



**NATIONAL LAND COMMISSION**

COMMISSION

# Annual Report

*Our Land, Our Wealth, Our Heritage*

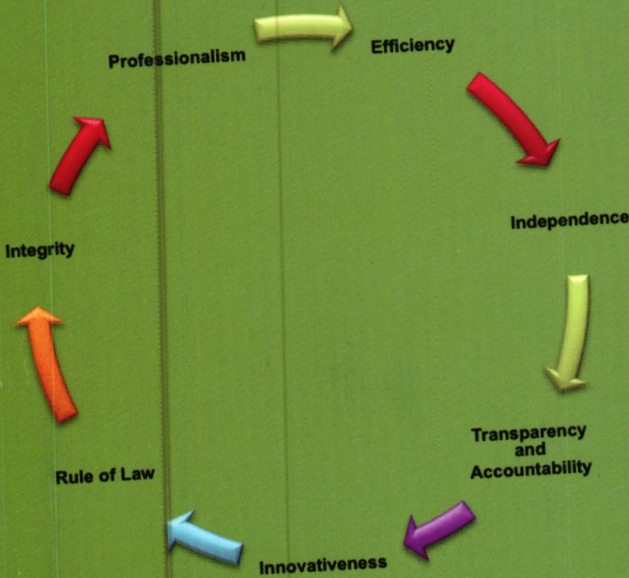
2014 - 2015

The Commission's Logo is derived from the main tenets of the Constitution of Kenya Article 67 (2), NLC Act, Land Act and Land Registration Act. The Land Laws predominantly focus on the administration of Land, its use and preservation of natural resources. The map of Kenya, colored in brown symbolizes the earth. Lakes Turkana, Victoria & the Coastal water strip showcase the natural resources element representing water bodies



in the country. The hand holding out a growing plant brings out another element of natural resources and most importantly Land as the fundamental factor of production that must be nurtured and protected. This is further amplified by the motto *Our Land, Our Wealth, Our Heritage* which emphasizes the centrality of land to the lives of the people of Kenya and land being the source of our wealth and our heritage.

### CORE VALUES



### VISION

**Excellent administration and management of land for sustainable development**

### MISSION

**To implement an efficient land administration and management system in order to ensure equity in access to land**

### MOTTO

**"Our Land, Our Wealth, Our Heritage"**

**"Ardhi Yetu, Mali Yetu, Urithi Wetu"**



**NATIONAL LAND COMMISSION**

# Annual Report

*Our Land, Our Wealth, Our Heritage*

2014 - 2015

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## Statement from the Chairperson

Once again it is my pleasure to present the Commission's Annual Report for the year 2014/2015. The Commission made tremendous strides in implementing key land governance mandates bestowed on it by the Constitution, the National Land Policy and the various land statutes. For a long time, Kenyans yearned for a solution to the myriad of historical land injustices that have been with them from time immemorial.

During the period under review, the Commission in collaboration with key stakeholders drafted the *investigation and adjudication of historical land injustice bill 2015* as contemplated in article 67(2)(e) of the Constitution. It is our expectation that

the bill once enacted will provide the much needed legal framework for addressing historical land injustices. We have also conducted successful review of grants and dispositions of public land that culminated in restoration of land to public institutions.

A case in point is the Lang'ata Road Primary School playground. The Commission has also put in place an elaborate mechanism for processing applications for titles to all public schools in the country.

To support devolution of land governance, the Commission in consultation with County Governments established offices in all Counties throughout the country. County Land Management Boards



(CLMBs) which are the devolved units of the Commission, were operationalized in forty of these Counties to perform some of the Commission's functions in those Counties. The remaining CLMBs are expected to be operationalized in the next reporting period.

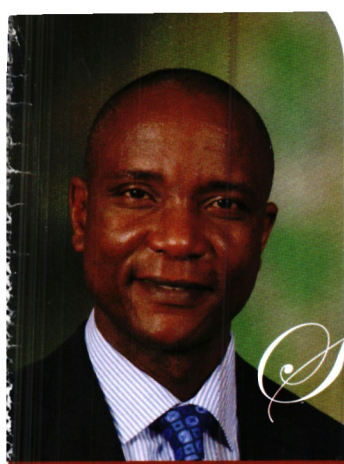
In support of the vision 2030 flagship projects and key government objectives in infrastructural development, the Commission acquired land for the Lamu Port Southern Sudan - Ethiopia Transport Corridor (LAPSSET), the Standard Gauge Railway (SGR) and various other acquisitions for expansion of roads and electricity connectivity across the country.

Since inception, the commission has enjoyed a lot of support from stakeholders.

However, there have been deliberate attempts by some key partners to misread the mandate of the Commission. On this, we took a bold step to have it holistically addressed by the Supreme Court. Going forward, we intend to work closely with relevant stakeholders to migrate land administration and management to a digital platform which will be made possible through implementation of the National Land Information Management System. We remain fully committed to the aspirations of the people of Kenya in promoting and spearheading land reforms.

A handwritten signature in black ink, appearing to read 'Muhammad A. Swazuri'.

**Prof. MUHAMMAD A. SWAZURI, PHD, OGW  
CHAIR, NATIONAL LAND COMMISSION  
ASSOCIATE PROFESSOR OF LAND  
ECONOMICS**



## *Statement from the Secretary*

To achieve its broad mandate, the Commission has put in place a robust, highly skilled and experienced secretariat that has provided the much needed leadership in managing public land on behalf of the National and County Governments. In this regard, our services have been cascaded to the Counties. The delegation of these important functions to the Counties has gone a long way in taking services closer to the people as well as strengthening community and local level participation in land management. The committed NLC teams at the Counties have the responsibility

of processing approval of plans, renewal and extension of leases among other functions.

The Commission has made notable progress in setting up the necessary infrastructure for digitization of land records. A data center with the capacity to store land records and other information has been commissioned at our ACK Garden Annex offices. The data center together with the National Land Information Management System that is now ready for commissioning are expected to radically change land administration and management in the country which is one of our core mandates.







The Commission in collaboration with key stakeholders conducted research on various thematic areas with a view of strengthening the Commission's grasp over pertinent land matters. Findings have been shared with stakeholders in various forums.

The commission has continued to operate with inadequate funding from the exchequer. The inadequate funding to the has affected our expansion both at the headquarters and in the Counties. It is our expectation that the Commission's budget will be enhanced to reflect the broad mandate as outlined in the constitution.

I wish to thank all our partners for the support they have given us during this formative stage, Commissioners and Staff for their focused commitment and dedication to duty and the people of Kenya for trusting us with this important role.

**CHAVANGI AZIZ TOM**  
**CHIEF EXECUTIVE OFFICER**  
**NATIONAL LAND COMMISSION**

# Executive Summary

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To date, the Commission has continued to execute its mandate with commitment and determination. During the first year of its existence, most efforts were geared towards laying down a foundation for future operations. In the second year, the year under review, the Commission focused on recruiting appropriate personnel to execute its operations both at the National and the County level and focusing on its mandate. The Commission has since made tremendous achievements towards the delivery of services to Kenyans since its inception.

During the reporting period, July 2014 to June 2015, the Commission recorded a number of achievements as enumerated in this report. This covers the activities undertaken, the achievements and the challenges experienced. The report also highlights the proposed way forward towards realization of the mandate of the

Commission. The Commission is pleased to report that two significant land bills, namely Historical Land Injustices Bill and the Land Use Planning Bill, were formulated and forwarded to Parliament for enactment. In addition, the Commission developed a number of rules, guidelines and regulations which are vital for the day to day execution of its mandate.

The Commission supported the implementation of the Vision 2030 flagship projects through acquisition of land for major projects namely SGR, LAPSSSET, and Power Transmission Lines projects among others. It also recorded significant progress in the area of land disputes and conflict resolution. This was achieved through investigations, review of grants and dispositions, application of Alternative Dispute Resolution/Traditional Dispute Resolution (ADRs/TDRs) and assisting other government agencies in resolving land disputes. Key land administration and management activities carried out during the period include verification of 711 letters of allotment, declaration of 7 adjudication





sections in Kilifi, Marsabit and Kitui and establishment of Mkokoni settlement scheme in Lamu. The Commission also started a process for developing a policy on conversion of all long term leases from 999 years to 99 years and agricultural holdings owned by foreigners as required by the Constitution.

The National Land Information Management System (NLIMS) directorate has spearheaded the development of standards and guidelines for land information management systems. To achieve the devolution of the functions of the Commission especially on land administration functions, the CLMB offices were successfully established in 47 counties, 40 of which have been inaugurated. The Commission did this in conjunction with the National and County Governments.

