FACTORS AFFECTING THE IMPLEMENTATION OF GOVERNANCE POLICY IN LAND ADMINISTRATION IN KENYA

A Case Study of Nairobi County

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DECLARATION

Student Declaration

I hereby declare that the work contained in this research project is my original work and

has not been presented for any award or degree in any university.

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HD 334-033-0233/2011

Declaration by the Supervisors

This project has been submitted for examination with our approval as the University

Supervisors.

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Dr. Charles Ombuki   Date

[signature]   05/03/2012

Dr.Willy Muturi   Date

DEDICATION

This work is dedicated to my daughter Ashley and to my parents Cyprian and late Esther.

ACKNOWLEDGEMENT

I would like to express my sincere gratitude to Dr Charles Ombuki and Dr.Willy Muturi for their continuous supervision and guidance as I was undertaking this project.

I wish to thank EMBA cohort 10 lecturers and my fellow students for encouragement and team work and to all who contributed in one way or another in making this project a success.

ABSTRACT.

The importance that the people of Kenya attach to land is enormous. Up to the early eighties, investors and business people acquired land based on the need to develop and establish a business. Rarely would one purchase land for speculation. Currently, people have been claiming ownership to land that was originally planned for roads, schools, hospitals and other public utility uses. Buildings worth millions of shillings have been demolished to pave way for road construction as they were built on land planned for road construction. All these are a result of poor governance of land administration.

This study sought to find out the factors that affect the implementation of governance policy of land administration in Kenya. The specific objectives were to determine the effect of the land administration structure, politics and the records keeping systems in the implementation of governance policy of land administration.

The research study targeted the land administrators who are in charge of land administration in the country while on the other hand targeting the landowners in the area of study. Using questionnaires and interview schedule, the researcher sought to derive findings and recommend measures to be used in the implementation of governance policy in land administration.

Amongst the key findings obtained by the researcher, the record keeping system came out as the main impediment to the implementation of governance policy of land administration. Primarily, the record keeping system in the Ministry of Lands was found to be the manual keeping system although automation was ongoing. In this regard, the researcher recommended that automation should be expedited. Another finding of the research concerned the operation of the registry and its operations. In addition, members of the public complained about the bureaucracy at the ministry as an impediment to implementation of governance policy of land administration.

Amongst the recommendations, the key one was the implementation of the constitution article on devolution. In this regard, the devolved system of government would reduce some of the bureaucratic processes in land administration. As such, taking land administration services to the grassroots would enhance implementation of governance policy in land administration. Furthermore, the new constitution's articles on governance and land administration should be implemented fully. Another key recommendation is on the fast-tracking of automation land records.

Finally, future researchers should research on the challenges posed by emerging issues, such as rapid urbanization and population pressure, to implementation of governance policy in land administration. It is evident that the officials in the Ministry of Lands are not adequately equipped to deal with matters resulting from rapid urbanization and population pressures. Thus, the extent they played towards good governance should be clearly investigated.

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ACRONYMS

UNECE:

The United Economic Commission for Europe.

UN:

United Nations.

MGDs:

Millennium Development Goals.

ROK:

Republic of Kenya.

IBEAC:

Imperial British East Africa Company.

FAO:

Food and Agriculture Organization.

NLP:

National Land Policy.

UN-HABITAT:

United Nations HABITAT.

WB:

World Bank

DEFINITION OF TERMS

Land:

The top layer of the surface of the earth in which flora and fauna dwell.

Land administration:

The process of determining, recording and disseminating information about ownership, value and use of land when implementing land management policies.

Land Management:

The act, manner, or practice of managing; handling, supervision, or control of matters pertaining land use.

Governance:

The act, process and or power over matters concerning administration and management of an entity.

Torrens System:

The Torrens Title is a certificate of title for an interest in land. On this single certificate, all transactions for the property land are registered; transfers, mortgages, leases and so on, with this registration guaranteed correct by the State. The Certificate of Title was formally prepared in duplicate; one remained with the Registrar General while the owner keeps the other.

Land Information System:

This is a combination of information technology activities using and people's activities using that technology to support operations, management and administration of land.

Kenya Vision 2030:

It is a blueprint showing the plan to be followed in order to have Kenya fully industrialized by the year 2030.

Land Rights:

This is the ability of an individual to exercise control and ownership of land.

Agriculture Revolution:

Also referred to as Agrarian Revolution, is an increase in agricultural productivity in Europe that helped drive the Industrial Revolution.

Industrial Revolution:

A period in which fundamental changes occurred in agriculture, textile and metal manufacture, transportation, economic policies and the social structure in Europe.

Northern Corridor:

A road stretching more than 1,400km, one of the most strategic commercial and humanitarian routes in Africa, linking the Port of Mombasa in Kenya to the Great Lakes countries of Uganda, Rwanda, Burundi and the Democratic Republic of Congo, with links to Northern Tanzania, Southern Sudan, Ethiopia and Somalia.

CHAPTER ONE:

INTRODUCTION

1.1   Background information to the study

The United Nations Economic Commission for Europe [UNECE] (2005) defined land administration as the process of determining, recording and disseminating information about ownership, value and use of land when implementing land management policies. UNECE further defined land to include the surface of the earth, the materials beneath, the air above and all things found on the soil.

Land is a factor of production upon which different economic activities depend on. As a central factor of production, land is linked to all other aspects contributing to a country's economic growth such as providing employment, contributing to the tourism sector and agriculture. The governance policies of land administration require that, each country should have a formal system of registration for land and property rights. This is to enhance facilitation of good governance and to provide secure ownership of land for investments and other private and public interests in real estate (UNECE, 2005). However, this has been the exception rather than the norm as noted by UNECE in their 2005 study.

In a study by the UN-HABITAT in 2006, it noted that, good governance of land means that the organizations and rules result in informed decisions when choosing between competing interests in land. It ensures that decisions are made at the appropriate level, and that land issues are addressed with openness. It requires that all actors are responsible for their actions and that the rule of law is applied to all.

The figure 1.1 puts into context the origin of the land administration problem. In this regards, it captures that it is just over 200 years ago that land markets, as we now know them, developed. This was driven by the Industrial Revolution and the growth of modern cities. In this environment land changed from being equated to wealth to being a commodity. This then saw the development of land administration systems such as the Torrens System to facilitate land markets. In simple terms, the cadastre has evolved in response to these demands from society (Ting et. al, 1999). These state or national land administration systems provide much of the infrastructure for local government and the management of cities.
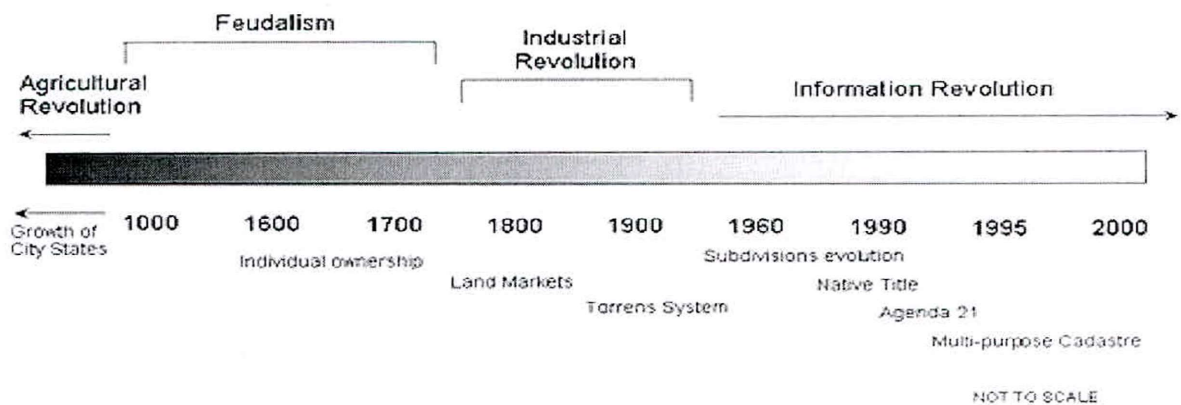
Figure 1.1 Sketch of evolution of western land administration systems

Source: Survey Review, journal 35(272), page 83

In simple terms, the broad development phases of the changing humankind to land relationship started with the Agricultural Revolution whereby land as wealth and cadastre as basic record and fiscal tool. Secondly, the Industrial Revolution had land being used as a commodity and cadastre as a land market tool. On the other hand, the Post-War was characterized by land as a scarce resource and cadastre as a planning tool.

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Finally, the 1980s and into the next millennium characterizes land as a scarce community resource and cadastre as a land management tool.

However, with these changes in land development, the problem overtime has been on land administration. Most nations have continually failed in establishing a clear structure that addresses these issues of land administration. That failure by the governments to institute proper land administration systems has resulted to a land crisis in most of the nations; the crisis effectively brings conflicts that are sometimes bloody in worst-case scenario (Ting et.al, 1999).

To the investors, the assurance of proper land administration procedures is of great importance if they are to commit their finances and invest on any project. This factor stems from the premise that, every project requires land as a factor of production, in most cases as a foundation to lay the infrastructure. Some investors and businesspersons use land as collateral for obtaining credit from financial institutions. In effect, effective implementation of governance policy in land administration will reduce the risk of lending which will in turn reduce the rate of interest charged on these loans.

Land is the main tool for food production in the agricultural sector that Kenya heavily relies on to feeding the populace. In this regard, ensuring security of land tenure is key to encouraging more people to engage in agricultural activities either for own subsistence farming or for local or international markets. In this regard, with proper implementation of governance policy in land administration, the perennial problem of food crisis would become outdated in this country.

Under the auspices of the United Nations (UN), nations came together in 2000 to set the Millennium Development Goals (MDGs); goal number one was to eradicate

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extreme poverty and hunger. Through proper implementation of governance policy in land administration, the agricultural activities will increase food production and create employment. Although land has been recognized both locally and globally as a central factor for economic growth, issues to do with land have not been fully understood and have appeared to be very complicated to most people.

Land administration systems of any country are defined by prescribed laws and established institutions. In Kenya, the institutions charged with land administration are the Ministry of Lands and the local government authorities. These two institutions work in consultation with other institutions that have their main line of operation related to land.

1.2   Statement of the Problem

Kenya has witnessed several land related incidences that are an indication of a problem in implementation of governance policy in land administration. Such incidents include demolition of buildings, by the government, said to be built on road reserves. It is important to point out that, millions of shillings of investors' money are being lost as the Government goes demolishing buildings that have been constructed on road reserves and other public utility land.In 2010, the Ministry of roads demolished several newly constructed buildings worth hundreds of millions of Shillings because they were constructed on land planned for the Northern by-pass. In addition, in the period between 2004 and 2007, several multi-million shillings worth of houses were demolished along the Northern Corridor By-Pass, Thika Road at Githurai, Mlolongo area and the turnoff to Kajiado-Namanga Road along Mombasa Road. It should be noted that, these are only a

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few of the many incidents that go reported as not all of the incidents that occur go reported.

