



FIG WORKING WEEK 2023

28 May - 1 June 2023 Orlando Florida USA

Protecting
Our World,
Conquering
New Frontiers

Assessing Transparency and Accountability in Land Governance in Kenya.

Introduction

Literature Review

Methodology

Result

Discussion

Conclusion & Recommendation

Joseph RAJUL, Kenya; Dimo TODOROVSKI, The Netherlands; Samson

Okoth AYUGI, Kenya

Organized By



Diamond Sponsors



Introduction.

Land is more than an asset; rights, restrictions & responsibilities.

There are many competing interests in land- Good Land Governance

Most countries around the global south have complex and insufficient land governance systems.

Kenya has put different measures to improve its governance system since 2010.

Economic growth and development, improve social justice standards, protect the susceptible groups and environmental management.

Assessing transparency and accountability in Kenya based on 9 principles discussed in Land Governance 2022.

Literature Review

Governance

- The process of how decisions are formulated and how these decisions are implemented or not implemented in a country/society.” (UNESCAP, 2009)
- Good Governance should be participatory, transparent, and accountable (UNDP, 2015)

Land governance

- Increasing population growth, urbanization, changes in land use, economic growth, and development.
- Structures, rules, and processes through which access to, and use of land resources are implemented or not implemented in society and the way competing interest in land is managed (Palmer et al., 2009)
- Good land governance - transparency, accountability, public engagement, effectiveness and efficiency, rule of law, equity, security, sustainability, and subsidiarity

Transparency and Accountability in LG

- Transparency is about acting openly, understandably, and predictably, therefore, making the people in the system involved act in an open, accountable, and consistent manner (GLTN, 2013).
- Accountability – the process under which different actors make decisions and how these how actions can be kept in check.

- Kenya is a sovereign state located in the East Africa region, the African continent.
- Kenya has taken immense procedures since 2010 for Land governance.
- Need to assess the impacts of these measures on achieving transparency & accountability in LG.

Methodology

- Qualitative research methods specifically the desktop and personal knowledge research methods were used.
- For governance in Kenya “Governance” AND “Kenya” = 471.
- For LG in Kenya “Land Administration” OR “Land Governance” AND “Kenya” = 1920
- "Transparency" AND "Accountability" AND "Kenya" = 32
- A purposely sampling method was used after the search strategies
- An assessment table with high, medium and Low on various themes against transparency and accountability was developed.

Results

Governance

- Devolved system of Governance.
- Central Government and 47 Counties
- Three arms independent of government.
- Constitution of Kenya 2010- Supreme law of the land.
- Chapter two outlines- Equity, patriotism, integrity, transparency, accountability, sustainable development, equality, and inclusiveness as national values and principles of good governance.

Land Governance

- Mainly done by the Ministry of Lands and Physical and National land commission.
- National land policy framework 2009 and Chapter 5: Land and Environment are the basic guidelines.
- Land Acts 2012, Land Registration Act 2012, Land and environment court 2011 and National land commission 2012.
- Equitable access to land, transparency, accountability, security of tenure, elimination of discrimination, ADR, and cost-effectiveness – principles of good LG in Chapter 5.

Transparency and Accountability in LG in Kenya

- Six thematic areas were looked at against transparency and accountability based on (Kameri-Mbote, 2016).
- *Land rights recognition.*
- *Urban land use, planning, and development*
- *Public land management*
- *Public provision of land information*
- *Land valuation and taxation*
- *Dispute resolution*

Discussion.

Governance

- Kenya has a good governance system in place.
- However, the implementation of the governance system is inadequate.
- Need for public engagement In all decision-making.

Land Governance

- Kenya has a clear legal framework.
- MOLPP deals with Private land, while NLC manages Public lands.
- Many acts – might be a challenge if not harmonized.
- Clear administrative procedures are required among the different organizations involved.

Transparency and Accountability in LG in Kenya.

- Rural Land rights are recognized in the law but not in practice **(M)**.
- Physical and land use planning Act (2019) – But the processes are not transparent in practice **(L)**.
- Public land transactions are not transparent to the public **(L)**.
- Land information is not publicly available nor are they free **(L)**.
- Clear law but Valuation rolls are not up to date nor publicly available **(M)**.
- Land-related disputes in Kenya can take decades to be formally resolved **(M)**.

Conclusion & Recommendation

Governance

- Harmonization of different acts between the national and county governments.
- Collaboration and clear administrative procedures between the two governing systems

Land Governance

- Proper implementation strategies are required to implement the legal framework.
- Public engagement of all stakeholders/actors is required in the formulation and implementation of different policies.

Transparency & Accountability in LG in Kenya

- Benchmark of the FAO's Voluntary guidelines on the responsible governance of tenure of land.
- Development of open portals and improvement of integrated workflow systems.
- Increase the number of L&E courts and specialized judges.
- Fastening the development of Kenya's national spatial data infrastructure.
- Development of integrated land use land information management.

Thank You for your Attention
Q&A

Joseph RAJUL, Samson Okoth AYUGI, Kenya

Dimo TODOROVSKI, The Netherlands
University of Twente | ITC Faculty

d.todorovski@utwente.nl