The Commission adopted participatory approaches and other modalities while dealing with stakeholders and Government

entities in order to effectively carry out its mandate. These modalities include: stakeholder engagement, advisory opinions, comparative analysis and incorporation of international best practices among others.

During the reporting period, the Commission faced a myriad of challenges. These include constraints on its human resource capacity, challenges associated with the transition process, inadequate financial resources, gaps in legislation and policy, inadequate access to land records and inaccuracy of information received by the Commission for decision making.

Going forward, the Commission seeks to create a good rapport with key stakeholders to ensure that it fully fulfills its mandate. It will further develop rules and guidelines to synergize land administration and registration to enhance information flow for prompt decision making. It will also encourage the entrenchment of the role of ADR/TDRs mechanism in resolution of land disputes.

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## LIST OF ACRONYMS

<b>ADRs</b>	Alternative Dispute Resolution	<b>KPA</b>	Kenya Ports Authority
<b>AG</b>	Attorney General	<b>Kshs</b>	Kenya Shillings
<b>CECM</b>	County Executive Committee Members	<b>KURA</b>	Kenya Urban Roads Authority
<b>CEO</b>	Chief Executive Officer	<b>L.R. No</b>	Land Registration Number
<b>CIC</b>	Commission for the Implementation of the Constitution	<b>LAPSSET</b>	Lamu Port Southern Sudan-Ethiopia Transport Corridor
<b>CID</b>	Criminal Investigation Department	<b>LDGI</b>	Land Development and Governance Institute
<b>CLMBs</b>	County Land Management Boards	<b>MOLHUD</b>	Ministry of Land, Housing and Urban Development
<b>CRM</b>	Customer Relationship Management	<b>NLC</b>	National Land Commission
<b>EACC</b>	Ethics and Anti-Corruption Commission	<b>NLIMS</b>	National Land Information Management System
<b>ERP</b>	Enterprise Resource Planning	<b>REDD+</b>	Reducing Emissions from Deforestation and Forest Degradation
<b>FAO</b>	Food and Agriculture Organization of the United Nations	<b>SGR</b>	Standard Gauge Railway
<b>GIS</b>	Geographical Information System	<b>SIDA</b>	Swedish International Development Cooperation Agency
<b>GPS</b>	Global Positioning System	<b>TDRs</b>	Traditional Dispute Resolution
<b>ICT</b>	Information, Communication and Technology	<b>USAID</b>	United States Agency for International Development
<b>IEC</b>	Information, Education, Communication	<b>WB</b>	World Bank
<b>KeNHA</b>	Kenya National Highways Authority	<b>MDA'S</b>	Ministries Departments Agencies'
<b>KeRRA</b>	Kenya Rural Roads Authority		
<b>KETRACO</b>	Kenya Electricity Transmission Co. Ltd		

# Chapter One

## INTRODUCTION

### BACKGROUND

The Constitution of Kenya envisages far reaching legal and institutional reforms and lays broad principles for management of land and environment. Kenya is in the midst of land reforms that have far-reaching implications for securing land rights and realization of Vision 2030. This seeks to promote political stability and economic development in the country.

To this end, the Constitution has given prominence to land matters as stated in Chapter 5 and the subsequent establishment of the National Land Commission under Article 67. The Commission is thus operationalized through Acts of Parliament that give effect to Article 67 of the Constitution namely: the National Land Commission Act, 2012; the Land Act,

2012 and the Land Registration Act, 2012 to carry out its mandate as outlined both in the Constitution and in the aforementioned legislations.

This is the third year into the establishment of the National Land Commission and the second year of its reporting. Since establishment in 2013, The NLC has grown in leaps and bounds as it undertakes its main agenda of land reforms. During the first year of reporting, The Commission developed a five-year National Strategic Plan to guide implementation of its mandate as enshrined in the Constitution and the National Land Policy.

#### ITS FIVE STRATEGIC FOCUS AREAS ARE:

- 1 Public land administration and management*
- 2 National Land Information Management System*
- 3 Resolution of land-related disputes.*



4 Devolution of land management (to run land administrative and management functions at the county level)

5 Natural Resource Management

## THE MANDATE AND FUNCTIONS OF THE COMMISSION

The Mandate of the National Land Commission (NLC) is drawn from the National Land Policy of 2009, Constitution of Kenya 2010, National Land Commission Act 2012, the Land Act 2012 and the Land Registration Act of 2012. Pursuant to Article 67(2) of the Constitution, the functions of the Commission are:-

- a) to manage public land on behalf of the national and county governments;
- b) to recommend a national land policy to the national government;
- c) to advise the national government on a comprehensive programme for the registration of title inland throughout Kenya;
- d) to conduct research related to land and the use of natural resources, and make such recommendations to appropriate authorities;
- e) to initiate investigations, on its own

initiative, or on a complaint, into present or historical land injustices, and recommend appropriate redress;

- f) to encourage the application of traditional dispute resolution mechanisms in land conflicts;
- g) to assess tax on land and premiums on immovable property in any area designated by law; and
- h) to monitor and have oversight responsibilities over land use planning throughout the country.

In addition to the above constitutional mandate, the Commission has other legislative functions pursuant to Article 67(3) of the Constitution as hereunder grouped under various themes.

## REGISTRATION OF LAND RIGHTS AND TRANSACTIONS

- a) Constitute registration units in consultation with national and county governments;
- b) Alienate public land, on behalf of, and with the consent of the National and County governments
- c) Monitor the registration of all rights and interests in land
- d) Ensure that all unregistered land is

registered within ten years from the commencement of the Act.

- e) Allocation and administration of rights
- f) Registering of all unregistered land
- g) Regularization of land rights

## ADMINISTRATION AND MANAGEMENT OF LAND

- a) Manage and administer all unregistered trust land and unregistered community land on behalf of the county government*
- b) Set aside land for investment purposes in accordance with Section 12(3) of the Land Act.*
- c) Ensure that the investments in land benefits local communities and their economies;*
- d) Approval for compulsory acquisitions, way-leaves, easements and analogous rights*

## FORMULATION OF RULES AND REGULATIONS

- a) Make regulations prescribing and criteria for allocation of public land, such regulations to prescribe forms of ownership and access to land under all tenure systems.
- b) The procedure and manner of setting aside land for investment should respect

mechanisms of benefit sharing with local communities

- c) Advise the Cabinet Secretary in making regulations, rules or prescribing any matters required under this Act and such regulations or rules shall be tabled before Parliament.
- d) Prescribe (through regulations) guidelines that the registrar shall follow.

## LAND INFORMATION MANAGEMENT

- a) Develop and maintain an effective land information management system at National and county levels*
- b) Determine the form of land register that shall be maintained, in each registration unit*
- c) Appoint a date for geo-referencing plans to be kept in a land registry;*
- d) The Commission shall be a depository of maps. The office or authority responsible for the survey of land shall submit to the Commission a copy of the cadastral maps for depositing*
- e) Undertake an inventory of all land based natural resources upon coming into force of the Land Act as stipulated in Section 15(3) of the Land Act.*
- f) Undertake Research and advocacy





## CREATION AND EXECUTION OF SETTLEMENT PROGRAMS

- a) Implement Settlement Programmes on behalf of national and county governments as outlined in section 134 of the Land Act.
- b) Administers the Land Settlement Fund in accordance with Section 135 of Land Act
- c) Reserve public land for the establishment of approved settlement Programmes, and where public land is not available, purchase private land subject to the Public Procurement and Disposal Act, 2005 or any other law as provided for in section 134 (5) of the Land Act.

