

INTRODUCTION: Land reform initiative

As one of the African Union Member States, Kenya has over the last two decades aggressively driven policy and legal reforms that have opened room for improving land governance at national and county level. The resultant policy, constitutional and legal frameworks spell great opportunity for protecting tenure rights of all categories of land in Kenya. Some tools developed out of Kenya's reforms include: The National Land Policy of 2009; The Constitution of Kenya, 2010; The Environment and Land Court Act; The Land Act, 2012; The Land Registration Act, 2012; The National Land Commission Act, 2012; The Land Laws (Amendment) Act, 2016 and the Community Land Act, 2016. The Kilifi County Government has applied some of the principles in these policy and legal tools to enhance tenure rights by issuing title deeds to residents as highlighted here.

POSITION, SIZE, POPULATION AND COMPOSITION OF



Source: County Government of Kilifi

KILIFI COUNTY

Kilifi County covers an area of 12,609.7 km². The population of the county is 1,098,603 consisting of 52% female and 48% male. Kilifi county is strategically located between the Standard Gauge Railway (SGR) corridor to its South and the LAPSSSET corridor to its North. These corridors, once completed and operational, will give the county a major comparative advantage.

Kilifi County land tenure improvement initiative

Land tenure is a major development challenge in Kilifi County with more than 60% of the residents lacking title deeds. Recognising that individualization of tenure motivates development, the Kilifi County government has committed to providing titles to its residents as reflected in its CIDP 2013-2017, strategic plan and the annual budget estimates. The first county government in line with its CIDP provided some KSh 300million (USD 3million) towards this program between 2013 and 2017

METHOD

The tenure rights enhancement project involved community sensitization and adjudication of individual tenure rights. This is followed by planning, demarcation of boundaries and then the recording of the boundaries through survey. A cadastral map and a list of owners are then prepared and passed on to a land registrar for registration and preparation of title deeds.

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Demarcation and survey of land in Kilifi between 2013- 2017

Under the titling program and guided by the legal framework recently developed in the country, the county Government has established settlement schemes and adjudication sections in conjunction with the National Government to settle squatters and give title deeds to those owning rural communal land. Over 40,000 households have so far benefitted from the program.

In the period between 2013-2017, demarcation and survey has been applied in 35 adjudication sections within Kilifi's 7 sub-counties of Rabai, Magarini, Ganze, Kilifi South, Kaloleni, Malindi and Kilifi North.

Reduction in disputes and conflicts

Mijikenda, the dominant ethnic groups in Kilifi, culturally believed in the use of witchcraft to resolve many issues. However, the use of witchcraft on land and boundary dispute matters only aggravated land related conflicts, undermining tenure rights, leaving land idle and keeping away investments. Besides, this tenure insecurity demotivated the youth from investing on land and forced them to migrate to urban areas. However, the adjudication of land rights provided an opportunity to resolve land and boundary disputes.



Dispute resolutions by adjudication committees

Source: authors

Impacts of improved tenure rights to land use and investment.

Improved investments: Investments in Kilifi include: Athi Mining Company in Rabai, Mabati Rolling Mills in Mariakani, Mombasa Cement in Vipingo, cashew nut processing factory, a sisal company at Vipingo and salt harvesting in Gongoni and Mareneni as well as light industries in Mazeras. These are all located within the 10 mile coastal strip and between Mazeras and Mariakani where tenure rights are secure. The recent issuance of title deeds to individual owners has evidently incentivized investments. Investors are now able to confidently buy or lease land for investments given the secure tenure rights enjoyed by the land owners. There is hence a growing demand for industrial and commercial land. The new ventures and associated activities have provided job opportunities and economic benefits. The cases below illustrate how the enhanced tenure security in the county has driven fresh investor interests in Magarini and Rabai counties.

a) **Del Monte Kenya Ltd, Magarini Sub-county:** Del Monte Kenya Ltd, Kenya's largest exporter of pineapple products, proposes to invest in large scale pineapple farming project in the Baricho/Dakacha area in Magarini sub County. The county government facilitated the demarcation and survey of their area of interest.

b) **Jumbo Steel mills Company in Rabai:** After the completion of the Mwawesa adjudication section in Rabai, some beneficiaries of the registered plots have sold out to Jumbo steel mills company. Jumbo is now in the process of constructing a steel factory. The company, which signed a Memorandum of Understanding with the county in late 2017, is expected to employ close to 300 local people in the first phase to commence later this year.

c) **Athi River Mining Company in Rabai Sub-county:** Even prior to the recent land adjudication initiative, earlier titling efforts in Rabai had driven investors to establish Athi River Company, a major cement factoring firm. According to its management the firm employs 1,103 staff and supports another ten thousand people. The factory is located within a rural area.



Source: authors



Source: county Government of Kilifi



Source: authors

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CONCLUSION AND RECOMMENDATIONS

Given the dividends to the individual residents and county, the tenure security enhancement projects in Kilifi should be continued and scaled up. Development Partners can seize the opportunity demonstrated by the county government to scale up. Local and foreign investors also take note that tenure rights beyond the 10 mile coastal strip have been undergoing systematic improvement, opening up opportunity for investments. Given the geographical location of Kilifi county between the Standard Gauge Railway (SGR) corridor and the Lamu Port-southern Sudan-Ethiopia (LAPSSSET) corridor and the Indian ocean coastline, investors have good future investment opportunity.

HELPFUL LITERATURE

AUC-ECA-AfDB Consortium (2010), *Framework and Guidelines on Land Policy in Africa*, Addis Ababa, Addis Ababa, Ethiopia, 2010.

Food and Agricultural Organization of the United Nations, *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*, Rome, 2012

<http://www.ardhi.go.ke/?p=337>

Omotunde, E. G. J. (1972) "Economic Analysis, The Legal Framework and Land Tenure Systems", *The Journal of Law and Economics* 15, No.1:259-276

Republic of Kenya, *Kilifi County Integrated Development Plan, 2013-2017*, Government Printer, Nairobi

Republic of Kenya, *Kilifi County Resource Mapping Report, 2015*, Government Printer, Nairobi

Republic of Kenya, *Kilifi County Spatial Plan, 2015*, Government Printer, Nairobi

Republic of Kenya, *Sessional Paper No 3 of 2009 on National Land Policy*, Government Printers, Nairobi, 2009

Republic of Kenya, *The Constitution of Kenya 2010*, Government Printers, Nairobi

Republic of Kenya, *The Environment and Land Court Act No 19 of 2011*, Government Printers, Nairobi

Republic of Kenya, *The Land Act, 2012*, Government Printers, Nairobi,

Republic of Kenya, *The Land Registration Act, 2012*, Government Printers, Nairobi

Republic of Kenya, *The National Land Commission Act, 2012*, Government Printers, Nairobi

Republic of Kenya, *The Community Land Act, 2016*, Government Printers, Nairobi

Republic of Kenya, *The Land Laws (Amendment) Act, 2016*, Government Printers, Nairobi