

LAUNCHING THE KENYAN NATIONAL LAND POLICY

VENUE: AFRAHA STADIUM, NAKURU, KENYA

DATE: 26TH JUNE 2009

Executive Summary

The Land Sector Non-State Actors (NSA) steered the launch of the National Land Policy at the Afraha Stadium, Nakuru, Kenya on June 26, 2009.

CLEAR, forming part of the Land Sector NSA, which comprises groups committed to supporting the national initiative towards the achievement of the National Land Policy, the blueprint to Kenya's eagerly awaited land reforms, recognises the importance of working together on the ongoing reforms as an opportunity to ensure sustainable and long-term redress of inequalities witnessed in the land sector.

The Agenda Number 4 of Kenya's National Dialogue and reconciliation Process talks clearly articulated the need for comprehensive land reforms on three fronts:-

1. Anchoring the Land Principles in the Constitutional process;
2. Finalisation, adoption and implementation of the National Land Policy;
3. Redressing historical injustices – that continue to aggrieve communities – in order to foster national harmony through the Truth, Justice and Reconciliation process;

The announcement of the launch came prior its passing by the Cabinet, and was deemed to say the least, a controversial step, although very necessary in light of country's development. However, perhaps in light of this pressure, the Policy was passed the morning of June 26, 2009 prior to the set launch. With backing from the country's leaders, it appeared to provide the suitable climate for the launch especially with the sensitivity of the issue at hand in relation to the Post Election Violence after the 2007 general elections.

The Land Sector NSA selected June 26, 2009, the International Torture Day commemorated as a day of reflection on situations of torture and ill-treatment worldwide, as the ideal day to launch the National Land Policy that will help end torture and ill-treatment in Kenya by addressing land issues as a root cause of torture in Kenya.

BACKGROUND TO THE NATIONAL LAND POLICY

The official process of the formulation of the Land Policy begun almost six years ago conducted by the Kenya Land Alliance (KLA). Operationally KLA is a not-for-profit and non-partisan umbrella network of Civil Society Organisations and Individuals committed to effective advocacy for the reform of policies and laws governing land in Kenya. KLA was founded in 1999 and registered as a Trust in 2001. The initiative to create an institutional framework for land laws and policy advocacy in Kenya was necessitated by the realisation that the policy, legal and institutional framework created in 1950's had become inadequate due to many changes in the social, political, economic and cultural fronts that had occurred in the country over the years.

The increased population has resulted in intense competition for access to land and natural resources. In addition, changes in the global environment brought about by globalisation have combined to create a reality that is significantly different from the one existing when the current framework was created in the 1950s. It is on this premise that KLA has been in the forefront in efforts towards effective advocacy for land laws and policy reforms in Kenya, as recently witnessed in the Presidential Commission of Inquiry into the Land Law System of Kenya and the Constitution of Kenya Review Commission. This ultimately and symbolically drives their collective advocacy for the formulation and implementation of a National Land Policy and review of land laws.

Given the intrinsic nature of Land in Kenya in all sectors and at all levels, various actors who collectively fall under a broader umbrella of what is now termed Land Sector NSAs have joined KLA.

THE LAUNCH

CLEAR was represented at the launch in Nakuru playing an observatory role. Nakuru was chosen as the venue for the launch because the headquarters of the Land Sector NSA is situated there. Notably, Nakuru was among the locations where the worst atrocities occurred during the Post Election Violence after the 2007 general elections.

The ambience at the Stadium was orderly and calm, with curious citizens strolling in and just but a handful of police officers in the vicinity. Unfortunately, the launch by the Land Sector NSA was not attended in the thousands as the local media speculated in retrospect may have been due to the Cabinet's passing of the policy that same morning.

Regardless of the numbers, the launch was representative from, the physically challenged, Ministers, MPs, CSOs, NGO's, the media and most importantly citizens of all ages and various tribes. Speeches were delivered by the different speakers of the day on the importance of the Land Policy as a way forward for Kenya's development.

Some of the issues highlighted upon briefly include:

- If passed the laws would give spouses equal right to land, with their sons and daughters.
- Persons with leasehold interests in land would enjoy ownership for 99 years, 900 years less than in some cases now.
- Foreigners would also face tough restrictions before acquiring land, unless they secure presidential exemption.
- The policy defines mechanisms for resolving historical injustices that led to uneven distribution of land, and tackles the issue of irregularly and fraudulently acquired land. If

made law, absolute ownership of land found to have been fraudulently acquired would be reversed.

- It will also address the Land Information System (LIS) from where fraudsters have robbed Kenyans of their property, by printing fake title deeds, which they introduce in Government registry with the help of corrupt officers at the Ministry of Lands
- For the landless, at least, there is hope as vetting mechanism to determine genuine landless for resettlement would be in the works. This comes at a time the Government is struggling to resettle those displaced in the post-election disturbances.
- Women would also be represented in land administration institutions. Three institutions are suggested for land management: The National Lands Commission, The District Lands Board, and Community Land Boards. District Land Disputes Tribunals would be strengthened for dispute resolution. But as it was cleared, many lauded the bold move but experts challenged the Government to show how it would raise about Sh6 billion required to implement the policy.
- The policy seeks to address land ownership, which has caused clashes among communities.
- It also provides guidelines to the relevant sectoral policies, programmes that deal with, and affect land rights.
- The policy provides a platform for addressing issues such as access to land; land use and planning, environmental degradation, land conflicts and injustices, among others.

CONCLUSIONS

The launch was peacefully concluded by lunchtime. The crowds dispersed with the final resolution that the Land Policy should be passed in its entirety by Parliament. Therefore, following the approval by the Cabinet, a Sessional Paper will now be drawn for presentation before Parliament.

With CLEAR having been instrumental in the formulation of the Land Policy since its inception by advocating and drawing of provisions that secure equality and equity among the genders, the organisation is adamant to see it to its conclusion so that the much needed implementation can commence.