## LAND DISPUTE/CONFLICT RESOLUTION

- a) *Develop and encourage Application of Traditional Dispute Resolution / Alternative Dispute Resolution mechanisms in handling and management of land disputes*
- b) *Within five years of the commencement of the NLC Act, the Commission, on its own motion or upon complaint by the national or county government, a community or an individual review or grant disposition of*

*public land to establish their property or legality.*

- c) *Investigating Present and Historical Land Injustices*

## SUSTAINABLE MANAGEMENT AND USE OF LAND

- a) Ensure that public land and land under the management of designated state agencies are sustainably managed for their intended purpose and for future generations
- b) Identify ecologically sensitive areas that are within public land, demarcate them and take any other justified action on those areas and act to prevent environmental degradation and climate change in accordance with the Land Act.
- c) Issues of development control and enforcement
- d) Planning issues.
- e) National resource use

## INSTITUTIONAL DEVELOPMENT AND MANAGEMENT

- a) *The Commission shall in consultation and cooperation with the national and county governments, establish County Land*

*Management Boards for the purposes of managing public land.*

- b) Manage the Land Compensation Fund*
- c) Resource mobilization – revenue collection etc.*
- d) Establish procedures and processes for each functional area*
- e) Develop institutional structures*
- f) Establish the various directorates and their functions and at the County levels*
- g) Undertake human resource issues*

## PUBLIC EDUCATION AND AWARENESS

- a) Research and Advocacy
- b) Public participation

## POWERS OF THE COMMISSION

1. The Commission shall have all the powers necessary for the execution of its functions under the Constitution, the relevant Acts and any other written law. The Commission may make regulations for the better carrying out of its work and such regulations shall be tabled before Parliament for approval
2. **The Commission shall have powers to: -**

- (a) Gather, by such means as it considers appropriate, any relevant information including requisition of reports, records, documents or any information from any source, including any state organ, and to compel the production of such information where it considers necessary;*
- (b) Hold inquiries for the purposes of performing its functions under this Act;*
- (c) Take any measures it considers necessary to ensure compliance with the principles of land policy set out in Article 60 (1) of the Constitution.*

### **3. In the exercise of its powers and the discharge of its functions, the Commission:**

- a. May inform itself in such manner as it may consider necessary;
- b. May receive written or oral statements; and
- c. It is not bound by the strict rules of evidence;
- d. The Commission shall establish offices in the sub counties as it may consider necessary
- e. The Commission shall work in consultation and cooperation with the national and county government subject

to Article 10 and Article 232 of the Constitution

#### **4. Pursuant to Article 252 of the Constitution the Commission has**

- a) Powers necessary for conciliation, mediation and negotiation
- b) Powers to recruit its own staff
- c) Powers to issue summons to a witness to assist for the purposes of its investigations

### **STRUCTURE OF THE NATIONAL LAND COMMISSION**

The Commission has adopted appropriate organization structures and processes, operating at both the National and at the County levels. At the national level, there are 8 Commissioners led by the Chairman and the Secretariat led by the Chief Executive Officer. The Secretariat has nine directorates which have among other responsibilities, the coordination and implementation of the Commission's programmes and activities

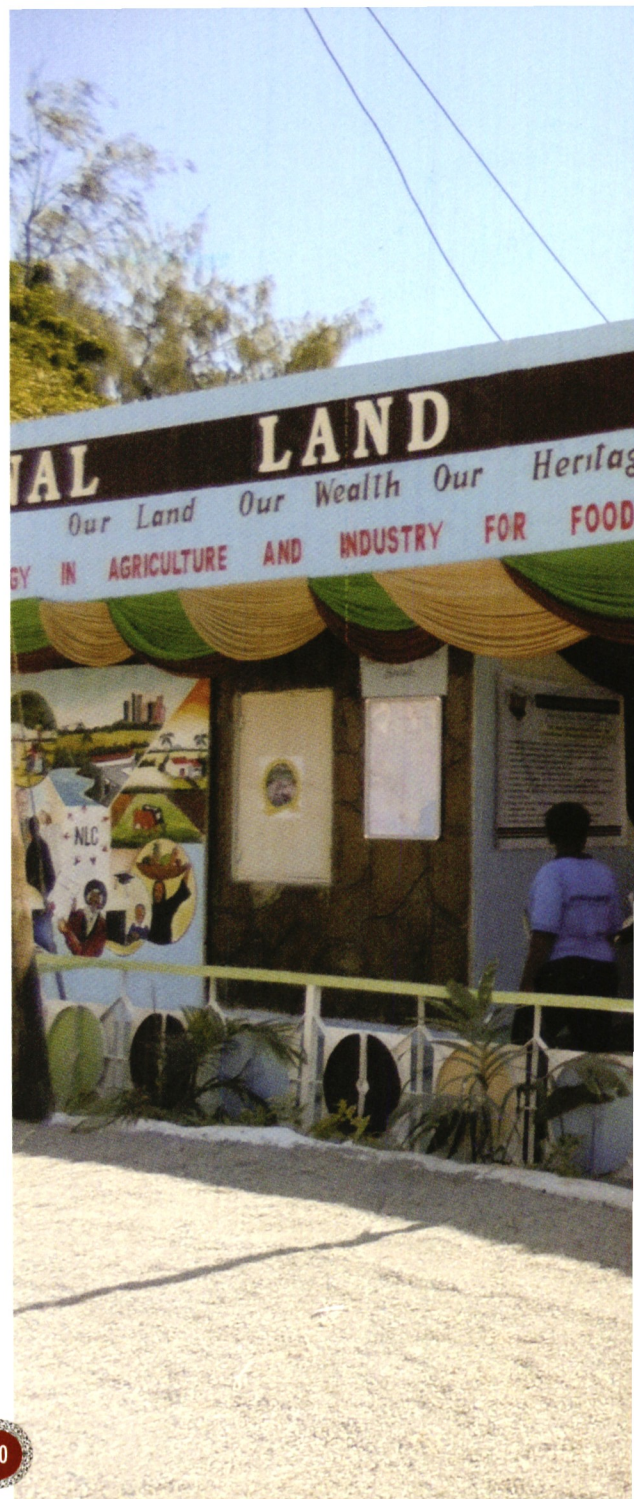
as well as organizational development and institutional strengthening.

At the National Level, the Technical Directorates are Land Administration, NLIMS, Valuation and Taxation, Land Survey, Adjudication & Settlement, Natural Resources Management, Land Use Planning, Legal Affairs & Enforcement and finally Research. The other Directorates and units are Human Resources Management, Supply Chain Management, Finance and Administration, Information Communication Technology (ICT), Audit and Risk Management, Communication, Corporate Affairs & Advocacy.

To facilitate decision making and fast track implementation of decisions made, the Commission has established various Committees. These are Land Administration, Valuation and Taxation Committee, Land Acquisition Committee,

Land Use Planning Committee, Finance and Administration, Tender Committee, Audit and Risk Management Committee, Legal affairs Committee, NLIMS and ICT Committee, Human Resource Committee, Natural Resource, Research, Communication Committee and Review of Grants and Dispositions Committee.

The National Land Commission has devolved its functions to the County level through the establishment of the County Land Management Boards. These boards comprise of 8 members each with one of them appointed as a chair. The appointment of these boards is done by the Commission in consultation with the County and the National Governments. One member, a surveyor or a planner is nominated by the County government as provided for under Section 18 of the NLC Act. The boards are led by the CLMB Secretary who is also the head of NLC in the County.





# Chapter Two

## PERFORMANCE AND ACHIEVEMENTS

### INTRODUCTION

The Commission focused on five major strategic focal areas in the delivery of its services to the public. These include but not limited to; Administration and management of public land; formulation and implementation of a National Land information Management Systems; Resolving land related disputes; Cascading services to the County Levels; and overseeing management of natural resources. The following are the achievements of the Commission in the year under review.

#### i. FORMULATION AND REVIEW OF LEGISLATIONS, POLICIES, RULES, REGULATIONS AND PROCEDURES

Development of institutional regulations, rules, guidelines and participation in policy formulation is important for enabling the NLC to effectively implement its mandate

and realize its desired achievements. As such, the Commission took steps to undertake this important activity as explained below.

#### A) FORMULATION AND REVIEW OF LEGISLATIONS

##### • *Historical Land Injustices Bill*

Article 67(2) (e) of the Constitution requires the commission to initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress. Section 15 of the National Land Commission Act 2012 requires the commission within two years, upon appointment to recommend to parliament appropriate legislation to provide for investigation and adjudication of claims arising out of historical land injustices.

To give effect to this provision, the commission in collaboration with experts and engagement with stakeholders and the public came up with *a draft Investigation*

*and Adjudication of Historical Land Injustices bill 2015* that was submitted to the Commission for Implementation of the Constitution CIC on 20th February 2015. This was then subjected to a round table meeting at the CIC.

- ***Land Use Planning Bill***

Pursuant to Article 68 (a) and (b) of the Constitution of Kenya, Parliament is required to revise, consolidate and rationalize existing land laws. It is also required to revise sectoral land use laws in accordance to the principles of the land policy. In this regard, the Commission developed through a consultative process the Land Use Planning Bill. The first copy was ready for drafting by legal experts in June 2015. In developing the draft the commission engaged the council of Governors, schools of Planning in Public Universities, planning Professional Associates and other government state departments.