While all these buildings were constructed on land planned for road construction, it is important to note that, the investors who had constructed these structures had genuine title deeds. In effect, this clearly underscores the poor governance of land administration. As the RoK (2009) noted, the existing Land Delivery System has not been very efficient due to poor record keeping which has encouraged multiple allocations and registration of plots of land. In addition, members of public have been made to make several trips to the lands administration offices, this can take several years before an individual case is finalized. This is because the existing land administration system is bureaucratic, expensive, undemocratic, and prone to abuse, resulting in inordinate delays and injustice in the administration of land (RoK 2009). On the other hand, there exists a perception within the members of public that, unless they visit the offices personally, their issues will never be solved. In effect, this has led to a situation where big crowds of people will be waiting at the lands offices to be served days on end. This study therefore sought to investigate the factors that affect implementation of governance policy in land administration in Kenya.

1.3 Objectives of the Study

The main objective of the study was to carry out an investigation on the factors that affected implementation of governance policy in land administration in Kenya.

The specific objectives were:

1. To determine the effect of the land administration structure on implementation of governance policy in land administration in Kenya.

2. To find out the effect of politics on the implementation of governance policy in land administration in Kenya.

3. To determine the effect of records keeping system on implementation of governance policy in land administration.

1.4 Research Questions

1. What is the effect of the land administration structure on the implementation of governance policy in land administration?

2. How do politics affect the implementation of governance policy of land administration in Kenya?

3. What is the effect of the records keeping system on implementation of governance policy of land administration in Kenya?

1.5 Justification of the Study

One of the six foundations upon which the three pillars of Kenya Vision 2030 are anchored is land reforms (RoK 2007). In this regard, land is considered as a principal factor of production in all human productive activities. In addition, land is the most important source of livelihood amongst many people in this country and Africa at large. Apart from being a fundamental infrastructure in agricultural production, land is also used as collateral for obtaining credit from the financial institutions in this country. In effect, the borrowed loans act as an important tool in developing the nation's economy.

The government uses land as a source of revenue inform of various taxes levied on land transactions examples of which are; stamp duty on transfers and mortgages, annual rent

stand premium and rates for urban leasehold properties. On the other hand, tourism is one of the sectors that give the government revenue.

In this regard, RoK (2009) recognizes that, the government's decisions have not been responsive to the citizenry when dealing with land administration matters. The institutions that are charged with the responsibility of administering land have been accused of playing a significant role in the failure in implementation of governance policy in land administration. This is evident by the complaints and dissatisfaction expressed by the public, the professional bodies and the civil society on matters related to land issues.

1.6   Scope of the Study

This study was carried out in Nairobi, the capital city of Kenya, which is the headquarters of the ministry of lands, which is the main Government organ, charged with land administration. Data was collected at the ministry of lands offices and specifically the lands department since it is the department responsible for administrating matters concerning land in the country on a day-to-day basis. In this regard, the officers in the department and their customers formed the subjects of the research study.

1.7   Limitations of the Study

In as much as time and resources were limiting factors of the study, the researcher also encountered difficulties in the administration of the questionnaires to both the staff members in the ministry of lands and the members of public. The staff members were apprehensive of the information to give while members of public were in a hurry to solve their issues and go away.

CHAPTER TWO:

LITERATURE REVIEW

2.1. Introduction

This chapter seeks to address the issue of governance in land administration in Kenya dating back from the pre-colonial and postcolonial period in this country. It should be noted that, the issue of good governance policy in land administration necessitated the need for a land policy in the country. While addressing these issues, the chapter reviews past research conducted by various researchers in line with the purpose and objectives of this study. The success or failure of such practices and or initiatives put in place will be discussed further in this study, as the research objectives dictate of the direction to the research should take.

2.2. Theoretical Framework

Land is the basic commodity that supports all life forms. In Kenya, most people consider land as the only resource endowment. Land encompasses soils, surface topography, underlying deposits, climate, water, plants, and animal communities. The results of human activities, reflected by changes in vegetative cover or by structures, are also regarded as features of land. Changing one of the factors, such as land use, has potential to impact on other factors, such as flora and fauna, soils, surface water distribution and climate.

Land registration in Kenya in the pre-colonial, colonial, and post-colonial eras has had major impact on land administration. Land use and access has shaped land registration over time. This section highlights some of the land registration changes that

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have transformed Kenya's landscape over the years, from the traditional to present land regimes leading to the National Land Policy.

2.2.1 Land Administration Structure

This section will review literature on land administration systems at the pre-colonial, colonial and post-colonial periods.

2.2.1.1 Pre-colonial land administration system

The current system of land ownership in Kenya has evolved from the pre-colonial period when land was held under customary Land Tenure. Land was communally owned and the individual person's right to land was restricted to use. Kitching (1980) notes that, during this pre-colonial time, an individual owned land based on what they were using it. In this case, two people could own the same piece of land from two different communities e.g. a Maasai and a Kikuyu could own the same piece of land where the Maasai enjoyed the grazing rights and the Kikuyu cultivating rights. Therefore, ownership, access, and control of land differed from community to community and were based on their customs, traditions, and practices (Wachira, 2008).

2.2.1.2 Colonial land administration system

Following the colonization of Kenya by the British Government, there was an introduction to change of the Land Tenure Systems. In this regard, the white settlers started the allocation of the best parcels of land, in terms of agricultural productivity to self. In effect, they ended up dispossessing the indigenous people of their right to land. According to Wachira (2008), the Africans were not civilized enough to manage their affairs regarding property rights as far as the settlers and colonial masters were concerned.

To make their actions have a legal backing, the settlers had to have a law legitimizing the dispossession of land from the African majority in their new colony. In this effect, the dispossession was legitimized by the fifth section of the Crown Land Ordinance of 1915. This section defined Crown Land to mean all public land in the colony that was for the time being then subject to the control of His Majesty by virtue of any convention, agreement or by virtue of His Majesty's Protectorate. In addition, this included all land that had been acquired by his Majesty for the public service or otherwise, howsoever, and included all lands occupied by the native tribes of the colony and all lands reserved for the use of the members of any native tribes.

The Crown Land was exclusively for occupation by the foreigners and was referred to as the white highlands. These were the most productive parts of the country (Rift Valley and the towns along the railway line). It is important to note that, this was later to become government land after Kenya attained her independence in 1963.

After dispossessing the Africans of their land, the British Government had to identify an area to settle the Africans. In this regard, they had to set aside Native reserves for occupation exclusively for the natives. In effect, this was legalized through the Native Lands Trust Ordinance of 1930. This was later to become Trust Land when Kenya attained her independence and is currently managed under trust land act cap 288 of the laws of Kenya.

Mwathane (2010) notes that, Kenyans embraced communal tenure until the advent of colonialism towards the end of the 19th century when the British colonial authorities imposed a parallel formal land regime. Until then, communities had their own mechanisms of managing access to and use of their land. They had their dispute

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resolution mechanisms too. This changed when a formal regime was imposed to run parallel to customary tenure. The country was divided into provinces and districts and land categorized as government, trust or private.

Access and transactions in land was governed through the laws and procedures enshrined in the newly enacted legislation and institutions. However, the institutional framework established was elitist, highly centralized, and State driven, largely developed to serve the white settler community. The framework, laws, and procedures were complex and confusing for indigenous Kenyans. This alienated and disempowered them in decision-making. The State and local authorities assumed the earlier land management role played by community leaders. The historical development of the land question unfolded rather differently for the coast and interior Kenya (Mwathane, 2010).

In the coastal region, the Sultan of Zanzibar controlled a ten nautical mile strip parallel to the Indian Ocean prior to British rule. The Njonjo Report of 2002 notes that, until independence in 1963, this strip was controlled and administered by the colonial authorities on behalf of, and as property belonging to the Sultanate of Zanzibar. Under an agreement entered in 1895 between the Sultanate and the Imperial British East Africa Company (IBEAC), all rights to land on this strip, other than private lands with certificates of ownership issued by the Sultanate, were ceded to the company. This had the direct effect of transferring all indigenous land rights to IBEAC and ultimately, the British Colonial Authorities.

The application of the 1908 Land Titles Act required that the indigenous people lay claim to land that they considered theirs within six months. Many did not: either because they did not know or were convinced that there was little reason to lay official

claim to land they had always occupied traditionally and legitimately. Given their historical concept of communal tenure, they had little appreciation of newly applied formal law. As a result, the more knowledgeable government clerks, mostly of Arab origin at the time, claimed such land even though occupied by the indigenous community. All unclaimed land was designated crown/government land (Mwathane, 2010).

On the other hand, in interior Kenya, the colonial authorities used a series of Orders in Council and new legislation to expropriate land previously occupied by indigenous people. The new owners, usually British Settlers, held the land under the newly imposed formal laws, hence extinguishing the rights of the indigenous. This is how parts of Central Kenya, the Rift Valley, Eastern, and Western Provinces of Kenya became home to foreign landowners, whose primary activity was large-scale farming. Such farmers relied on paid local labor, setting stage for the movement of local people across regions in search of opportunities to earn a living. People from Central Kenya for instance moved over to the Rift Valley Province to provide labor in the white settler farms therein.

When the clamor for independence heightened, some of the white farmers began to reconsider their stay in Kenya and offered their farms for sale. Some of the farms in the Rift Valley were sold out to groups of people from Central Kenya. Such farms were later subdivided and the resultant farms allocated to the respective individual group members. At independence, power shifted to a new group of well-educated Kenyans. In its early years, President Kenyatta's government facilitated the sale of land in the Rift Valley to organized groups of people from Central Kenya. Such farms were quickly

subdivided and allotment to the group members took place thereafter. The government of the day also facilitated a privileged purchase of land from the departing white settlers by local elites in government and in politics through loans. Effectively, this marked the beginning of poor governance of land administration in the country.

2.2.1.3   Post colonial land administration system

Upon independence, the English Laws governing property, otherwise known as Crown Land Ordinance, was confirmed and renamed Government Lands Act (Cap. 280).

The Government Lands Act adopted most of what was in the Crown Lands Ordinance. One of the weaknesses of the act was that it only recognized the individual land tenure without taking into consideration those who still owned land under customary law. In addition, the Act vested the land on the President of the Republic of Kenya as a custodian of the people of Kenya. This is the law that allows the Commissioner of Lands through delegated powers to alienate government land to private individuals for a specific lease period and special conditions.

