and management through clear provisions in law and regulations. This will go a long way in ensuring well-coordinated implementation of reforms in the land sector. Land administration and management institution should also work together to avoid duplicating roles. This can be achieved by holding joint workshop to train lands officers on their individual and institutional responsibilities and jurisdictions and consequently provide an avenue to create working relations between the officers.

2. Review of Land Control Boards operations

The existing Land Control Boards have been in operation for over seven years. There is need for the Lands Minister to review performance of the LCBs over this period against their mandate as stipulated in the Land Control Act. This also calls for recruitment of new members to these boards to ensure continuity. In addition, the Minister should provide clear forms of remuneration (with inclusion in the Ministry of Lands budget and subsequent gazettement) to avoid rent seeking by board members and ensure good governance and accountability.

3. Retraining of Lands Officers and Land Control Board Members

It emerged from this survey that some officers do not understand the new institutional framework and the roles of the different institutions charged with the administration and management of land. The Ministry and the National Land Commission should therefore make it a priority to retrain their staff and Land Control Board members to ensure they are conversant with the new legal and constitutional frameworks and provisions.
4. Setting up of CLMBs in all 47 counties

County Land Management Boards play an important role in land governance at the county level and are specifically charged with considering and processing applications on land allocation, change/extension of users, sub-division and extension or termination of leases on public land. Out of the 27 counties visited in this survey, 13 had not set CLMBs. There is need to expedite the establishment of these boards to ensure execution of their duties such as safeguarding public land and for sustainable management of land and natural resources at county level. Furthermore, the National Land Commission should ensure that CLMBs are well housed, equipped and facilitated to execute their mandate.

5. Public awareness creation and setting up of well manned information desks

Most citizens need guidance and information with regard to where they should get various services and the procedures to be followed. The Ministry of Lands and the National Land Commission should work together to promote public awareness on the current institutional framework in land administration and management at the two levels of governance. In addition, there is need to set up information desks that provide relevant information and outlines clearly the procedures and costs of different services. The two institutions should work together to provide an updated service charter that will incorporate the new institutions and clearly highlight the different service points.