- ***Alignment of The National Land Policy To The Constitution***

Article 67(1)(b) of the Constitution of Kenya mandates the Commission to recommend a National Land Policy. Since the National Land Policy was passed before

the promulgation of the Constitution, there was need to realign the Policy to conform to the Constitution. Towards this, the Commission reviewed the policy and recommended appropriate changes to the Cabinet Secretary, MOLHUD for further action.

B)

## RULES AND REGULATIONS

- ***Development of CLMB Practice Guidelines***

The County Land Management Boards are fundamental devolved units of the National Land Commission purposed by policy and law to undertake important land management functions at the county level. During the period under review, the Commission developed guidelines which defined the roles of County Land Management Boards with respect to management of public land as per Section 18 (1) of the National Land Commission Act, 2012. The guidelines standardized processes and procedures of the operations of the County Land Management Boards and also gave guidance on the criteria to use while making decisions on the various development applications. These guidelines were gazetted on 24th October 2014 through Gazette Notice Number 7700. However, the guidelines were further revised to ensure

that they were more inclusive in order to capture all services of the Commission

- *In actualizing provisions under Section 107(2) of the Land Act 2012, The Commission developed the criteria and guidelines to be adhered to by the acquiring bodies in the acquisition of land. These were prescribed and disseminated to the acquiring bodies*
- *In line with Section 111(2) Land Act 2012, the Commission developed regulations on the assessment of just compensation in regard to compulsory acquisition. This is awaiting stakeholder validation*
- *The Commission also developed County Spatial Development Planning Manual, Draft Governors Guide to County Planning Manual, and Monitoring and Oversight Practice Guidelines. These draft manuals have been developed, subjected to stakeholder validation and are awaiting Gazettement, publication and dissemination.*

### C) FORMULATION OF PROCESSES AND PROCEDURES

For the efficient delivery of the above functions, the Commission put in place proper infrastructure by way of developing and managing processes and procedures

that facilitate timely and effective decision making. These processes and procedures are key to guiding how business is carried out in the Commission and are geared towards the development of Enterprise Resource Planning systems (ERP) and bringing all Commission activities onto a digital platform and ISO Certification.

These guidelines and procedures include ICT Policy, Procedure Manuals, draft Communication Policy, and draft NLIMS Policy

### IMPLEMENTATION OF THE VISION 2030 FLAGSHIP PROJECTS

The Commission continued to give policy direction and support to Vision 2030 flagship projects by way of;

#### a) *Formulating concept papers for Project Plans*

During the period under review, the Commission formulated concept papers for Standard Gauge Railway and Lamu County Spatial Plan

#### b) *Accessing Land*

### COMPULSORY ACQUISITION

The Commission was involved in compulsory acquisition of land for various



projects both for the National and County Governments. This was an intensive exercise that involved physical verification of the land to be acquired. The purposes was for valuing land and developments thereon such as trees, crops, houses, structures on individual parcels of land with a view to determining the values for compensation, the individuals to be paid or affected by the project.

During the period under review, the Commission gazetted 26 such projects with some being undertaken in collaboration with MOLHUD for continuity purposes in service delivery. The following schedule gives the status of compulsory acquisition regards to on-going projects. The ranking is based on the stage of acquisition as a percentage of the acquisition process for work submitted by the acquiring body.



## A. Ongoing Projects

S/NO	PROJECT NAME	ACQUIRING BODY	WORK DONE AS % IN ACQUISITION PROCESS OF SUBMITTED WORK	STATUS
1	Langata Road	<b>KURA</b>	90	Payment finalised. Notice of taking possession issued awaiting survey for vesting
2	Mombasa Southern by-pass	<b>KeNHA</b>	80	List of awards forwarded to KeNHA to pay.
3	Meru by-pass	<b>KURA</b>	70	Gazettment of Intention to acquire and inquiries completed. Awards ready for issuance
4	Standard gauge Railway line	<b>Kenya Railways</b>	80	Issuance of awards and compensation under process.
5	Kamagambo -Kenya	<b>KeRRA</b>	75	Awards being made to be submitted for payment
6	City Cabanas (1 land parcel, Nairobi)	<b>KURA</b>	55	Inquiry held, contention on whether to pay or not upon advise to and from KURRA
7	Eastern Bypass(Nairobi )	<b>KURA</b>	90	Payment finalised. Notice of taking possession issued. Survey for vesting of land to the Commission
8	Mombasa Port access road	<b>KPA</b>	90	Payment finalised. Notice of taking possession issued. Registration for change of ownership on-going



S/NO	PROJECT NAME	ACQUIRING BODY	WORK DONE AS % IN ACQUISITION PROCESS OF SUBMITTED WORK	STATUS
9	Kangema Gacharage road(Murang'a)	KeNHA	90	Payment by KeNHA direct to land owners. Advice on payment schedule of compensated plot numbers and owners to be submitted to enable taking possession by NLC
10	Timboroa-Turbo-Webuye-Malaba	KeNHA	80	Pending payment to be released, thereafter issuing of notices of taking possession. Survey for vesting of land to the Commission
11	Kericho-Nyamasaria (Kisumu by-pass)	KeNHA	80	Pending payment to be released thereafter issuing of notices of taking possession. Survey for vesting of land to the Commission
12	Thua Bridge(Kitui)	KeNHA	80	Payment by KeNHA direct to land owners. Advice on payment schedule of compensated plot numbers and owners to be submitted to enable taking possession by NLC

S/NO	PROJECT NAME	ACQUIRING BODY	WORK DONE AS % IN ACQUISITION PROCESS OF SUBMITTED WORK	STATUS
13	Chepterit-Baraton-Turbo(Nandi/Uasin Gishu Counties)	KeNHA	80	Payment by KeNHA direct to land owners. Advice on payment schedule of compensated plot numbers and owners to be submitted to enable taking possession by NLC
14	Voi-Mwatate(Taita Taveta)	KeNHA	80	Awards made, awaiting payment, possession and vesting
15	Ndого Kundu Bypass (Mombasa)	KeNHA	50	Awards for Lot 1 issued. Payment in progress. Lot 2 & 3 awaiting final survey



### ***B. New Projects Submitted In The 1st Quarter 2015***

<b>S/NO</b>	<b>PROJECT NAME</b>	<b>ACQUIRING BODY</b>	<b>WORK DONE AS % IN ACQUISITION PROCESS OF SUBMITTED WORK</b>	<b>STATUS</b>
1	Outering Road (Nairobi)	KURA	80	Awards made, awaiting payment.
2	Koru Dam (Muhoroni), Kisumu & Kericho Counties – project to control floods in Nyando, Water supply to Kisumu & surrounding areas, irrigation and Hydro electricity production.	National Water Conservation and Pipeline Corporation	5	Final surveys being made for submission for searches
3	Muruny-Siyoi Dam (West Pokot County)- project to provide land for dam structure and reserval to conserve and supply water to residents	National Water Conservation and Pipeline Corporation	5	Gazetted for Wayleave acquisition. Pending inspection
4	Kisumu-Kakamega-Webuye road-road expansion	KeNHA	75	Awards being made to be submitted for payment
5	Ejija-Bumala Road (Busia County)- road expansion connecting Ejija and Bumala towns	KeNHA	15	Intention to acquire gazetted. Pending gazettelement for Inquiries

S/NO	PROJECT NAME	ACQUIRING BODY	WORK DONE AS % IN ACQUISITION PROCESS OF SUBMITTED WORK	STATUS
6	Thogoto-Gikambura-Mutarakwa Road (Kiambu)-road expansion	KeRRA	35	Inspections on-going
7	Mwea Irrigation Scheme, (Kirinyaga County)-Project for expansion of Mwea irrigation scheme by 22,000 Acres	National Irrigation Board	70	Inquiries held, Awards made
8	Tanathi Water Services Board (Machakos County) Project to Supply water to the community	Matungulu Water Supply	10	Request under process
9	Eldoret-Timboroa Road (Uasin Gichu County) – Road expansion	KeNHA		Request under process

Table 2: Compulsory Acquisition-New Projects

### LAND FOR LAND EXCHANGE

The Commission was involved in acquiring alternative land for the people who were affected by the expansion of Mwea Irrigation Scheme Dam. The project is in Kirinyaga County. Two parcels were identified at Mwea prison farm and from Kirinyaga County government. Subdivision to surrender the identified parcels to the National Irrigation

Board has been done and the process of resettling the beneficiaries has started.

