

**MINISTRY OF LANDS AND SETTLEMENT**

**NATIONAL LAND  
POLICY FORMULATION  
PROCESS**

**CONCEPT PAPER**

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## **ABBREVIATIONS AND ACRONYMS**

AAK	Architectural Association of Kenya
ADC	Agricultural Development Corporation
AICAD	African Institute for Capacity Development
ALGAK	Association of Local Government Authorities of Kenya
ASAL	Arid and Semi Arid Lands
CBS	Central Bureau of Statistics
CJPC	Catholic Justice and Peace Commission
CKRC	Constitution of Kenya Review Commission
COTU	Central Organization of Trade Unions
DFID	Department for International Development (UK)
DPM	Directorate of Personnel Management
ECK	Electoral Commission of Kenya
ERSWEC	Economic Recovery Strategy for Wealth and Employment Creation
FIDA	International Federation of Women Lawyers
FKE	Federation of Kenya Employers
GIS	Geographic Information Systems
HIV/AIDS	Human Immune-deficiency Virus/Acquired Immune-Deficiency Syndrome
IDRC	International Development Research Centre
ILRI	International Livestock Research Institute
ISK	Institution of Surveyors of Kenya
IT	Information Technology
JKUAT	Jomo Kenyatta University of Agriculture and Technology
KAM	Kenya Association of Manufacturers
KARI	Kenya Agricultural Research Institute
KEPSA	Kenya Private Sector Alliance
KIA	Kenya Institute of Administration
KIP	Kenya Institute of Planners
KIPRA	Kenya Institute of Policy, Research and Analysis
KRA	Kenya Revenue Authority
LBDA	Lake Basin Development Authority

MOLS	Ministry of Lands and Settlement
NACHU	National Cooperative of Housing Union
NARC	National Rainbow Coalition
NCC	Nairobi City Council
NCCK	National Council Churches of Kenya
NEMA	National Environment Management Authority
NGOs	Non Governmental Organizations
NHC	National Housing Corporation
NLP	National Land Policy
OP	Office of the President
PRSP	Poverty Reduction Strategy Paper (or Programme)
RCRMD	Research Centre for Resource Management Development
RLA	Registered Land Act
SIDA	Swedish International Development Agency
SUPKEM	Supreme Council of Kenya Muslims
TA	Technical Advisor
TOR	Terms of Reference
UDD	Urban Development Department
UDPK	United Disabled Persons of Kenya
UON	University of Nairobi

## CHAPTER ONE

### 1.0 INTRODUCTION

Land is critical to the economic, social and cultural development of Kenya. It is crucial to the attainment of economic growth, poverty reduction and gender equity. Its importance has been clearly recognized by various Government initiatives including the initial *Poverty Reduction Strategy Programme* (PRSP), the NARC Manifesto and the subsequent *Economic Recovery Strategy for Wealth and Employment Creation Programme – 2003-2007*. Land was a key reason for the struggle of independence. Land issues remain politically sensitive and culturally complex.

### 1.1 BACKGROUND INFORMATION

Kenya, does not have a clearly defined or codified National Land Policy and hence important issues such as land administration, access to land, land use planning, restitution of historical injustices, the institutional framework, land information management systems, environmental concerns, conflict/dispute resolution, public land allocations and the informal sector are currently inadequately addressed. Moreover, land administration and management operates on the basis of an outdated legal framework. Other problems arise from the lack of a comprehensive strategy for the management of emerging informal urban settlements.

The resolution of land administration and management problems will be a critical requirement for sustainable economic recovery. It will also be vital for minimizing conflicts and tensions between various communities and for contributing to national unity in diversity. Recognizing the serious problems facing land administration and management and the contribution that effective land administration would make to the economic development process, the Government appointed a commission of inquiry into existing land laws and tenure systems (the 'Njonjo Commission') with a view to making recommendations to improve land administration and management, the report of which was published in November 2002.