Olima (2009) notes that, the current land tenure system is a combination of English land laws and African customarily laws. In this regard, the existing land administration laws have created a situation where Government land has been alienated to private individuals for a term of 99 years with conditions to conform with. In addition, the colonial land laws were elitist and favored the elites in land ownership. In this case, the alienation of those Kenyans who were not elites continued with the change of guard from British rule to indigenous rule. Therefore, implementation of good governance has been greatly hindered by the current land system laws that are an adoption of the colonial-era land laws (Mwathane, 2010).

Decision makers, investors, land developers, and users involved in land use issues are looking for consistency, clarity, transparency, and accountability in valuation reporting. Theoretically, this can best be achieved through a reliable land valuation system that works within an efficient land administration system. The land administration system is responsible for formulating an efficient land market that is needed to facilitate worldwide investment opportunities.

There is a general agreement (World Bank [WB] studies, UNECE, 1996) that, a nation's wealth is contained in its real estate markets. Efficient land governance can be formulated through a formal and efficient land administration system (Molen and Osterberg, 1999). Effectively, land governance supports social stability and economic sustainable development, hence, an efficient land administration system is a prerequisite for building an efficient land governance structure in a country.

In a study by Molen and Osteberg (1999) on the effects of a good land administration system, when land administrators were asked the importance of a good administration system, most were of the opinion that, the recognition that sustainable land administration systems serve societies with effective sets of products and services. Hence, it is considered vital for resolving land conflicts concerning the ownership and use of the land, land settlement, land survey, and land registration. However, lack of a good land administration system resulted to conflicts. In addition, the administrators said that, there were challenges in their daily roles of administrating on matters related to land. On the other hand, the study did not delve further on the issue of these challenges.

When investigating the origin of land administration systems, Feder (1999) noted that, societies were becoming more complex and land was becoming a commodity, hence

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property transfer rights that aimed for profit within individuals and groups from other communities emerged. In effect, the existing systems governing land administration had to be overhauled. Therefore, the need for formal rules, laws, and regulations that facilitated transactions and governed property rights became urgent. In effect, land administration systems were introduced. However, there were challenges that hindered the implementation of such systems like the acceptability of the system and integrating such systems amongst the populace. In addition, lack of boundaries was a great challenge in land administration.

2.2.2 Role of Politics

Feder and Feeny (1991) studied property rights and found out that, some of the challenges to implementation of good governance of land may be due to lack of appropriate legal framework. In this regard, the study observed that, due to the lack of an appropriate legal framework in land administration, politicians have always found loopholes that they exploited to affect governance and administration of land matters. In addition, lack of adequate methods and techniques to produce acceptable valuations resulted to uncertainty and inefficiency in land issues, such as property rights (i.e. who owns what?). Furthermore, increase of value in land (i.e. how much it cost?) became a challenge to implementation of good governance on land. However, the study fell short of giving the effects of the lack of good administration structures.

On the other hand, the study recommended the need for institutional arrangements for recording and enforcing land issues to help in reducing these uncertainties and inefficiencies. In addition, such institutional arrangements will help in eliminating the role the politicians played in matters related to land administration. Hence, the need for

systems such as land registration, surveying and mapping, land use planning, land valuation, and land property laws to administer land issues should be the most important thing to consider (Feder and Feeny, 1991).

Due to lack of a clear legal framework in land in Kenya, large parts of Kenya have been or still fall under the category of trust land. Under the Trust Land Act, the county councils are supposed to hold land in trust for the people who are ordinarily resident in the area, with the local residents in turn owning land in accordance with the applicable customary law. The trust land system has been widely abused by the county councils and the Central Government. It is important to note that, politicians dominate the county councils and the central government. In this regard, they heavily influence the allocation of land thus affecting good governance in land administration. On the other hand, instead of acting as the custodians of the land, the councils have facilitated the alienation of such land in favor of individuals and institutions in total disregard of the rights of the local residents. The result is that local residents in the areas under the control and management by local authorities and or county councils are faced with land related problems that have influence on rising poverty levels (Olima, 2008).

The current arrangements of land rights delivery in Kenya based on demarcation, surveying, titling, and registration are inappropriate and unable to supply adequate serviced land with security of tenure to the required scale and at an affordable cost. Furthermore, the land allocation process is haphazard, expensive, too lengthy, and cumbersome. In addition, it is littered with bureaucratic red tape and time consuming and cannot afford the majority of the Kenyans access to land. This unsatisfactory land rights delivery system is caused by land speculation, unprofessional practices by allocation

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personnel, corruption, political interference, excess powers of those mandated to manage land, and the organization of the land registries, particularly retrieval of necessary information which is an important component in the operation of land market (Olima, 2008).

2.2.3 Management of Land Records

Since the early 1990s, there have been many complaints about double allocations, and inappropriate allocation and development of land meant for public use. In addition, physical developments have been put up on land planned for development of roads and in some cases, buildings worth millions of shillings have been demolished to pave way for road construction. In effect, this points out to a poor governance structure as far as land administration was concerned.

Questions have been asked as to whether the unfolding events are due to inappropriate law or due to lack of proper implementation of governance policy in land administration. The Republic of Kenya [RoK] (2009) notes that, the existing land administration system is bureaucratic, expensive, undemocratic, and prone to abuse, resulting in inordinate delays in injustice in the land administration. In addition, the government recognized as contributing to failure in delivery by the public agencies responsible for land administration as land speculation, corruption, political interference, and abuse of power by the action officers.

A study by the UN-HABITAT in 2006 noted that inexistence or lack of a proper record keeping system heavily contributed to poor governance. Ultimately, good governance requires that formal recognition be given to all rights to land that are

considered legitimate by society. Therefore, the best way to achieve the formal recognition of land rights was through a good system of record keeping.

In a study conducted by Mwangi (2008), when a focus group was asked how good governance of land should be carried out and the measures to put in place to ensure the same, the group said that, overall good land governance approach leads to opportunities and implications through which activities and outcomes are achieved. These activities and outcomes have several operational implications such as, advocacy, technical assistance, capacity building, and coordination, the measuring, monitoring and evaluation of outcomes. All these activities and outcomes are related to the record keeping system in land administration. In order to achieve the best outcomes, record keeping had to be up to date and computerized.

According to a study commissioned by the World Bank, Guo (2008), there are many reasons to justify why actions are needed to address good governance issue. For example, land offers huge potential for large-scale corruption. Bad governance in land administration, especially in contexts of rising commodity prices, can lead to large-scale land grabs or public land concessions cronies. On a smaller scale it can lead to petty corruption in service delivery, for example high land taxation often encourages undervaluation and under-the-table payments. However, the study further noted that, there were measures in place meant to ensure good governance of land.

Mwangi (2008) notes that, bribe payment by the poor on matters related to land governance are bigger than US$700 million a year throughout the world. In most cases, the study noted that a majority of the bribes paid area as a result of the manual record keeping system in land administration. Corruption reduces economic activity and hurts

the poor by for example excluding them from access to land and 'serious' investors, preventing the financial sector from developing due to the fact that land transactions are not registered, and many other social injustices. There exists a huge economic and social cost if good governance in land administration cannot be established and enforced. Both society and governments can benefit immensely from improved governance in land administration: good land information and policies can generate resources, technical progress and awareness raising campaigns can help make the process more transparent (Mwangi, 2008).

In this regard, governments should establish good land registry systems, disseminate best practices among all participants, and develop indicators that can be applied in land governance. In view of these objectives, the governments should develop indicators that can be grouped under different categories, namely: the legal and institutional framework; land use planning, management and taxation; management of public land; provision of land information; and dispute resolution and conflict management.

Guo (2008) notes that, the World Bank proposes the following actions to governments concerning land use planning, management and taxation. Good governance may be achieved through:

1. Cost effective public good provision is ensured through land use regulations, information is available on how land regulation is enforced, and changes in zoning are made transparent and participatory;

2. Enforcement of existing land use restrictions through the separation of power between landowners, authorities implementing the policies, and authorities

enforcing restrictions. Prompt and predictable mechanisms to grant permissions for restricted land use are in place and the tax valuations are public, applied uniformly, and updated.

3. Proper land record keeping system that is updated on a regular basis to ensure there exists good governance and openness in land administration systems.

However, Guo (2008) noted that, although the measures were being applied in some countries in a pilot project in some countries such as Indonesia, Kyrgiz Republic, Peru, Tanzania, and Burkina Faso, there were still challenges that hindered good governance in the administration of land. In this regard, there was the need to include more specific quantitative evaluation criteria in the indicators and the World Bank was planning for the future, a systematic application for a wider set of countries.

On the other hand, Wachira (2008) identified the role of human resource development in both land administration and land rights delivery processes. In this regard, these roles should involve modernization and capacity building in the surveying, mapping, valuation, town planning and land management processes and departments. In particular, there should be urgent need to institute training and re-training of personnel in land registries and survey offices in order to operate the envisaged modernized infrastructure. Such problems had to be solved by the implementation and formulation of a National Land Policy (NLP).

2.3. Critique of the Existing Literature

While there is existence of a lot of literature on matters to do with land administration and good governance of land, it is evident that most of the studies conducted falls short of identifying all the challenges, weaknesses in the land

administration systems and recommend the appropriate measures to take to address the issues in their studies. In effect, this study seeks to address the issues that other researchers fell short of comprehensively investigating.

Molen and Osteberg (1999) in their study identified and spelt out the effects and outcomes of a good land administration system. In addition, the study outlined the measures that guaranteed a nation had the best of the land systems. However, the research study did not have a clear representative sample since the researchers only researched a European setup only. In addition, the research failed to exhaust fully on the weaknesses and challenges facing a good land administration system.

On the other hand, Feder (1999) only investigated the origin of land administration systems in the world. However, it is important to note that, the land systems were of a European origin. Nevertheless, it is critical to point out that the same land administration and governance systems were the ones replicated in the continent of Africa and in Kenya too. Although the study identified the origin of land administration system, it fell short of giving the challenges and weaknesses in the land administration system. Furthermore, the failure to address the weaknesses and challenges ensured that the study did not give the recommendations for a good governance system of land.

While Feder and Fenny (1997) gave the challenges to a good governance of land administration system, in addition, the study went on to give out the recommendations to the challenges faced by the land administrators in implementing the systems for land administration. However, the study dealt on a developed nations' perspective and thus could not be said to be representative in terms of the nations in the sample. On the other

hand, the study failed to give the weaknesses in the system and the effects of failure to implementing a good land administration system.