### LAND DISPUTES AND CONFLICT RESOLUTION

The Commission has been overseeing the legitimacy of land claims and investigating what rights prevail in land related conflicts. It is empowered under Section 67 (2) (e) of the Constitution of Kenya 2010 to

*‘initiate investigations on its own motion or on a complaint to present or historical land injustices and recommend appropriate redress’.*

This mandate has been operationalised by the Commission’s key result area on Land Disputes and Conflict Resolution. Towards this end the Commission in the period under review worked towards solving a myriad of land complaints and disputes.

#### **i. REVIEW OF GRANTS AND DISPOSITIONS**

Article 40 of the Constitution guarantees the right to ownership of property of whatever description in any part of the country to all citizens of Kenya. However, this right does not extend to property found to have been acquired fraudulently and in an unlawful manner. The Commission is therefore mandated to review all grants and dispositions (titles) to public land to determine their propriety or legality within a period of five years. Where the titles are found to have been acquired illegally, the commission may instruct the registrar to revoke such titles and where found to be irregular, regularize the same.

In line with Section 6 and 14 of the National Land Commission Act 2012, the Commission commenced review of grants and disposition of public land on 21st April 2014, and has continued to do so in most counties including Kakamega, Nairobi,

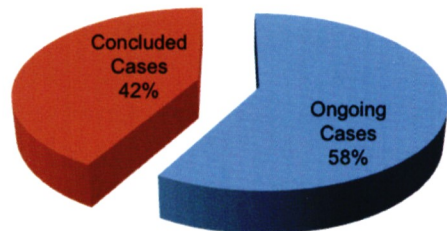
Nakuru, Lamu, Uasin Gishu, Machakos, Kisumu, Kwale, Embu, Kirinyaga and Mombasa.

Having received one thousand two hundred and three (1203) complains during the period under review, the Commission has reviewed these cases, to determine whether these particular parcels of land were illegally or irregularly acquired. In this regard, the Commission revoked 434 titles and regularized 120 titles. The commission will publish the determinations for the remaining titles after they are concluded.

#### **ii. COMPLAINTS RECEIVED AND INVESTIGATIONS UNDERTAKEN**

During the period under review, the commission received a total of 172 investigation cases which were referred to it by government investigative agencies, public institutions, private citizens, law firms and walk-in complainants. 72 of these cases were investigated and concluded successfully as shown below

**Complaints received and investigations undertaken**



## SOME OF THE MAJOR INVESTIGATIVE ACHIEVEMENTS INCLUDE;

1. *The revocation of grants to 15 ranches in Lamu County which were illegally acquired.*
2. *The restoration of Langata Road Primary School playground.*
3. *The Rwanda Embassy property matter in Mombasa.*
4. *The following parcels of land were recommended for further investigations by EACC with a view of restoring them to their original status;*
  - a. *Kiunga Marine Park in Lamu County.*
  - b. *Kabete Veterinary Services land in Nairobi.*
  - c. *KARI research land in Naivasha.*
  - d. *Mombasa Road buffer zone in Nairobi spanning from South C to North Airport Road.*
  - e. *196 government houses allocated irregularly in Nyeri and Karatina.*

## ALTERNATIVE DISPUTE RESOLUTIONS

Article 60(1) of the Constitution and Land Act 2012 Sec. 4(2) provide the principles of land administration and management. Among these is the promotion of Alternative

Dispute Resolution (ADR) and Traditional Dispute Resolution (TDR) mechanisms in handling and management of land dispute.

The Commission is currently working on establishing an ADR framework for the operationalization of the ADR/TDR mechanisms. Notwithstanding, the Commission has undertaken ADR/TDR with a view to enhance peaceful resolution of complaints. During the period under review the Commission received complaints from all the forty seven (47) Counties and has successfully resolved 103 conflicts in this manner. Among the cases resolved include disputes in Oljorai Settlement Scheme, Embakasi Ranching land buying company, Kiambu Dandora Farmers Company, Githunguri Ranching Company, DWA Sisal Estate, Lomolo, Kilifi Plantations among others. The commission is currently involved in addressing the Waitiki land dispute in Mombasa County

## CIVIL LITIGATION

The Directorate of Legal Affairs continued to defend the interests of the Commission in court on all matters. The Commission inherited from the Commissioner of Lands





cases in excess of nine thousand with some having been in Court since 1957. The number of these cases has continued to increase and the Commission made tremendous efforts in addressing them in the various courts including the Environment and Land Courts, the Constitutional Court, the Court of Appeal and the Supreme Court.

At any one given time, the Commission handles over 500 court cases before the Environment & Land Court and the High Court which range from Petitions to Judicial Reviews among others. Some of these cases were recommended to be resolved through Alternative Dispute Resolution (ADR) mechanism. Out of these cases, the Commission successfully concluded litigation of 300 cases during the period under review.

The Commission in collaboration with the Judiciary undertook a physical inventory of cases in Court to ascertain them and their status. This was done through perusal of the Environment and Land Court register, the Civil register, the Judicial Review register, the Constitutional register and Civil Appeal register in courts all over the country. The information gathered will be used to facilitate an effective representation of the Commission in Court as well as for efficient management of cases.

The Commission also oversaw the hearing of the Supreme Court case regarding the mandate of the Commission vis-à-vis the MOLHUD on land management in the country and the case is pending determination.

### **ASSISTING OTHER GOVERNMENT AGENCIES IN DISPUTE RESOLUTIONS**

The commission assisted other Government agencies to make informed decisions on land related matters. The Commission provided them with expert information on land and related issues. In some instances the agencies sought oral and written submissions from the Commission.

The table below gives a summary of some of the cases in which the Commission was called upon to provide technical information.

S/ No.	Activity	Number Handled
1.	Parliamentary Cases/questions-Appearance and submissions to the parliamentary and senate Committees on Land.	5
2.	Investigations on specific files including recommendations to the EACC and statements filed in court.	52
3.	Giving evidence in court proceedings.	7
4.	Instructions to the AG	4
5.	Statements recorded with the CID	7

Table 3: Cases that the Commission was called upon to provide technical information.

## PROGRESS MADE TOWARDS REGISTRATION OF TITLE IN LAND

### ALLOCATIONS AND PROCESSING OF LEASES AND GRANTS

#### *Formalization of land rights*

As national and private functions were being devolved to the counties there was need to decongest Nairobi through securing tenure of urban and market centers to spur development. The Commission received applications for regularization or formalization of land rights in various urban centres within the various Counties. Some centres have development plans while others are at the planning stage. The cost of regularization has been prohibitive hence the slow pace. Despite this challenge, the Commission through the County Land Management Boards is in the process of

regularizing land rights in urban centres.

#### *Verification of letters of allotments*

The Commission received 6685 applications for verification of letters of allotment. The verification exercise involved scrutinizing records for validity of information given on the letters of allotment and site inspections. From this exercise 711 allotment letters were confirmed to be valid. They are now awaiting authority for issuance of new allotment letters and directions on payment of the required revenue. The verification exercise was done by the Commission in collaboration with the County Government and the CLMB's

The attached table shows the number of cases recommended for renewal of allotment letters following the verification

exercise.

	<b>Region county</b>	<b>Specific Area</b>	<b>Number</b>
1	Upper Eastern Region	Meru	60
2	K i s u m u County		51
3	B u n g o m a County		5
4	K a k a m e g a County		3
5	Rift Valley Region	Naivasha Kericho Londiani Kipkelion Gilgil Chesimende	101 167 153 65 1 42
6	Nairobi		1
7	Thika		2
8	Lower Eastern Region	Machakos, K i t u i , Makueni	60

### ***Alienation of Land***

The Commission issued letters of allotment and these were mainly for approvals granted for renewal of leases. This also includes recommendations given for formalization of grants following payments of fees, sites and service schemes that were previously managed by local authorities. The letters

of allotments covered recommendations from the KIE and other public institutions which include public schools, the judiciary and public universities. So far, 60 letters of allotment were issued during the period under review.

### ***Conversion of Long Term Leases Owned by Foreigners to 99 Year Term***

As per Article 65(1) of the Constitution, the Commission is mandated to standardize lease terms of 999 years to 99 years. In conforming to this the Commission issued a gazette notice asking all foreigners with long term leases to surrender their titles for conversion. At the same time, the Commission developed a policy for conversion of long term leases and agricultural holdings owned by foreigners.