Three developments have strongly influenced the desire for a coherent and comprehensive framework for use, access and conservation of land in Kenya. Firstly, Chapter 7 of the Zero Draft

Constitution submitted by the Constitution of Kenya Review Commission (CKRC) covers “Land and Property” and proposes far reaching changes to current constitutional provisions on land and property. Secondly, the report of the ‘Njonjo commission’ outlines a number of important new policy principles and institutional changes for the land sector. Combined, the draft constitution and the Njonjo commission report provide a firm basis and the point of departure for the elaboration and finalization of a national land policy. Thirdly, the *Kenya Economic Recovery for Wealth and Employment Creation Programme – 2003-2007* commits the Government to developing a clear time bound action plan for implementing the recommendations of the Njonjo commission.

It is recognized that the National Land Policy will be shaped by the outcome of the constitutional review process, which is still underway. In the meantime, there is much detailed preparatory work to be done while awaiting Parliament’s decision on the Constitution Bill, once it is tabled. In any case, as stated above, the Government is committed to reviewing the recommendations of the Njonjo Commission in the context of a comprehensive and consultative land policy development process, as called for by the Njonjo Commission. In drafting the National Land Policy, the findings of any subsequent land-related commission, the recommendations of which have been accepted by Government, will also be taken into account.

It is imperative that the NLP process is geared towards clear definition and determination of the following core issues: -

- ◆ **Insecure land tenure**, in particular, for the urban and rural poor, for women, for HIV/AIDS-affected households, for pastoralists and other vulnerable groups in both urban and rural areas.
- ◆ **Poor land administration** characterized by limited access to land information due to poor quality records, extended technical processes, lack of transparency and user friendliness.
- ◆ **Weak and/or ineffective mechanisms** for fair, timely, affordable, transparent and accessible resolution of land disputes.
- ◆ **Continued land fragmentation**, 80% of small farms have less than 2 ha.
- ◆ **Poor governance** in land administration, management and dispute resolution.
- ◆ **Different land tenure regimes** with limited harmonization.

## 1.2 OBJECTIVES

The overall objective is to prepare a National Land Policy that will provide for sustainable growth and investment and the reduction of poverty in line with Government's overall development objectives.

The specific objectives are to develop a framework of policies and laws designed to ensure the maintenance of a system of land administration and management that will provide:

- All citizens, particularly the poor, with the opportunity to access and beneficially occupy and use land;
- The economic, socially equitable and environmentally sustainable allocation and use of land;
- The efficient, effective and economical operation of the land market;
- And appropriate regulatory arrangements for the productive, sustainable use and equitable distribution of land.

## 1.3 LAND POLICY PRINCIPLES

Land policy principles should address, not only specific components of the land question but more importantly, the essential values, which the society seeks to promote or preserve. The principles outlined are to govern the land policy and are not exhaustive. They have been drawn from the deliberations of the CKRC, the report on the Commission of Inquiry into the Land Law System in Kenya (the 'Njonjo Commission') and the proceedings of the National Civil Society Conference on Land Reform and the Land Question.

These principles relate to the various land concerns identified and have been summarized as follows:

-

- ◆ **Access to Land.** Its exercise should be guided by the following principles:
  - i) Ensure Security of Land rights for all land holders, users and occupiers of Kenyan Citizenry

- ii) Provide reasonable legislative and other measures with established statutory fund, to foster conditions that enable citizens to gain access to land on equitable basis irrespective of gender or age and devoid of discriminatory practices.
  - iii) Provide terms under which foreigners should access land.
  - iv) Provide for the economic and social empowerment of citizens and to help address the plight of the poor and the landless
- ◆ **Land Ownership.** Its exercise should be guided by the following principles: -
    - i) To encompass terms under which land should be vested.
    - ii) Encompass incidents of ownership of land and categorize ownership.
    - iii) Establish ownership and transmission of land rights guidelines.
    - iv) Land rights that reflect inherent and progressive social values.
  - ◆ **Control of Land.** Its exercise should be guided by the following principles: -
    - i) Need for an ultimate land controlling authority
    - ii) Need for terms under which the state should control and regulate land for public interest
    - iii) Assure just, fair and prompt compensation for loss of rights in land.
    - iv) Protection of individual rights as state exercises its rights for Definition of terms under which public land held in trust by the state should be controlled, disposed of and improved on.
    - v) Encompass definition and principles of security of land rights (state, individual and community)
    - vi) Harmonization of state and individual rights.
  - ◆ **Land use.** Its exercise should be guided by the following principles: -
    - i) Decent livelihood and shelter for urban population
    - ii) Application of proper integrated and sustainable land use management system
    - iii) Community participation in resource utilization and management
    - iv) Exploitation of land based resources for the environmentally, economically and culturally sound benefits.
    - v) Institutionalizing planning as a value in land management
  - ◆ **Management of Land.** Its exercise should be guided by the following principles: -



