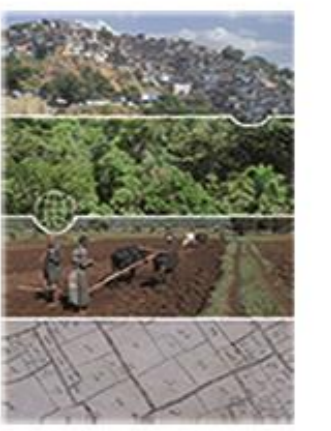




Responsible Land Governance: Towards an Evidence Based Approach

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Land Governance in Urban Areas: Case of Nairobi City

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Nairobi City

Nairobi Profile

- Population: 3.9 Million People
- Area: 695.1 km²

Major Challenges of Nairobi City

- Urban Poverty
- Housing Challenges and Inequality of access to basic services and infrastructure
- Informal settlements and slums
- Growth and expansion of Nairobi is not driven by land use planning and regulation
- Illegal and irregular land documents distort land market leading to eroded tenure security
- Poor land information affects planning and urban revenue generation

Need for Land Governance

- Land governance is about the policies, processes and institutions by which land, property and natural resources are managed.
- While urbanisation holds potential for social and transformation of a society, good land governance is required to encourage responsible use and management of resources

Assessment of Land Governance

Recognition and Enforcement of Rights

- Legal framework recognizes formal rights held in urban population
- Informal tenure types not recognized by law.
- Social Tenure Domain Model used for tenure regularisation in informal areas.
- Registration of Sectional Properties possible
- No formal property register
- Clear procedures for formalisation of property but unaffordable to the urban poor.
- Land rights are not conditional on adherence to unrealistic standards.
- Equal recognition of all tenure categories

Legal and Institutional Framework

- Ministry of Lands and Physical Planning responsible for formulation and implementation of land policies
- National Land Commission responsible for management of public land on behalf of national and county governments and oversight body to Ministry of Lands and Physical Planning
- Information related to rights in land not readily accessible and available to other institutions that need it
- Policies making process draws on inputs from all stakeholders including members of the public.

Land Use Planning Management and Taxation

- Nairobi City County Government responsible for land use planning and development controls
- Public input in amending land use plans
- Land Use Plans justified but not effectively implemented
- Urban development is not controlled by land use plans.
- Nairobi City unable to cope with increasing demand for serviced units
- Requirements to obtain a building permit are technically justified, and affordable (0.5% of building cost). Process is time consuming.
- Nairobi City lacks proper capacity to maintain fiscal cadastre and generate revenue from land and property tax
- Policy directs that valuation rolls be updated regularly and publicly accessible, though valuation roll not regularly updated. Last roll prepared in 1980.

Management of Public Land

- National Land Commission is responsible for management of all public land on behalf of Nairobi City County
- Public land ownership inventory is not fully developed. Information on public land not readily accessible and available.
- Not all public land is clearly identified on the ground or on maps.
- Fair compensation is paid on compulsory acquisition of private land
- Application and allocation process of public land is transparent
- Expropriation procedures are clearly laid out
- Compensation promptly paid before land transfer in compulsory acquisition

Public Provision of Land Information

- Land Registry does not completely cover all lands in Nairobi
- Records for privately owned land available and can be verified at low cost
- Records in the registry can be searched by both right-holder name and parcel after payment of stipulated fees
- Registry information is not regularly updated and not sufficiently reliable
- Property transfer registration costs is minimal compared to property value
- Land Administration services not affordable for the majority of the poor.
- Fees are determined and collected in a near transparent manner

Dispute resolution and Conflict Management

- National Land Commission provides first instance of conflict resolution for land dispute
- Commission to support and recognize Alternative Dispute Resolution Committees
- Environment and Land Court to deal with environmental issues and land disputes
- High level of conflicts

Materials and methods

- The Land Governance Assessment Framework - Identifying And Monitoring Good Practice In The Land Sector

- Literature Review
- TI Corruption Index
- Interviews with Land Professionals

Recommendations

- Recognition of rights should be extended to include range of rights in continuum of land rights
- Formalisation of land and property rights should be made accessible to the poor who are majority of informal settlers to support housing efforts by the poor
- Reduce the time and cost involved in transferring property rights and in processing mortgages;
- Nairobi City County Government should invest in effective enforcement of land use planning regulations for the monitoring of land use changes and for development control
- Land Use Planning should be used as instrument for providing serviced land for housing purposes
- Improve generation of revenue from land and property tax to finance provision of urban services and infrastructure
- Valuation roll should be updated periodically e.g. after 5 years
- Establishment of a formal property register to support Land Markets and Housing efforts
- Inventory of public land should be made public to discourage land grabbing and abuse
- Invest in management of public lands for provision of public goods
- Information should be made easily and readily available to other agencies such as public sector, private sector, environmental agencies, research and academia
- Develop and establish a complete and integrated land information management system to facilitate access and distribution of reliable land and land-related in an easy and affordable manner.
- Public registers should be complete to promote security of tenure in Nairobi City
- NLC should fast track the adoption of Alternative Dispute Resolution Mechanisms to reduce the high number of land disputes
- Land disputes at the Environment and Land Court should be fast tracked to release capital locked up in litigation

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