### ***Progress made towards Land Adjudication***

During the period under review, the Commission, declared 7 adjudications sections in Kilifi, Marsabit and Kitui namely; Miyuni/Mleji, Kitengwani, Pentanguo, Anona, Odha, Urban and Mwasuma. All the declared sections were being surveyed and demarcated with support from the

respective County governments. Below is a table showing the proposed and declared sections and their current status.

**GROUND VERIFICATION OF LAND OWNERS IN SETTLEMENT SCHEMES**

The Commission undertook a verification exercise on a number of settlements schemes in Kilifi and Makueni Counties so as to lift an embargo on land transactions which had been placed earlier due to the problem of double allocation. The affected schemes

are Chembe Kibabamshe, Kilifi/Jimba and Madeteni in Kilifi County and Kiboko ‘B’ and ‘C’ settlement schemes in Makueni County. The reports are at different stages of implementation.

***Establishment of Settlement Schemes***

The Commission has established Mkokoni settlement scheme in Lamu County. Stakeholder sensitization has been undertaken. The planning and survey processes are on-going.

*Table: Proposed and declared sections and their current status*

	COUNTY	PROPOSED SECTIONS	DECLARED SECTIONS	CURRENT STATUS
1	Kilifi	Miyuni/Mleji, Kitengwani, Pentanguo	All	All the declared sections are under survey and demarcation with support from the county government of Kilifi
2	Marsabit	Anona, Odha, Urban	All	All the declared sections are under survey and demarcation with support from the county government of Marsabit
3	Kitui	Manyoeni, Kaputee, Kaimu, Endau, Souu, Yuuku, Itiko ‘B’, Mwasuma, Mutomo, Kyuso	Mwasuma	Survey and demarcation is on-going



	COUNTY	PROPOSED SECTIONS	DECLARED SECTIONS	CURRENT STATUS
4	Kisumu	Gem Rai II, Wawithi 'C	Non	Not yet declared
5	Busia	Buofu, Obaro	Non	Not yet declared
6	Siaya	Ndenda, Oyamo, Nyaderora 'C	Non	Not yet declared
7	Embu	Mwea Trust land in Embu	Non	Not yet declared

Table 5: Proposed and declared adjudication sections

## LAND SURVEY

In support of land registration, the Commission undertook ground verifications in settlement schemes with the aim of establishing external boundaries and delimitations of specific parcels. The table on page 38 is a summary of work done in the period under review.

## OPERATIONALIZATION OF CLMBS



The Commission in conjunction with the

National and County Governments has successfully established CLMB offices in all the 47 counties during the period under review. 40 out of the 47 CLMBs were inaugurated with 12 being inducted on their roles. These are Kwale, Tana River, Lamu, Kajiado, Kirinyaga, Baringo, Nyandarua, Meru, West Pokot, Nyeri, Wajir and Mandera. The inaugurated CLMBs are now operationalized and are headed by their respective Chairpersons.

The Commission is also in the process of recruiting technical and support staff for the CLMBs to form the secretariat. This will strengthen and also enable the CLMBs to perform their duties effectively and efficiently.

Some of the notable achievements of the CLMBs include engagement with key

	ACTIVITY	AREA	DATE
1.	Boundary survey	Mombasa cement at Kilifi (Vipingo area)- coast region	April 2015
		Survey of 18 national museums of Kenya (NMK) sites	March 2015
2.	Ground verification survey	Mambrui settlement scheme	March 2015
		Ngomeni settlement scheme	January 2015
		Chembe Kibabamshe, Kilifi Jimba and Madeteni settlement scheme	December 2014
3.	Survey work for 2 adjudication sections	Marsabit	ongoing
4.	Boundary survey	Kuranze/Triangle Ranch in Kwale	October 2014

*Note: For purposes of fast tracking survey, the Commission proposed to procure satellite imagery for Anona, Hula, Urban, Odha and Karare adjudication sections in Marsabit and Oyamo and Ndeda adjudication sections in Kisumu. These images were not delivered due to logistical problems*

stakeholders in the Counties in making recommendations on land development applications, promotion of the application of ADRs and TDRs in resolving land disputes and encouraging the titling of public schools. So far, 7,618 applications for titles to public schools were received and were processed.

### RESEARCH ON LAND

**A**rticle 67 2 (d) of the Constitution mandates the Commission to conduct

research related to land and the use of natural resources and make recommendations to appropriate authorities. During the period under review the Commission conducted desk research and presented the following papers; *‘Women and Land Rights as a land reform agenda’* presented at the Heinrich Boll Gender Forum, *‘Role of Research in Land Policy and Land Reform Initiatives’* presented at the Conference on Land Policy in Africa, ‘Public land, conflict and

the educational sector' presented at the Busia County Heads of Schools meeting, '*Corruption in the Land Sector*' presented during the Transparency International Land Coalition Conference and '*Land Reform in Kenya*' presented to IFAR British Institute of East Africa.

Out of the desk research done, several issues came out that needed further research to help Kenyans to secure land rights and achieve transparency in land governance. These include mapping of women's land right concerns as per selected Counties, review of various Land legislations and their impact on land reforms per County,

A research strategy and project which will address conflicts in Public and Community Land, Research on the TDR and ADR as models for curtailing land conflicts and research on public land. Going forward, the Commission has prequalified experienced individuals and firms to assist in research projects during the next financial year.

## OVERSIGHT ROLE ON NATURAL RESOURCES

The Land Act 2012, Section 10 (2), NLC provides oversight responsibilities to the Commission over Natural Resources. The Act states that 'The guidelines prescribed under subsection (1) shall indicate management priorities and operational principles for the management of public land resources for identified uses'

During the year under review the Commission participated in various activities and forums whose objectives were to ensure conservation and sustainable use of natural resources for the benefit of the country and posterity. These include;

- *Participation in several taskforces such as - the development of the Kenya National Wetland Management and Conservation Policy and Strategy, Wetland Policy, Natural Resource Exploitation and Ratification Bill, 2014 And in The Development of the REDD+ And Anti-Corruption Safeguards.*
- *Participation in the development of the strategy for the Gazettment of Lake Elementaita and in consultative meeting with the indigenous forest dwellers to*



*determine their role and rights in forest Land.*

- *Participation in the development of the World Bank Environmental and Social Safeguards Policy.*

**LAND INFORMATION MANAGEMENT SYSTEMS AND ICT**

**NLIMS**

**U**nder Section 5 (2) (d) of the National Land Commission Act, the

Commission is mandated to develop and maintain an effective land information management system at National and County levels. This will make it possible to access land records through a digital platform there by address the perennial problem of lost/torn land records and making land transactions faster.

In view of this, the Commission procured an integrated system comprising of Enterprise



Resource Planning (ERP), Customer Relationship Management (CRM), and National Land Information Management System (NLIMS). Development of the system is ongoing and its expected to be completed by december 2015. The Commission is in the process of establishing and commissioning its Geographical Information System (GIS) laboratory. This laboratory will serve as the primary spatial data conversion unit.

The Commission also spearheaded the development of standards and guidelines for NLIMs in conjunction with stakeholders.

## **ICT**

**T**he Commission made significant progress towards realization of an efficient, reliable and secure computing infrastructure to support land administration and management.

In line with the Commission's mandate and emerging technological changes, the Commission conducted extensive research and analysis into its ICT user needs. It developed and set standards and specifications for its networking and ICT infrastructure.

## **THE LEGAL RECORDS MANAGEMENT SYSTEM**

**T**o strengthen the legal and enforcement services, the Commission established a legal database management system that enables users to access data on land related cases in court. The system allows users to capture, store, share, schedule events, schedule responses and work on court cases in a virtual environment collaboratively while enforcing feedback and reporting mechanisms.

## **ENGAGEMENT WITH STAKEHOLDERS**

### **GOVERNMENT AND NON-GOVERNMENTAL AGENCIES**

**T**he Commission engaged stakeholders in all its activities in order to get a buy-in and ownership as it advances land reforms. The table below shows the areas of collaboration during the period under review.

## MEDIA ENGAGEMENT

**M**edia plays a critical role in facilitating public participation and creating awareness through coverage of the activities of the Commission. The Commission undertook various activities to sensitise the media on its role in helping the Commission in the implementation of its mandate and functions. The Commission continued to utilize both print and electronic media to keep the public abreast of its programs and emerging land issues.