- i) Need for a modern land information system that guarantees accountability, transparency, efficiency and cost effectiveness in land administration.
  - ii) Need for an independent, expeditious and just system for the resolution of land disputes and historical injustices.
- ◆ **Land Markets.** Its exercise should be guided by the following principles: -
- i) Protection of minority group land rights against oppressive forces of land market through intervention by state
  - ii) Conducive and favorable land markets that encourage investments
  - iii) Public education on land rights

## 1.4 OUTPUTS

A National Land Policy that provides: -

- A framework for the establishment of proper land administration and management systems;
- Reliable mechanisms for resolving land disputes;
- A framework of harmonized, simple and cost-effective land laws;
- A legal and institutional framework for secure land tenure, including customary tenure and common property resources;
- A framework for managing pastoral commons as a specific category of land;
- A framework for the establishment of a functional land information system;
- Mechanisms that ensure gender equity in land allocation and ownership;
- Mechanisms for conservation and protection of the environment;
- A framework for the resolution of historical injustices.
- A framework for Land Use Planning and the creation of National Land Use Policy as a critical component of the National Land Policy.
- Guidelines for the regularization of informal sector

## 1.5 GUIDING VALUES OF THE POLICY DEVELOPMENT PROCESS

Given the foregoing, a clear comprehensive and coherent land policy will be developed by a cost effective process that is based on a clear definition of the roles and responsibilities of the various state and none-state actors and which are: -

- Facilitative
- Consultative
- Participatory
- Interactive
- Inclusive – four broad categories (Public Sector, Private Sector, Civil Society and Community)
- Consensus building
- Timely and professional
- Transparent
- Gender sensitive
- Innovative

## **1.6 METHODOLOGY**

The land policy formulation process must be bound to a realistic time frame and deliver a National Land Policy by mid 2005. The success of the process will depend on the existing constitutional and legal frameworks, public consultation and political will. This will require structures that will enhance free exchange when conducting public consultation and access to information, supported by clear feed back systems.

The consultative policy formulation process will be the prelude to institutional reform and implementation. It will incorporate the following aspects:

- An interactive process with a realistic timetable built on logical framework principles.
- The promotion of public debate
- Capacity enhancement through human resource development, institutional stakeholder engagement, including private sector, civil society and development partners, the development of which will be key for ownership and sustainability in implementation.
- Cross-sectoral actions, collaboration and consultation with all land-related sectors. compulsory acquisition.

## **1.7 SCOPE**

The policy document will cover the following broad areas around which thematic teams will be formed; -

- Legal framework
- Land information system

- Institutional framework for implementation of land policy
- Fiscal framework – which will deal with land and property taxation, the system of valuation and community created land values
- Informal sectors
- Land use and development
- Environmental management and conservation
- Social cultural framework – this includes how the land policy will address: -
  - ◆ Historical and political injustices
  - ◆ Human Rights
  - ◆ Gender and valuable groups
  - ◆ HIV/AIDS impact and
  - ◆ Pastoralists
  - ◆ Border areas
  - ◆ Group Ranches
  - ◆ Land Market
  - ◆ Human/Wildlife Conflicts

The process of consultations for effective participation by all stakeholders will involve the organization of workshops/ meetings using the criteria of regional representation and/ or commonality of issues. Among the sub- thematic areas to be considered are: -

- ◆ Gender balance and land rights
- ◆ Informal settlements (both rural and urban)
- ◆ Pastoral land rights
- ◆ Natural resource utilization
- ◆ Redress of historical wrongs
- ◆ Border regions
- ◆ HIV/AIDS and rights of orphans, widows and widowers
- ◆ Land Markets and
- ◆ Farming and agriculture.