In its 2006 study, the UN-HABITAT focused on the governance of land amongst the developing nations. In addition, the study focused only on the experts who have devoted their time in studying land administration system over the world. In this regard, the study failed to research on the landowners. In effect, the study failed to capture one of the most important aspects of the challenges that people faced while being served in the local land offices. In this case, the study did not address the issue of weaknesses in the land administration system. In addition, the land administrators did not form part of the research subjects. In effect, the challenges the land administrators faced towards implementing the system of good governance in land administration was not captured in the study by the UN-HABITAT.

Mwangi (2008) studied the overall approaches to good land governance system in Kenya. The study focused on land administrators in the country and their opinion towards the best way to approach the issues of land governance and land administration. However, the study never dealt on the challenges and weaknesses in the land administration systems since the study did not capture these two issues of the challenges and weaknesses in the system.

On the other hand, Guo (2008) in his study gave a justification of the importance of good governance in land administration. However, the study failed to capture the weaknesses and the challenges that were faced in the implementation of good governance in land administration. In addition, the study by Guo (2008) noted existence of measures put in place by governments' to ensure good governance of land administration.

However, the study failed to address the reasons behind proper governance of land administration.

2.4 Summary

The world today has been changing regarding the administration systems used in nations for good governance. One of the initiatives used in this case is installing computer information systems that enhance transparency and openness in matters pertaining administration. In addition, the systems enhance effectiveness in matters pertaining administration since many parties including those who are going to be served by the administrators can monitor them.

In as much as the land administration measures may be put in place to administrate on matters pertaining proper governance of land; there exists challenges and weaknesses in the system that bring about corruption and malpractices resulting to poor governance of land. Considering the emphasis the literature has laid on importance of land administration resulting to good governance; it is important to carry out a study on what challenges impends the implementation of governance policy in land administration.

2.5 Research Gaps

The literature review has dealt much on past studies carried out on matters pertaining governance and land administration. In effect, this section will analyze the research gaps left unaddressed by past research. Therefore, the section seeks to address the gap the study seeks to fill based on past research work conducted by other researchers.

One research gap this study sought to fill relate to the factors affecting implementation of governance policy in land administration. In addition, the study recommends the appropriate measures to take in order to ensure that proper land administration took place, as should be the case. In effect, the measure recommended will ensure there arose no conflicts in matters related to land since there was good governance on matter pertaining land administration.

From the literature review, it is evident that the research work that has been carried out before did not wholly deal with these three issues namely; factors affecting the implementation of good governance in land administration, weakness in the land administration systems and finally recommend the measures to take to ensure that the challenges and the weaknesses are fully addressed. In this regard, this research study sought to fill these research gaps.

2.6 Conceptual framework

Independent Variables

Dependent Variable
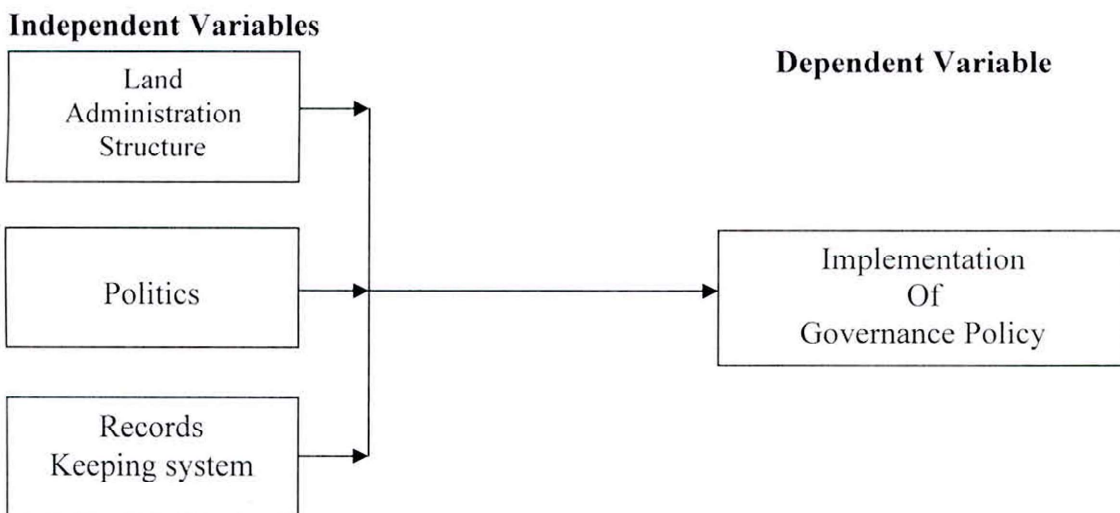
Figure 2.1 Conceptual framework

Based on the above literature, it is evident that researchers have not conclusively investigated the factors that hinder the implementation of governance policy in land

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administration. While most research deals with land administration structures and systems, the direction of most of these researches does not look at the holistic nature of the factors that hinder the implementation of good governance.

Kenya's current land administration system is an adoption of the colonial British land administration system (Mwathane, 2010). While the colonial land administration system was elitist in nature, the perpetuation of such unequal system has continued with the current and all post-independent governments. In this case then, as noted by Molen and Osteberg, 1999, good land administration systems encompass equal opportunities on matters related to land rights and ownership. In this case, the current land laws can be said to be exclusive and thus hinder implementation of good governance in land administration.

Over the world, politicians have played a huge role in hindering the implementation of land good governance in land administration. In Kenya in particular, politicians have had their way through exploiting loopholes existing in land administration laws and systems. This has become an impediment in the implementation of good governance in land administration. The allotment of land to individuals who wield influence and power has been a major hindrance to attaining good governance too.

Finally, it is basic knowledge that record keeping is essential in any organization. In the digital era, most registries have been upgraded and are automated and not manual. However, this has been the exception rather than the norm in Kenya's land registries. In this regard, the existence and continual use of manual land record keeping has enhanced corruption in land administration. Essentially, this factor has hindered the implementation of governance in land administration.

CHAPTER THREE:

RESEARCH METHODOLOGY

3.0. Introduction

In this chapter, research procedures, design and instrumentation tools the researcher used are presented. The section comprises the target population, sampling frame, instruments and data collection procedure, data processing and analysis methods.

3.1. Research Design

There was a need to look and probe further into details of the land administration practices currently used in land governance to ensure good service delivery to the members of the public. Therefore, the research was a case study for an effective outcome. In addition, the report uses numbers and words or writing. In this case then, the research used both quantitative and qualitative research designs.

In addition, the study further probed the factors affecting implementation of governance policy in land administration in Kenya. Hence, the reason it used a qualitative design. Moreover, the researcher used the most common data collection method of administering questionnaires. Further, the researcher quantified the problem and tried to understand more on the issue of land management and its relationship to good governance. This is the fact that made the research take a quantitative approach.

3.2. Target Population

The research evaluated the factors that affected implementation of governance policy in land administration. Data was collected from the staff working at the Ministry

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of Lands offices and specifically in the department of lands administration in Nairobi who are charged with the duties of land administration. In this regard, the top management in the department consists of ten individuals, seventy-eight staff members in the technical working group, and forty-six support staff members. In addition, data was also collected from the customers who were served in the department by the staff in the department on a daily basis. These are approximately two thousand members of public forming the target population for this group. The target population is tabulated below.

Table 3.1 Target population

Population Category	Frequency
Management	10
Technical Working Group	78
Support Staff	46
Members of Public	2,000
Total	**2,134**

3.3   Sampling Frame

In general, any research would not be able to reach or cover the whole country or the entire population for better results or findings due to time and financial limitations. Therefore, since the target population was a huge one, the researcher came up with a representative sample from both the land administrators and the customers.

3.4   Sampling Technique and Size

Purposive sampling was used in selection of the respondents from the members of public while stratified random sampling was used to pick the respondents from the

Ministry of Lands in accordance with the management levels. Effectively, the sample size was determined by the population size was tabulated below.

Table 3.2 sample size

Pop. category	Target Pop.	Sample Size	Percentage of the sample size
Management	10	4	3
Technical Working Group	78	30	20
Support Staff	46	15	10
Members of Public	2,000	100	67
Total	2,134	149	100

3.5 Research Instruments

The main instruments that the researcher used are questionnaires. Structured questionnaires were used to obtain most of the data while personal interviews were conducted on selected individuals where explanations or clarifications were required in order to come out with comprehensive findings of the research study.

3.6 Data Collection Procedure

The researcher personally delivered the questionnaires to the identified recipients, as they are her colleagues and the others her customers and collected them at an agreed time. In addition, the researcher scheduled interviews with some of the research subjects at a convenient time for both parties following ethics in research. The interviews were

crucial in obtaining important information from the research subjects that was used for drawing conclusions.

3.7. Data Analysis and Processing

After data was collected, the researcher later embarked on data analysis and processing. Coding of the data collected was important to formulate the findings. The researcher uses tables and pie charts to analyze the research data. The use of tables enables the researcher to analyze the data collected for easy understanding. In addition, the researcher uses descriptive statistics whereby there is proper summarization, categorization, organization according to common themes, and presentation of the collected data in percentages.
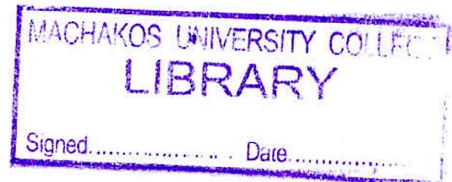
CHAPTER FOUR:

RESEARCH FINDINGS AND DISCUSSION

This chapter reports on the findings of the research while organizing the section into common themes based on the three research questions or the research objectives. In this regard, the common themes were organized into three components related to the independent variables and one other related to the dependent variable of the research study starting with the effects of the structure of land administration on the implementation of governance policy in land administration.

The second theme was to answer the question related to the record keeping system and its effects on implementation of governance policy in land administration. The third theme answered the question on the effects of politics on implementation of governance policy of land administration. In addition to these three themes drawn from the research objectives and the independent variables, there was another theme related to the dependent variable of the research, the implementation of governance policy in land administration.