## PUBLIC ENGAGEMENT

**P**ublic participation is one of the national values enshrined in Article 10 of the Constitution. The commission has put in place an interactive website ([www.nlc.or.ke](http://www.nlc.or.ke)) to enable the public access information on land issues. To this end, the commission has been uploading on the website all its reports, land statutes, press releases, upcoming events and any other land related issues. The commission also interacts with the public through the ASK shows, workshops, outreaches, social forums and

<b>ORGANIZATION</b>	<b>ACHIEVEMENT /AREA OF COLLABORATION</b>
<b>Ministry of Lands</b>	Development of land legislations review of Policies and regulations, vetting and secondment of officers.
<b>The office of the Attorney General and the Department of Justice</b>	Review of Bills and regulations, vetting of officers, judicial matters
<b>Commission for Implementation of Constitution</b>	Formulation of Legislation
<b>EACC, CID, Police, Judiciary</b>	Recovery of public land and restoration of fragile ecosystems
<b>Kenya Law Reform Commission</b>	Development of Legislation and legislative drafting

<b>ORGANIZATION</b>	<b>ACHIEVEMENT / AREA OF COLLABORATION</b>
<b>County Governments</b>	Establishment of the CLMBs, devolution of land governance, validation of policies, review of grants and Leases
<b>Institution of Surveyors of Kenya</b>	Vetting of former ministry of Land Officers, assisted in drafting of Land Bills
<b>Kenya Institute of Planners</b>	Development of legislations, regulations
<b>Apsea</b>	Vetting of former ministry of Land Officers, assisted in drafting of Land Bills
<b>Dedan Kimathi</b>	Collaborated to conduct Research on Land Data Management
<b>Kenya Wildlife Service</b>	Protection of Riparian areas
<b>Kituo Cha Sheria</b>	Printing of IEC Materials like Know Your Land Rights
<b>Kenya Ports Authority</b>	Compulsory acquisition for the LAPSET project
<b>Kenya National Highways Authority and Kenya Urban Roads Authority</b>	Compulsory acquisition for Development of road infrastructure
<b>Kenya Power and KETRACO</b>	Acquisition of way leaves for power transmission.
<b>Kenya Railways</b>	Standard Gauge Railway
<b>FAO</b>	Capacity Building in the County, Dissemination of IEC materials
<b>FORD Foundation</b>	
<b>Kenya Land Alliance</b>	Funding
<b>LDGI</b>	IEC Materials

*Table 7: Stakeholder Consultations and Collaborations*

platforms such as through its facebook page ([www.facebook.com/nationallandcommission](http://www.facebook.com/nationallandcommission)) and twitter account ([https://twitter.com/Land\\_Commission](https://twitter.com/Land_Commission))

## HUMAN RESOURCE MANAGEMENT AND DEVELOPMENT

The Commission is empowered by sections 20 and 22 of the National Land Commission Act 2012 to appoint its own staff in accordance with Article 252(1) (c) of the Constitution of Kenya. In the FY 2014/2015, ninety eight (98) staff were recruited bringing the total figure to two hundred and twenty five (225) staff. By gender, 95 of this were female and 160 were male and were appointed from all the regions in the Country. Special consideration was given to persons from marginalized regions and Persons Living with Disabilities. Gender balance was also taken into account during recruitment.

The Commission vetted 440 members of staff from the Ministry of Lands, Housing and Urban Development who were to be absorbed into the Commission. However the MOLHUD had not released these staff

to the Commission as provided for by the National Land Commission Act Section 31 on transfer of staff.

The Commission also developed a Career Progression Guideline for its staff, the Organization Structure and a Human Resource Manual. During FY 2014/2015 staff and/or Commissioners were sponsored by the Commission to attend the following trainings/conferences

- i. Institute of Survey of Kenya annual Conference held in Mombasa - Teams from Survey, Land Adjudication and Settlement, Land Administration, One Secretary/ CLMB and two Commissioners.*
- ii. Institute of Human Resource Conference held in Mombasa was attended by Two Officers from HR*
- iii. Institute of Certified Public Secretaries Conference held in Mombasa was attended by One Secretary /CLMB*
- iv. Law Society of Kenya's Continuous Legal Education held in Mombasa was attended by the Legal and Enforcement Team*

- v. Kenya Institute of Supplies Management Conference held in Mombasa was attended by two members of staff
- vi. Institute of Certified Public Secretaries Workshop held in Nanyuki was attended by 9 Secretaries/CLMB
- vii. Corporate Governance Training held in Mombasa was attended by Directors, HODs and Commissioners
- viii. Audit Committee members attended a workshop in Egypt
- ix. Two members of staff attended Corporate Governance Training South Africa
- x. International Supplies Chain Solutions Ltd. organised a conference in Mombasa which was attended by 11 members of staff





# Chapter Three

## EMERGING ISSUES AND WAY FORWARD

### EMERGING ISSUES

**D**uring the reporting period, the Commission faced various challenges including constraints on its human resource capacity, challenges associated with the transition process, inadequate financial resources, gaps in legislation and policy, lack of proper record management, inaccuracy of information received by the commission for decision making. These challenges have been grouped into the following themes;

### TRANSITIONAL CHALLENGES

**T**he challenge of transition continued to negatively affect operations of the Commission. Despite the National Land Commission Act sections 31 and 32 providing for the transfer of staff and assets from MOLHUD to the Commission, MOLHUD did not release the vetted staff and their working assets to the Commission. The MOLHUD staff in question are those from the directorates whose functions were

taken over by NLC such as Land Settlement & Adjudication and Administration. Instead they are still with MOLHUD running parallel departments which has created the confusion that presently exists in the land sector.

The Commission has procured machines which require installation at Ardhi House. However space within the building has not been availed. Dismal allocation of space coupled with frustration by clients seeking Commission services due to lack of access to Ardhi House at times made it impossible to serve the public effectively.

National Land Commission Act 2012 5(3) requires the commission to ensure that all unregistered land is registered within 10 years from the commencement of NLC Act. However the processes leading to registration has been slowed down by resistance from some communities and certain MDAs .

## POLICY/LEGISLATIVE CHALLENGES

The law has been silent on omissions and commissions done by Land Registrars thus inhibiting the oversight role of the Commission on title to land in Kenya.

There are provisions in legislation for the Commission to develop rules and regulations to operationalize Land Laws. The Commission did this and forwarded to the Cabinet Secretary for onward transmission to Parliament. The said rules and regulations have not been forwarded to Parliament. The Commission has therefore continued to operate without regulations which are key for the better carrying out of the law.

## ADMINISTRATIVE CHALLENGES

- *Access to records and information*

The commission receives a lot of incoming mails enquiring and/or requesting for services ranging from preparation of leases, change of use, subdivisions, applications for allocations, payment for allotments and attendance to disputes on land ownership amongst other issues. To address them, reference has to be made into the existing

records. However, the denial of access and control to land records and files by MOLHUD has hampered effective and efficient delivery of land services to the public. As an example, the Commission has had difficulty in preparing leases and grant because the Director of Surveys has held onto survey records while the MOLHUD remains in control of land parcel files.

- *Inadequate human resource*

The Commission has not had adequate members of staff due to budget constraints and failure of MOLHUD to transfer to the Commission staff from those departments whose functions were taken over by the National Land Commission as per Section 31 of the NLC Act 2012.

- *Financial challenges*

The Commission has continued to face financial challenges owing to low budgetary allocation by government. This has constrained the Commission in undertaking its planned activities. The Commission had a deficit of Kshs 162.5 million during the period under review in its total allocated budget for the financial year. As a result the Commission was unable to undertake optimally some of its key activities because of inadequate



transport, lack of visibility and awareness programmes, inadequate staff among others

made it unable to account for land rates that are being paid throughout the country.