## **CHAPTER TWO**

### **2.0 STRUCTURE OF LAND POLICY FORMULATION PROCESS**

#### **2.1 STEERING COMMITTEE MEMBERSHIP**

- Ministry of Lands and Settlement – Permanent Secretary, (Chairman)
- Ministry of Local Government
- Ministry of Agriculture
- Ministry of Livestock and Fisheries Development
- Ministry of Water Resource Management
- Office of the President
- Ministry of Environment and Natural Resources
- Ministry of Planning and National Development
- Attorney General’s Chambers
- Ministry of Co-operative Development and Marketing
- Ministry of Roads, Public Works and Housing
- Ministry of Regional Development
- Ministry of Gender, Sport Social Services
- Heads of Department (Ministry of Lands and Settlement)
- Chairpersons of the Thematic Group
- Technical Advisor
- Coordinator - Secretary

#### **TERMS OF REFERENCE**

- Direct, facilitate and oversee the NLP process
- Advise on the preparation of the Cabinet Paper on NLP
- Guide on publicity and sensitization of the citizens on NLP
- Ensure NLP is linked to national and other sectoral policies
- Participate in all the National Forum on NLP
- Oversee the management of the available resources for the process

## 2.2 COORDINATING UNIT

- One Coordinator
- Coordinating Assistants
- A Secretariat of six to represent each Thematic Group
- Six experts to provide advisory services to Thematic Groups
- IT expert
- Support Staff

### TERMS OF REFERENCE FOR COORDINATING UNIT

- ◆ Providing the linkages between and amongst the working committees within the NLP process
- ◆ Provide technical and administrative leadership to the NLP process
- ◆ Being responsible to the steering committee for effective and timely performance of tasks in the NLP process
- ◆ To ensure that required facilities, equipment and other logistics are availed in time
- ◆ In consultation with the Thematic Groups draw and ensure TOR on research topics are met
- ◆ Source and acquire relevant data and material to facilitate the operations of the Thematic Group
- ◆ Provide secretariat to the entire NLP process
- ◆ Ensure all records of NLP process are accurate and easily retrievable

## 2.3.0 THEMATIC GROUPS

### 2.3.1 Operations

Land policy issues covering six broad themes will be reviewed and analyzed by six Thematic Group, which shall also develop recommendations on the resolution of the issues identified. Thematic Group members will be representative of state and non-state actors and as delegated and appointed by the Ministry of Lands and Settlement. Chairpersons (who will be representatives of non state actors) and Convenors will be drawn from the Thematic Groups.

The six Thematic Groups, under the direction of their chairpersons, shall sit once a month and one third of the members shall constitute a quorum. These six Thematic Groups will be empowered to operate as follows: -

- ◆ Appoint sub-committees from their membership to follow up specific topics;
- ◆ Recommend to the coordinator the priority, scope and content of studies to be undertaken and propose terms of reference;

- ◆ Recommend to the coordinator consultants to carry out such studies;
- ◆ Recommend to the coordinator that consultants' reports be accepted or re-submitted;
- ◆ Hold joint meetings with other Thematic Groups and/or co-opt members of other Thematic Groups to facilitate exchange of information;
- ◆ Delegate members of the Thematic Groups to attend meetings and workshops;
- ◆ Receive submissions from members of the public;
- ◆ Distribute working papers and reports; and
- ◆ Execute what is necessary to attain their mandate, within the limits of the allocated resources.

Each Thematic Group, under the direction of its chairperson, will submit to the coordinator the following: -

- ◆ **An *Inception Report*** to be submitted setting out: -
  - Comments on the terms of reference and proposals for additions and subtraction, if any;
  - The planned work programme required meeting the TOR and the reporting deadline;
  - Requirements for support from the Co-ordination Unit/Secretariat;
  - The proposed programme to work of the Thematic Group;
  - The destination, timing and justification for any proposed international study tours.
- ◆ **A *Draft Issues and Policy Recommendations Report***, which in the context of each issue identified by the thematic group a background statement of not more than 500 words; a problem statement of not more than 500 words; and policy proposals and recommendations of not more than 500 words.
- ◆ The ***Draft Final issues and Recommendations Report***, which collates the findings of all six thematic groups, will be produced by the Secretariat.