4.1   Structure of Land Administration

4.1.1   Management Structure in the Ministry of Lands

The structure of the Ministry of Lands is divided into four structural departments namely Lands, Physical Planning, Survey, and Adjudication and Settlement. Since the research investigated the specific area of land administration. The researcher concentrated the research on the department charged with administration of land in the Ministry of Lands, which is the department of Lands. Therefore, with that in mind, the

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structure in land administration is divided into three groups of staff as shown below in the department:
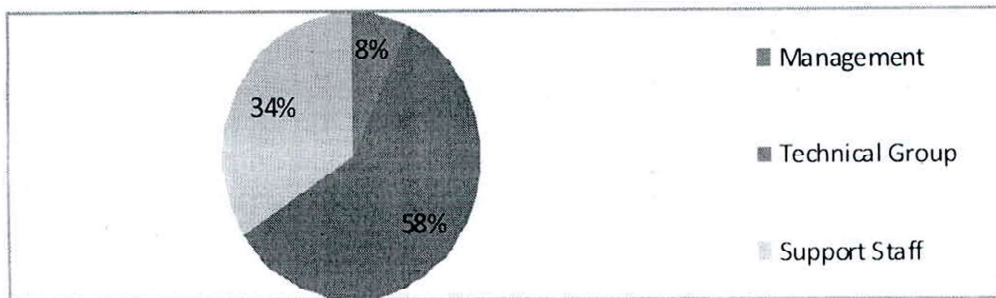
Figure 4.1 Management Structure in the Ministry of Lands

From the figure above, the management, charged with the day-to-day running of the department, constitutes 8% of the members of staff. On the other hand, the technical working group comprises 58% of the staff members. It is crucial to note that, this is the crucial group charged with the technical work in the department involving administration of land. Finally, the members of the support staff, which includes the clerks and other important support staff, comprises 34% of the total members of staff. In effect, the findings indicate a lesser number of support staff supporting the technical working group in the department charged with administrating land matters in the whole country.

4.1.2 Mandate of the staff members

It was crucial to find out where the staff members in the department derived their mandate. The findings are shown below:

Acts of Parliamment

Instruction from the HoD

Other

20%

39%

41%
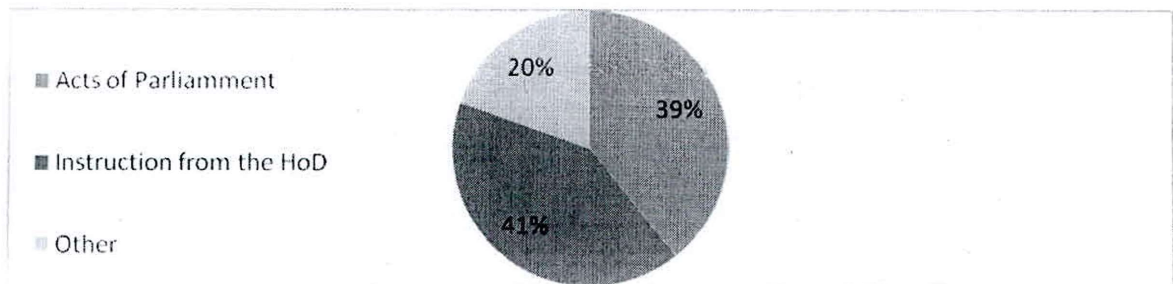
Figure 4.2 Mandate of the members of staff in the Ministry of Lands

From the figure above, 39% of members of staff indicated that they got their mandate from Acts of Parliament while another 41% derived their mandate from their head of department. Finally, another 20% respondents indicated that they got their mandate from other sources. Such sources included circulars from the cabinet, presidential circulars, and the country's constitution.

4.1.3 Challenges faced in land administration

When asked about the challenges that they faced in their roles, the respondents gave the tabulated information below:

Table 4.1 Challenges faced in land administration

Challenges	% (n=49)
Recording Keeping System	82
Political Interference	50
Mindset of the Public	78
Understaffing	80
Departmental Conflicts	78
Bureaucracy	80
Duplicity of Laws	25
"Missing files"	80
Harassment by the Senior members of staff	20

From the table 4.1 above, 82% of the respondents felt that the manual record keeping system was a challenge towards the daily administration of land. On the other hand, opinion was divided on whether politics was a challenge towards implementation of good administration of land with 50% of the respondents saying that politics was a challenge. Seventy-eight percent of the respondents felt that the mindset of the public towards the department, and the ministry at large, was a challenge since most members of the public had this general perception that the department was corrupt in its dealing. Consequently, members of the public were arrogant and ignorant of the roles of the members of staff challenging the daily administration of land.

On the other hand, 80% of the respondents felt that understaffing in the ministry proved a big challenge while 78% of the respondents said that departmental

conflicts challenged their roles. Bureaucracy in the Ministry of Land's structure was one challenge that 80% of the respondent felt that challenged their effectiveness in delivering good governance in land administration. On the other hand, duplicity of laws was a problem that inhibited the staff at the Ministry of Lands. In this regard, 25% of the respondent felt that duplicity of laws challenged the implementation of good governance in land administration. "Missing files" was a major threat towards implementation of good governance in land administration. As a result, 80% of the respondents felt that files mysteriously got lost in the ministry and hence hindered implementation of good governance in land administration. Finally, 20% of the respondents felt that harassment by their seniors was a challenge while playing their roles. However, it should be noted that all the respondents who cited this challenge were the support staff in the department.

4.1.3.1 Frequency of facing these challenges

After giving out the challenges that the respondent faced in implementing good governance in land administration, the researcher sought to know the frequency at which these challenges were faced and the findings are shown in the figure below:
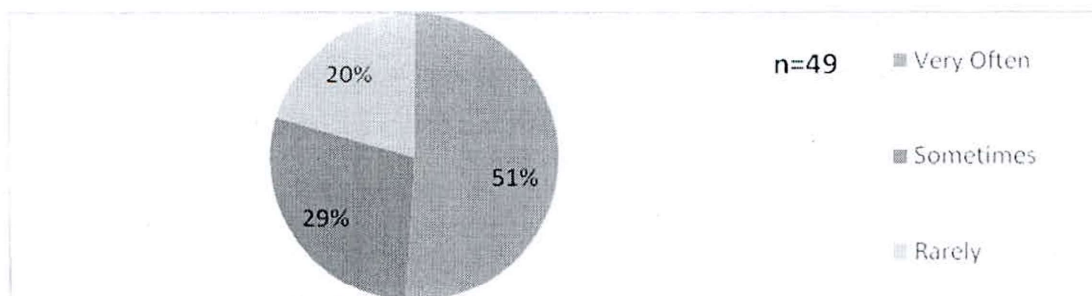
Figure 4.3: Frequency of facing these challenges

From the figure above, 51% of the respondent said that they faced these challenge very often in their daily duties. In this regard, the researcher probed further while conducting the interviews and found out that, very often meant that in every ten

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cases related to land administration, these challenges could be experienced eight times on average. On the other hand, 29% of the respondents were of the opinion that they faced these challenges sometimes, for every five cases related to land administration; they experienced challenges in four such cases on average. Consequently, 21% said they rarely faced challenges and in this regard said that for every ten cases related to land administration, they experienced challenges in two such cases on average.

4.1.4 Factors affecting service delivery in Land Administration

The respondents from the Lands department cited the following factors as those that hindered service delivery to their clients while affecting the implementation of good governance in land administration:

Table 4.2: Factors affecting service delivery in land administration

Factors	% (n=49)
Mindset of the Public	81
Political Interference	50
Rapid Urbanization	42
Understaffing	76
Population Pressure	41
Insecure Office Tenure	63
Incomplete Automation	45
Record Keeping System	81
Fellow Staff Members Attitude	34
Lack of implementing the National Land Policy	39

From the table above, 81% of the respondent blamed the mindset of the public as a factor that affected delivery of services in land administration. On the other hand, 50% of the respondents felt that the interference caused by politics in their work affected service delivery while a further 42% were of the opinion that rapid urbanization also affected delivery of services since the structures in the department did not accommodate this important emerging issues and current trend. In addition to this factor, understaffing affected the delivery of services in the ministry as 76% of the respondents indicated while 41% of the respondents were of the opinion that population pressure consequently affected delivery of services a fact closely explaining the issue surrounding understaffing. In this case, an issue such as population pressure was not envisaged while laying the structures for land administration and thus the constraints it could bring were not factored at all. Insecure tenure was another factor cited by 63% of the respondents in the study.

On the other hand, 81% of the respondents cited the record keeping system as a factor that affected delivery of services while they cited that this occasioned "missing of file," failure to trace some other important files, and other factors. However, the respondent said that there was automation ongoing and effectively 45% cited this-- incomplete automation--as one factor that hindered service delivery. On the other hand, 34% of the respondents felt that the attitude of some of their colleagues in the workplace affected the delivery of services. In this regard, they cited arrogance of the junior staff as the leading factor amongst others. Finally, although the respondents acknowledged the presence of a National Lands Policy, 39% of the respondents felt that its failure to be

.implemented effectively affected the delivery of services and consequently hindered implementation of good governance in land administration.

4.1.4.1 Clients approval ratings of services delivery in Lands Department

Since the officials render services to the clients, it was crucial to find out the clients ratings of the services they received, or were given by the officials. The figure below elucidates their ratings:
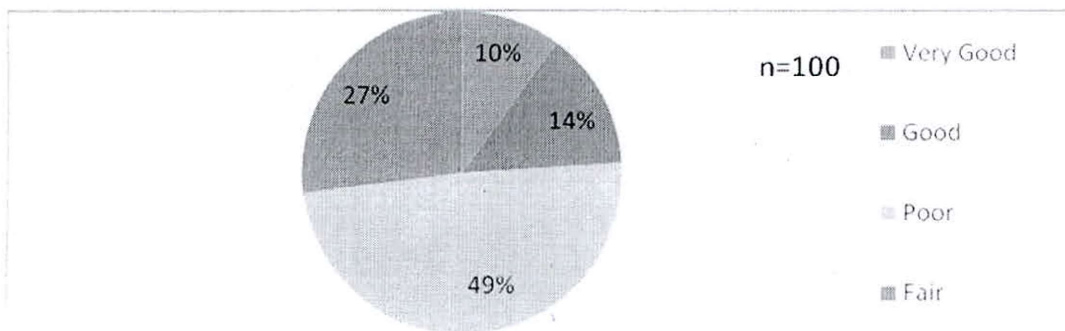
Figure 4.4 Clients approval ratings of the services rendered by the Lands officers

It is evident that clients were not satisfied with the services that the officers offered them. In this regard, 27% of the respondent cited the services as only fair. In this case, the respondents felt that the time the officials took to expedite one case was long enough and thus the services rendered not good enough. In addition, 49% felt that the officials rendered poor services to the clients below their expectations. However, 10% said that the services rendered were very good while only 14% of them felt that the services rendered were only good enough saying that a lot can be accomplished.