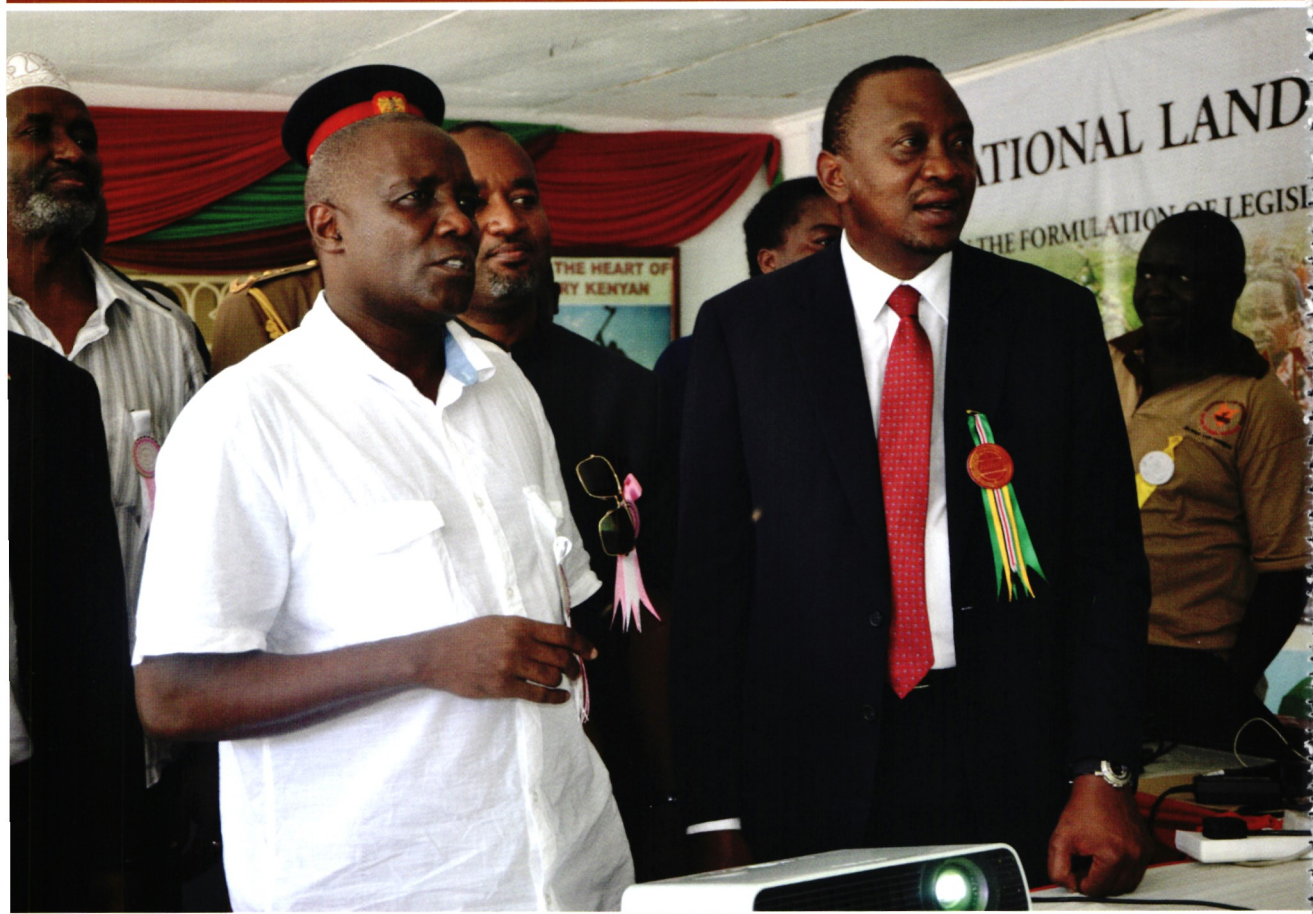
The Commission is mandated to collect revenue by Sec 28 of the Land Act. However, failure to appoint the National land Commission Chief Executive Office as a revenue collector has not only limited the Commission on such a key function but has



# WAY FORWARD

The vision of the Commission is to ensure excellent and efficient administration and management of land for sustainable development by implementing systems that will ensure equity in access to land. Going forward, the Commission is looking forward to:

- *Create good rapport with all stakeholders on land and in particularly the MOLHUD so that the transition process is smooth and effective. The presidential directive that MOLHUD and NLC work together should be pursued to conclusion*
- *Urgently develop guidelines to synergize land administration and land registration records to enhance information flow for prompt decision-making.*
- *Adequately finance advocacy and civic education and awareness programs to sensitize Kenyans and land sector investors on the new policies, regulations and rules governing land administration*
- *Develop a legal framework that will entrench the role of Alternative Dispute Resolution(ADR) and Traditional Dispute Resolution(TDR) mechanism for resolution of land disputes to give effect to article 5 (2) (f) of the National Land Commission Act, 2012.*
- *Collaborate with all stakeholders especially MOLHUD for NLIMS to be effective. There is need for provision of records and space and MICT for infrastructural support by MOLHUD.*
- *Initiate the process of land banking at the County level to facilitate the realization of the Vision 2030 in terms of availing land for investors*



# Chapter Four

## COMMISSION'S INCOME AND EXPENDITURE REPORT

### REVENUE

The Commission was allocated by the Exchequer Kshs 1.698 billion during the 2014/15 financial year this being Kshs 1.156 billion recurrent and Kshs 542 million developments. However, during the supplementary budget process the Commission's budget was reduced by Kshs 62.5 million on recurrent and Kshs 100 million on development votes. This left the Commission with a deficit of Kshs 162.5million in its allocated budget for the financial year under review.

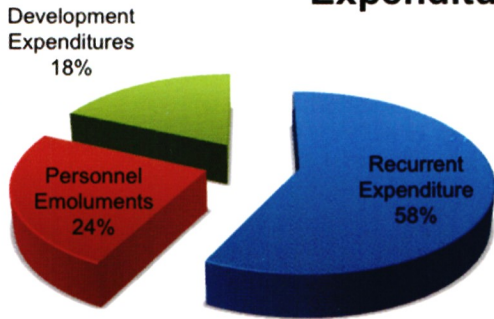
The Commission further received compensation funds from respective agencies to facilitate acquisition of land for various projects. Some of the flagship projects the Commission received funds from were; LAPPSET Kshs 1.325 billion,

KPA land acquisition Kshs 246 million, Langata road expansion project Kshs 770 million, Outer Ring road expansion project 1.2 billion and SGR from phase 1 to phase 4. The Commission delegated its compensation role to Kenya Railway Corporation in this particular project due to inadequate of staff.

### EXPENDITURE

During the financial year under review, the Commission spent (actual) Kshs 1.055 billion on recurrent expenditure being Kshs 446.281 million on personnel emoluments and Kshs 333.18 million in development expenditures. The Commission had outstanding commitments of Kshs 113 million on recurrent expenditure and Kshs 103 million on development expenditure.

## Expenditure



On the Compensation Funds for compulsory acquisitions, the Commission paid all the Project Affected Persons (PAPs) whose compensation was verified. Those with disputes were not paid but were referred to await resolutions.

Figure 4: Commissions Expenditure



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## OFFICE OF THE AUDITOR-GENERAL

### REPORT OF THE AUDITOR-GENERAL ON NATIONAL LAND COMMISSION FOR THE YEAR ENDED 30 JUNE 2014

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#### REPORT ON THE FINANCIAL STATEMENTS

I have audited the accompanying financial statements of National Land Commission set out on pages 11 to 27, which comprise the statement of assets and liabilities as at 30 June 2014 and statement of receipts and payments, statement of cash flows, summary statement of appropriation for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 14 of the Public Audit Act, 2003. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

#### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The management is also responsible for the submission of its financial statements to the Auditor-General in accordance with the provisions of Section 13 of the Public Audit Act, 2003.



## **Auditor-General's Responsibility**

My responsibility is to express an opinion on these financial statements based on the audit and report in accordance with the provisions of Section 15 of the Public Audit Act, 2003 and submit the audit report in compliance with Article 229(7) of the Constitution of Kenya. The audit was conducted in accordance with International Standards on Auditing. Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Corporation's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

## **Opinion**

In my opinion, the financial statements present fairly, in all material respects, the financial position of National Land Commission as at 30 June, 2014, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (cash basis) and comply with the National Land Commission Act, 2012 of the Laws of Kenya.



**Edward R. O. Ouko, CBS AUDITOR-GENERAL**

**Nairobi**

**20 April 2015**



# Annexes

## ANNEX 1: COMMISSIONERS AND THE CEO



Prof. Muhammad A. Swazuri OGW  
CHAIR, NATIONAL LAND COMMISSION



Abigael Mbagaya Mukolwe  
VICE CHAIR, NATIONAL LAND COMMISSION



Samuel Tororei  
COMMISSIONER



Rose Musyoka  
COMMISSIONER



Adan Khalif  
COMMISSIONER



Muthoni Njogu  
COMMISSIONER



Tomiik Konyimbih  
COMMISSIONER



Clement Lenanchuru  
COMMISSIONER



Silas Kinoti Muriithi  
COMMISSIONER



Chavangi Aziz Tom  
CHIEF EXECUTIVE OFFICER







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*Our Land, Our Wealth, Our Heritage*

**NATIONAL LAND COMMISSION**

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