4.1.4.2 Duration taken to expedite a land administration case

Following the findings that the services rendered to the clients were not impressive, it was crucial to investigate further the main reason behind the failure, by the clients, to be impressed with the services the ministry officials rendered. In this regard,

the time it took to complete one case was the main reason behind their discontentment

with the length of time varying as shown in the figure below:
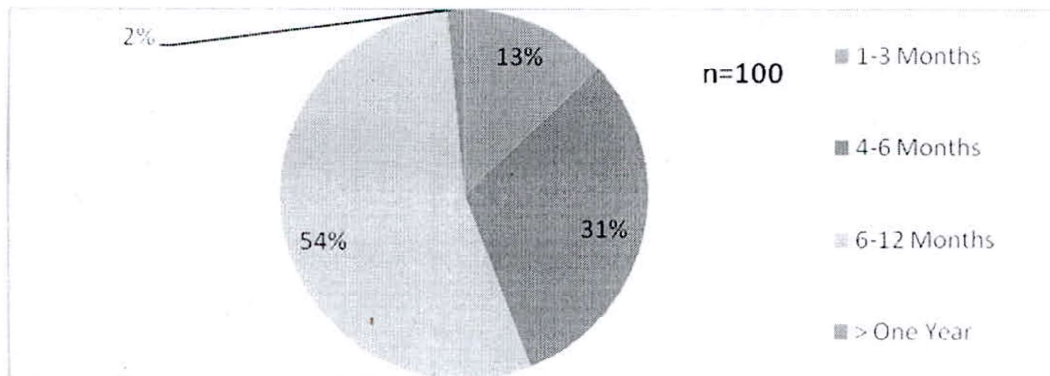
Figure 4.5 Duration taken to expedite a land administration case

From the figure shown above, it is evident that a majority of the cases were completely

expedited within a period of 6-12 months. This is evident from the response of 54% of

the research respondents. On the other hand, 31% of the respondents indicated that their

cases were solved within a period of 4-6 months. Consequently, another 13% of the

respondents indicated that their cases took a period of 1-3 months for them to be

completely solved. Finally, another 2% of the respondents indicated that their cases were

finalized after a period more than a year.

4.1.4.3   Departments clients most complained about

Following the findings above on the duration that took a case to be completely solved, it

is crucial to establish the departments that the clients complained most about and the

results are shown in the figure below. In this case, it is important to point out that the

researcher wanted to find out whether the clients only disapproved of the Lands

Department or they were also discontented with other departments. This would help

establish whether the Lands Department was the only one responsible for the holistic

process of land administration and implementation of good governance. The findings are shown in the figure below:
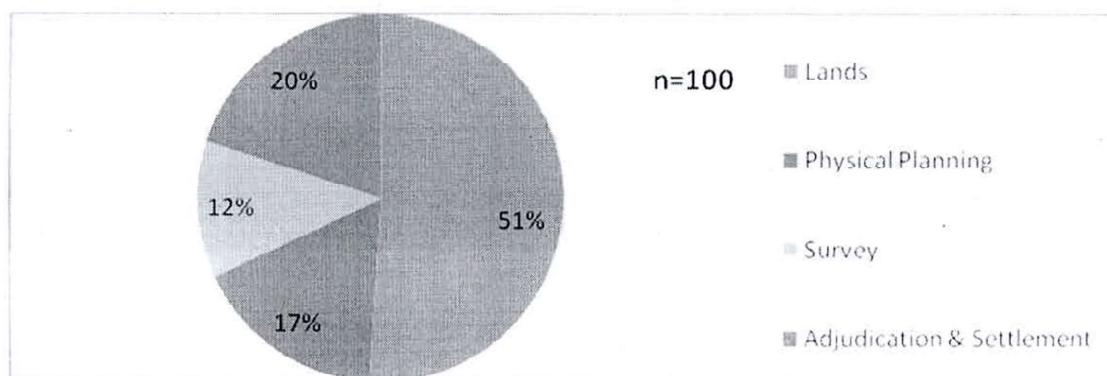
Figure 4.6 Departments and the level of complaints

From the figure above, 51% of the respondents indicated that the Lands department was the one that they had most of their issues relating to complaints. It is essential to note that, this department plays the major role in land administration. As a result, a majority of the clients to the ministry will have to raise complaints about the department since it is the foundation to land administration. On the other hand, 20% of the respondents cited the department of Adjudication and Settlement as another area and department that they had complains. Again, this is another crucial department in the implementation of good governance in land administration. Consequently, 17% had issues and complaints about the department of Physical Planning while 12% complained about the Surveying department in the ministry of lands.

4.1.4.4   Complaints by the clients

After finding out the departments that clients to the ministry of lands complained most about, it is only fair to establish the complaints and their opinions about the problems bedevilling implementation of good governance in land administration. The results are tabulated below:

Table 4.3 Problems and Complaints clients experienced

Problems and Complaints	% (n=100)
Registry closing early and opening late	82
Bureaucracy	75
Missing Files	85
Duration it takes to complete a case	80
Arrogant officers	70

From the table shown above, 82% of the respondents cited the operational hours available for the registry as a problem since it opened late and closed early well before the usual working hours. Indeed as one respondent quipped, "The registry actually operates like a bank, even banks no longer operated as they so wished now. Not like any other government institution. In fact it has no official operating hours and you get thrown out while on the line waiting to be served at 3.30pm." It is crucial to point out that the registry was in the Lands Department in the ministry. On the other hand, a further 75% of the respondents felt that bureaucracy was a problem they experienced in relation to their land cases. To quote one respondent, "A file may take two months to move from one department to the other. In fact, the process is a pain-staking ordeal even slower than the snail-mail." Consequently, another 85% cited the missing of files as another problem they encountered in the registry, and the Lands Department by extension, with one respondents saying that "files disappeared albeit mysteriously." A further 80% said the duration a case took was long before it was completely expedited while 70% of the respondents said that the officers were arrogant while serving the members of public.

This is contrary to one other finding from the officers in the department that their clients were arrogant and misguided.

4.2 Record Keeping System

Any institution that deals with administrating any resource will consider record keeping as one of the most important things and factor in implementing good governance. Thus, record keeping in the Lands Department, and the Ministry of Lands to a far extent, is an essential factor. However, the issue has been debated publicly for time now and thus the researcher sought to know its contributions to implementation of good governance in land administrations, and the findings are explained in this section.

4.2.1 Keeping of records

The researcher posed questions to the respondents from the department regarding the keeping of records in the ministry. One thing that the members agreed upon was that the system of recording was partly manual and partly automated. However, regarding whether monthly records were kept in a systematic way, opinion was divided regarding this issue and the following findings were obtained as shown in the figures below:
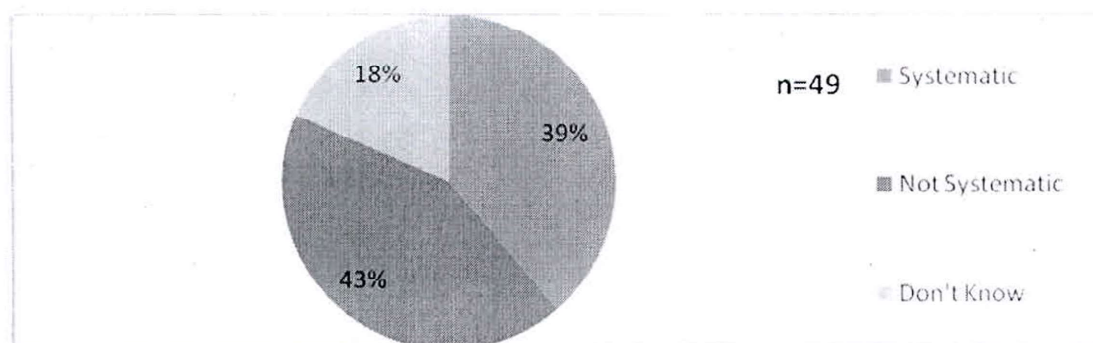
Figure 4.7 Method of keeping records

From the diagram above, it is evident that 43% of the respondents were of the opinion that, although the department maintained records, the way the records were kept and maintained was not systematic at all. On the other hand, 39% felt that the recording was systematic while only 18% did not know whether the recording was systematic or not.

4.2.2   Manual Records Keeping System

Since the system of keeping records was a problem. The researcher sought to know further, what caused this problem with the respondents citing that, although records were part manual and partly automated, the biggest part of the recording was manual. As a result, the following problems arose from this type of record keeping as shown in the figure below:

Table 4.4 Problems associated with manual record keeping

Problem	% (n=49)
Missing Files	85
Challenges in tracking files	71
Misplaced Files	69
Unavailability of relevant Information	59

From the figure shown above, 85% of the respondents cited the principal problem arising from the manual record keeping system as missing of files. It is important to point out that the missing files were one complaint that the clients raised. Consequently, missing files contributed to unavailability of relevant information when clients sought information

from the officials. This is a fact underscored by 59% of the respondents who said that the manual record keeping system brought about this problem. On the other hand, there was a challenge of tracing and tracking the files and other important documents and processes as evidenced by 71% of the respondents. Finally, 69% of the respondents indicated that the manual record keeping system was responsible for misplacing files since they were kept in no particular order.

4.3   Role of Politics

As explained in previous literature, land is a very emotive issue and politics play a central role in stroking the embers of this emotive issue. In this regard, it was crucial to investigate the effects of politics in implementation of good governance in land administration. This section reports the researcher's findings on the role and effects of politics in good governance of land administration.

4.3.1   Rating of roles politics played

The researcher wanted to know whether politics played a good or bad role in good governance of land administration and the results are shown in the figure below:
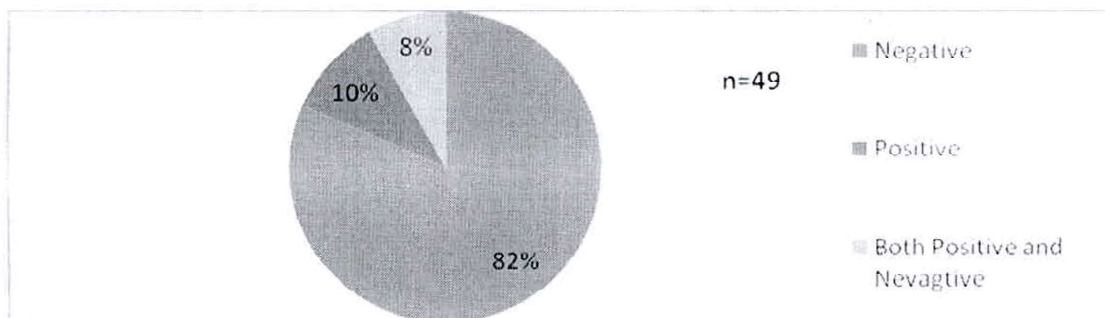
Figure 4.8 Rating of role politic played

From the foregoing, it is important to point out that the role of politics meant the roles that politicians and politics played in land administration. In this regard, 82% of the respondent did not approve the role politics and politicians played in matters related to

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land administration and consequently good governance of land. Thus, this majority felt that the role of politics was a negative one regarding the administration of land. On the other hand, only a paltry 10% approved of these roles saying that politics played a positive role while 8% of the respondents said that the roles influenced governance in land administration in a positive and as well as a negative aspect.

4.3.2 Problems associated with the role played by politics

It was crucial to investigate the problems associated with the roles of politics and politicians in good governance of land administration and the research findings are shown in the table below:

Table 4.5 Problems associated with the role of politics

Problem	% (n=49)
Conflicts arose	90
Weak Legislation and Structures	80
Vested interest	75
Undermining Land Officers	69
Makes the process complicated	78

From the diagram shown above, 90% of the respondents indicated that conflicts arose due to the roles of politics in matters related to land issues and its administration. In addition, these respondents said that these conflicts were usually bad and most were even bloody at the times. Other conflicts resulted to demolitions and loss of investments. In addition, 80% of the respondents noted that there was weak legislation and structures because of the roles of politics in matters related to land administration. In this case, it

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appeared that politics played a central role in legislating and formulating structures related to land administration and good governance.

On the other hand, 75% of the respondent cited vested political interests as a problem that arose due to the role of politics in land administration while 69% of the respondents said that politics in matters related to land administration undermined the roles of land officers. Finally, politics in land administration made the process of governing challenging to the land officers.

4.3.3 Colonial and Post-Colonial relationship

It is crucial to point out that, politics was at the heart of the colonial land administration structures as it still does even today. Based upon this factor, the researcher sought to find out the relationship between the two under the role of politics as explained in this section.

4.3.3.1 Similarities of the two structures

It was important to find out whether comparison could be drawn from the two periods concerning the administration of land in the two set-ups. In effect, the figure below shows the findings obtained:
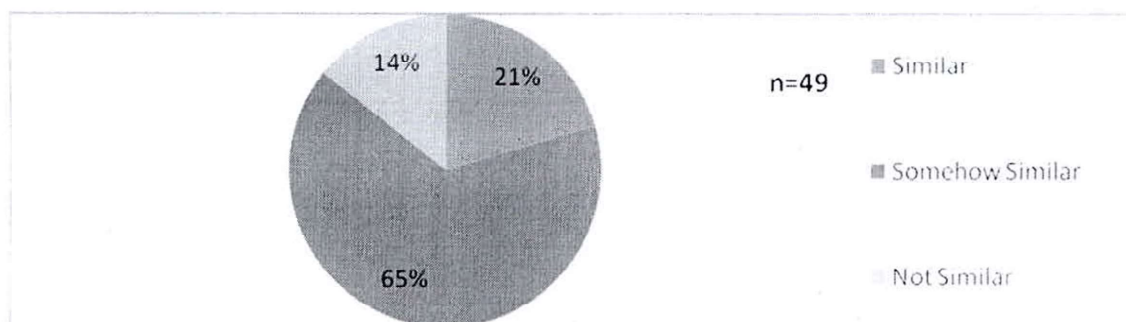
Figure 4.9 Relationship between the colonial and post-colonial land systems

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From the figure shown above, it is evident that the current system of land administration has drawn heavily from the colonial systems based on the response derived from this study. In this regard, 65% of the respondents were of the opinion that the two systems are somehow similar due to the political factors that the colonial government played when giving the country its independence. In addition, a further 21% felt that the two systems are similar to each other while only 14% expressed an opinion that the two structures were not similar in any way. In this regard, the politics of the day did not allow a better system of administrating land that was accessible to all citizens in the country. In addition, this system made the administration of land more bureaucratic and centralized.

4.4   Implementation of Governance Policy

It is crucial to investigate the way the ideal status of affairs should be in order to ensure proper implementation of governance policy in land administration. In this regard, this section reports the findings the research study obtained based on the ideal situations from the members of the society and the officers working with the Ministry of Lands.

4.4.1   Record Keeping System

Since one of the problems that hindered implementation of governance policy as the findings obtained was related to the manual record keeping system, the research findings indicated that automation was important to implementation of governance policy in land administration. However, the issue surrounds whether there should be a full automation that fully eliminated the manual recording in its totality and thus relying solely on it or a system that combined manual record keeping system and automation of

each   file.   The   findings   are   explained   in   the   figure   shown   below:
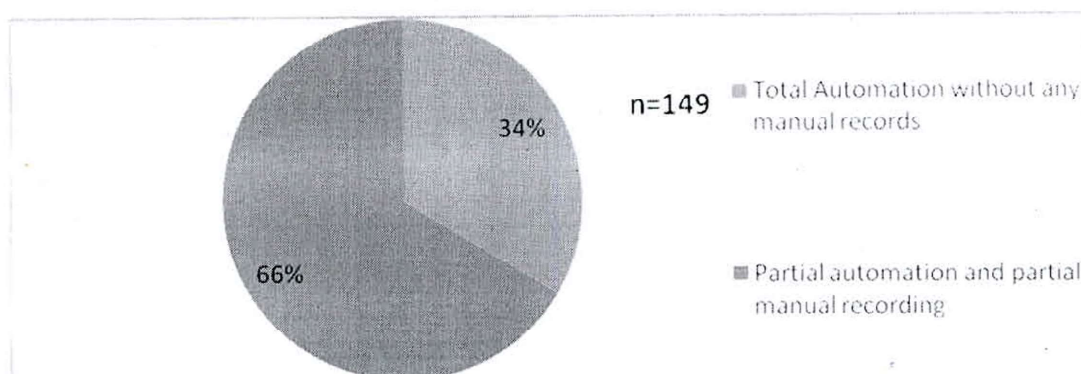
Figure 4.10 Type of automation preferred by the respondents

From the figure shown below, it is evident that most respondents preferred a system that incorporated automation and manual record keeping systems as 66% of the respondents said. In this regard, these respondents felt that it was crucial to have files in their manual records while they were still stored in their digital forms. On the other hand, only 34% of the respondents wanted a system that was total automation without any files stored in their manual form. Such a system would strictly rely on the automated system without any manual back up.

4.4.2   Improving the structure of land administration

It is evident from the research findings that the major problem to implementation of governance policy was related to the structure of administrating matters pertaining land. In this regard, the research study obtained the following findings on ways to improve the structure of land administration. However, before outlining the new mechanisms suggested by the respondents, the respondents from the ministry pointed out that there were three ongoing mechanisms that were being implemented to help effectively govern land administration other these new ones suggested by the respondents. The three measures were automation, establishment of a complaints

committee, and most importantly the implementation of the new constitution's articles related to land. In this regard, the researcher sought to know the effectiveness of these measures as shown in the figure below:
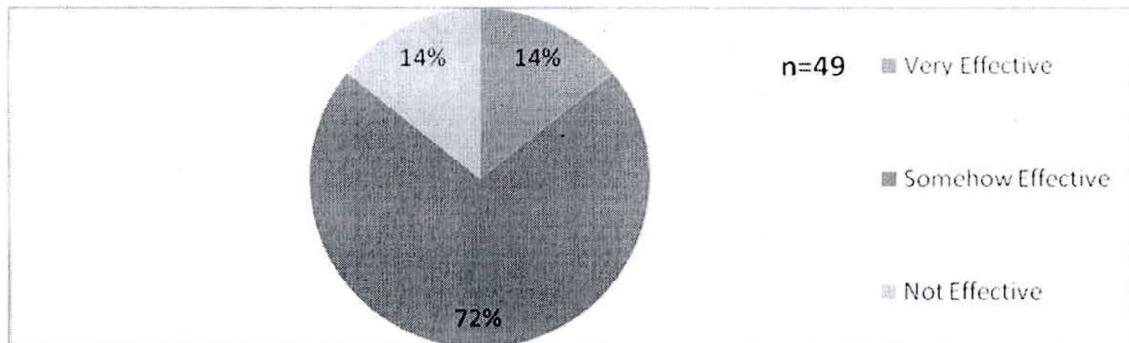
Figure 4.11 Effectiveness of the mechanisms established so far

From the diagram shown above, 72% of the respondents felt that the measures were somehow effective. In effect, this meant that the measures were not enough to ensure implementation of good governance in land administration and that there was a lot more that could be done to ensure good governance policy in land administration. On the other hand, 14% of the respondents pointed out that the measures were very effective while the same number felt that the mechanisms were not effective at all.

In this regard, it was important for the researcher to investigate other mechanisms that will result to implementation of good governance policy of land administration and the findings are shown in the table below:

Table 4.6 Mechanisms of improving the structure of land administration

Mechanism	% (n=149)
Ensure Good Public Relations	80
Complete automation	75
Hire More Staff	74
Harmonize all policies on land	75
Holistic Implementation of the National Land Policy	73
Implement Constitution's Articles related to land	75
Continuous in-training of Staff Members	70
Inter-departmental Meetings to enable operations	67

From the table shown above, it is evident that a majority of the respondent ranked public relations as essential in ensuring good governance policy in the administration of land as the most important and crucial factor to consider before any other as evidenced by 80% of the respondents. In this regard, a good communication structure that ensured the public was aware of the functions and roles of each department would enable proper service delivery in terms of good governance of land. In addition, this was crucial towards improving the perception of the public towards the ministry. On the other hand, complete automation was preferred by 75% of the respondents in the research. In this regard, the respondents wanted a system that would ease the tracking and location of files. However, it was not clear of the type of systems the respondents preferred in terms of eliminating the manual system altogether or working with both manual and digital platforms.

From the findings above, 74% of the respondents considered hiring more staff as essential to implementation of good governance policy of land. In this case, the staff would ease the pace at which files were tracked and cases were expedited. Harmonizing all policies related to land and implementing the policy is one preferable mechanism towards improving good governance in land administration as 75% of the respondents said. On the other hand, 73% of the respondents felt that the holistic implementation of the National Land Policy was crucial towards solving the problem of land administration. Conversely, 75% of the respondents considered implementation of the articles in the constitution related to land as crucial towards ensuring implementation of good governance of land administration.

Continuous in-service training of staff members is crucial to enable implementation of good governance in land administration as 70% of the respondents confirmed. In this regard, there should be continuous training of the staff members on how to administrate on matters related to land and their roles and responsibilities as officials. Finally, 67% percent of the respondents preferred regular inter-departmental meetings to ensure seamless operations.

CHAPTER FIVE:

CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter deals with three sections namely: summary, conclusions, and the recommendations. The summary is a brief outline of the main points of the research study in a concise way. On the other hand, the second section of this chapter gives the conclusions to this study. The conclusions will be derived from the summary of the research study while the final section gives the recommendations of the research study to the different stakeholders in the general area of land administration and specifically on the implementation of governance policy in land administration.

5.2 Summary

Land is an important factor of production and the people's attachment to land over the world has been enormous. Lately, acquirement of land by investors has been due to various factors in comparison to the earlier times in the country. One of the reasons behind investors acquiring land is nothing more than speculation. On the other hand, the government has continually allocated land to private developers without proof of their capability in terms of development.

However, due to the failure of implementation of good governance of land overtime, Kenya has had its fair share of conflicts related to land that has seen the country witness cases with some going to an extent of bloodshed on one extreme, and others related to the loss of investment. However, the latest conflicts revolves around the allocation of land to investors in locations meant for public utilities that have led to

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demolitions of buildings worth millions of shillings. All this is a result of failure to ensure implementation of good governance policy in land administration.

While experts and the society agree that the current land administration is skewed, most agree that the system in itself can help alleviate some of the problems and conflicts experienced in the country lately if some of the measures are fully implemented. However, most people, agree that the solutions lies within the context of implementation of mechanisms related to land administration. One such mechanism is related to the record keeping system in the Lands department.While automation is ongoing in the department and the ministry at large, a lot remains to be done in terms of completing the automation to complement the manual records keeping system.

Since the main problems and conflicts related to land administration were related to implementation of governance policy of land administration, it was crucial to investigate the factors that hindered implementation of governance policy in land administration. As such, the objectives for the study were a determination of the structure of land administration towards implementation of governance policy in land administration in the country. The second objective was to find out the effects of politics towards implementation of governance policy in land administration. The last objective was to determine the effect of the records keeping system on implementation of governance policy in land administration.

In order to achieve these objectives, it was important for the to concentrate on the people charged with the administration of land. In this case, the research drew its findings from the officers working at the Ministry of Lands and specifically those working in the Lands Department. In addition, landowners formed the clientele at the

ministry on whom the ministry officials administrated land on behalf. In effect, they are an important part with their opinions important to generate the conclusions and recommendations of the study. Therefore, data was collected from these respondents by use of questionnaires with some respondents filling it out for themselves while some respondents were taken through the questionnaire with the guidance of the researcher in order to derive more information for the research.

Politics as the findings evidenced played a central role towards implementation of good governance of land administration. From the pre-colonial period to the post-colonial period, politics have played a central role with the structures of land administration being centralized to enhance the politicians' held a grip on matters pertaining land administration. This is evident by the fact that a political appointee, the minister in charge, heads the ministry. In effect, most of the decisions made are of a political nature without the principal interest towards the implementation of good governance policy in land administration. In addition, the bureaucratic structure is a result of poor policies guided by politics in order to ensure that the system was only favourable to a few individuals to manipulate for their own benefit. In view of this fact, most of the respondents in the research study were of the opinion that a number of measures will help curb the issue and effects of politics in matters related to implementation of governance policy in land administration. Such measures included the implementation of the National Land Policy and the harmonization of all the policies related to the land sector in the country. Finally, the respondents were of the opinion that the implementation of the constitution will help solve many of the issues inhibiting the implementation of governance policy in land administration.

The world has been moving at a faster rate towards becoming a global village. In this case, the era at which record keeping was manually done is being replaced with an era that considered automation as the best way of keeping records. However, the pace at which the ministry is carrying out the automation is a slow one. In effect, the structures of land administration still rely mainly on manual record keeping in conducting most of its record keeping system and thus records went "missing" and "misplaced." In addition, the research findings indicate that the record keeping was not systematic judging from the expressions of a majority of the respondents. Hence, a complete automation will ensure a more systematic approach towards record keeping in matters related to land administration. In view of this fact however, it is important to maintain the manual record keeping system since automation works well in circumstances where there is a manual system of record keeping.

5.3   Conclusions

Different authorities mandated different officers in the department to carry out their work. As a result, some had an insecure tenure and hindered their effectiveness at work. On the other hand, the current system of land administration has borrowed heavily from the colonial structures in terms of bureaucracy and centralization of land administration services. In this case, the current structure is similar to the colonial structure in some aspects in effect making the current structure affect implementation of governance policy in land administration. The bureaucracy in land administration caused conflicts amongst the department in the ministry when dealing with clients' cases related to land administration that cut across all the departments. In this case, the bureaucracy in the ministry obstructed services delivery by insistence on unnecessary procedures and red

tape and consequently slowed down services and implementation of governance policy in land administration.

Politics play a central role in administration of land. In view of this fact, the role of politics mainly inhibits the implementation of governance policy in land administration. As a result of the politics, the National Land Policy was launched with much pomp and in a colourful ceremony but nothing has been done yet to ensure that each stakeholder played their role and implemented their parts as stipulated by the policy. On the other hand, two factors that the researcher never envisaged could affect implementation of good governance in land administration are related to rapid urbanization and population pressure. In this case, these two factors are emerging issues in land administration since the current land administration structure is ill equipped to handle population pressure and rapid urbanization. This is a result of politics playing a great role towards the maintenance of the structures of land administration similar to those in the colonial period since politicians are charged with the formulation of policies aimed at changing the structure.

It is clear that, complete automation is of the essence to act as a complement for manual record keeping system and consequently for the implementation of good governance in land administration. Thus, this makes the public's perception about the Ministry of Lands, more so the Lands department is not a positive one and considers it as one that is riddled with corruption and other malpractices. In effect, clients rated the services they received from the officials at the lands department as unsatisfactory. The Lands department in the ministry was the department that clients rated poorly in terms of serving them with the registry cited as the biggest factor towards their dissatisfaction with

the department. Indeed as one respondent noted, "The registry actually operates like a bank, even banks no longer operated as they so wished now. Not like any other government institution. In fact it has no official operating hours and you get thrown out while on the line waiting to be served at 3.30pm." For all these reasons, the current demolitions and other conflicts related to land are a result of failure to implement good governance in land administration.

5.4   Recommendations

The ministry should ensure that the tenure of all officers was secure to ensure that they effectively carried out their duties and roles efficiently. Decentralization of services is crucial as a way forward in the elimination of the bureaucratic processes that hindered implementation of good governance in land administration. To achieve decentralization, the current constitution presents the government with a good opportunity to ensure that the services offered in Nairobi were decentralized to ensure effectiveness and thus good governance in land administration. The government through the ministry should ensure regular in-service training of the ministry officials to equip them with measures meant to deal with emerging issues such as rapid urbanization and population pressure that hindered the implementation of good governance in land administration. The ministry should ensure that the current system of land administration is not akin to the colonial land administration system that encouraged bureaucracy. In this regard, land administration services should be made easily accessible to all members of the society while eliminating the long process of attaining these services. All stakeholders should ensure that there were collaborative efforts to enhance proper implementation of good governance in land administration. These stakeholders are landowners, advocacy groups,

and the Ministry of Lands. In this regard, such measures included educating the clients on the mandate of the land officers as guided by law.

The new constitution should be followed to the letter and spirit concerning the articles related to leadership and integrity. In this case, the role of politics in land administration will be curtailed since the head of the ministry will not be a politician but a qualified technocrat who will have no vested political interests in matters related to land. However, before these articles are implemented, the ministry officials should ensure that all clients are served equally and fairly regardless of their position in the society. This is one of the public service ethics that is not clearly followed by the officers in their work. The National Land Policy was meant to ensure implementation of good governance of land administration. However, two years after its vibrant launching, a lot remains accomplished and its objectives are not yet attained. In this case, the ministry and other land stakeholders should ensure that each played their role towards implementing the National Land Policy and thus eliminating the role of politicians and politics in land administration.

Automation of the record keeping system should be completed expeditiously to ensure that there were no "missing" and "misplaced" records. In addition, the manual record keeping system should also be maintained and regularly updated to act as a complement to the automated system of record keeping. The ministry should encourage regular inter-departmental meetings to ensure seamless operations and elimination of bureaucratic practices and any other conflicts arising. The ministry should ensure the employment of more qualified members of staff to help solve the problems associated

with the shortage of staff members, a factor that affected the implementation of good governance in land administration.

5.5 Future Research

Future researchers should research on the challenges posed by emerging issues, such as rapid urbanization and population pressure, to good governance in land administration. It is evident that the officials in the Ministry of Lands are not adequately equipped to deal with matters resulting from rapid urbanization and population pressures. Thus, the extent they played towards good governance should be clearly investigated.

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APPENDIX 1: QUESTIONNAIRE TO MINISTRY OF LANDS STAFF

This questionnaire is to assist me in collecting data that will be used strictly for academic purposes and will be treated as confidential.

SECTION 1: RESPONDENT'S INFORMATION

1. Department_____

2. Number of years served in this department_____

3. Designation_____

4. How long have served in that position?

5. What are your day-to-day responsibilities?

SECTION 2: MATTERS PERTAINING TO LAND ADMINISTRATION

1. From where do you derive your mandate?

    a. Acts of parliament

    b. Instructions from Head of Department

    c. Any other (specify)

2. Do you keep a record of the cases received monthly by in your department?

3. On average how long does it take you to respond to an enquiry/mail by a member of public?

4. How are records in your department managed?

    a. manually

    b. automated

    c. partly manual and partly automated

    d. other (specify)

5. In your opinion, what factors affect service delivery in land administration?

....

....

6. What challenges do you encounter in your daily work on matters related to land administration?

....

....

7. How often would you say you face these challenges?

    1. Very often

    2. Sometimes

    3. Rarely

    4. Never

    5. Do not know.

8. What mechanisms are put in place to address these challenges?

....

....

....

9. In your opinion, how effective are these mechanisms?

    1. Very effective

    2. Effective

    3. Not effective

    4. Do not know.

8. What other mechanisms would you suggest be put in place to address these challenges?

10. In your opinion, what is the effect of politics on land administration and management?

....

....

....

11. Make a brief comment on the current land administration structure relating it to the colonial era land system.

....

....

....

....

....

THANK YOU FOR YOUR TIME

APPENDIX 2: QUESTIONNAIRE TO CLIENTS IN THE MINISTRY OF LANDS

This questionnaire is to assist me in collecting data that will be used strictly for academic

purposes and will be treated as confidential

1. How often do you seek for services from the ministry of lands?

....

....

2. Which department do you normally visit?

....

3. What main services do you seek?

....

....

4. On average, how long does it take your case to be resolved? ....

5. How many times have you come to the ministry of lands in relation to this particular

case? ....

6. What complaint(s) do you have against the Ministry of Lands?

....

....

....

7. Which department(s) is/are your complaint(s) directed? ....

8. How would you rate the reception you receive at the ministry of lands?

    (i) Very good

    (ii) Good

    (iii) Fair

9. How would you rate the quality of services you receive at the ministry of lands?

(i) Very good

(ii) Good

(iii) Fair

(iv) Poor

10. What are the main problems that you encounter while seeking services at the ministry of lands?

....

....

....

11. What suggestions would you give for improving service delivery at the ministry of lands?

....

....

....

....

THANK YOU FOR YOUR TIME