In consultation with the Coordinator and the respective Convenor, each appointed Chairperson shall, as far as possible and for a period to be specified: -

- ◆ Call general meetings of the thematic group as required;
- ◆ Manage and preside over the deliberations and endeavours of his/her respective thematic group in a manner, which is in accordance with the values agreed in the First Stakeholders Workshop in February 2004;
- ◆ Ensure that the work of the thematic group adheres to work plan agreed with the coordinator and overall the implementation schedule of the land policy process;
- ◆ Participate in meetings of the Land Policy Formulation Steering Committee called by the Permanent Secretary, Ministry of Lands and Settlement;
- ◆ Maintain close working contact with the chairpersons of other groups in order to ensure gaps are filled and unnecessary duplication is avoided;
- ◆ Ensure that the resources availed to the group for its work are expended in a prudent manner;
- ◆ In the event of his/her unavoidable absence, delegate authority to a member of the group to act as a temporary chairperson.

At the bidding of the Coordinator and the respective Chairperson, the Convenor of the thematic group shall: -

- ◆ Provide an administrative link between the secretariat and the respective thematic group;
- ◆ Inform members of the time and location of general meetings and make the necessary administrative and logistic arrangements for their timely and smooth operation;
- ◆ Keep a record of attendance and decisions made at general meetings of the thematic group and follow up on the agreed actions points; and
- ◆ Execute any task to assist the thematic group to attain its mandate, within the limits of the allocated resources.

### **2.3.2 Structure**

The six broad themes will cover:

- 1) Rural land use, environment and informal sector
- 2) Urban land use, environment and informal sector
- 3) The legal framework



- 4) Land tenure and social cultural equity
- 5) Land information management system
- 6) Institutional and financing framework for implementation

### **2.3.2.1 RURAL LAND USE, ENVIRONMENT AND INFORMAL SECTOR**

#### **MEMBERSHIP**

##### **Public Sector**

- All Departments, Ministry of Lands and Settlement
- Ministry of Co-operative Development
- Ministry of Agriculture
- Ministry of Roads, Public Works and Housing
- Ministry of Livestock and Fisheries Development
- Ministry of Environment and Natural Resources
- Ministry of Planning and National Development
- Ministry of Water Resources Management
- Ministry of Local Government
- Ministry of Regional Development
- Forest Department
- Department of Urban Development
- Local Authorities
- Kenya Wildlife Services
- Kenya Marine and Fisheries Research Institute
- National Environmental Management Authority
- Regional Development Authorities (LBDA, KVDA, TARDA etc)
- ASAL

##### **Private Sector**

- Egerton University (Tegemeo Institute)
- Kenyatta University (School of Environmental Studies)

- Moi University (Faculty of Environmental Studies)
- University of Nairobi (Department of Urban and Regional Planning, Institute of Development Studies)
- Institution of Surveyors of Kenya
- Kenya Institute of Planners
- Kenya National Farmers Union

### **Civil Society**

- Kenya Land Alliance
- Action Aid.
- National Council of NGOs
- Forest Action Network
- Pastoral Development Network for Kenya
- Green Belt Movement
- National Council of Women of Kenya
- Maendeleo Ya Wanawake
- East African Wildlife Society

### **TERMS OF REFERENCE**

- Review sectoral policies of land and identify policies related to land and environment
- Review and analyze the impact of subdivision in rural areas (e.g. ADC farms, research land, group ranches and cooperative farms) and recommend solution for posterity
- Review existing land use practices towards sustainable land management (use, care and improvement)
- Identify and analyze areas of land use conflicts for enhanced and optimum land utilizations
- Develop the best approaches to integrated rural development and review threats to stability and resilience of land as an environmental resource
- Review the national environment plan in relation to land
- Review land use guidelines for sensitive fragile areas and ecosystems

- Review guidelines for management and use of water bodies, underground water sources, ASAL areas and wetlands
- Review guidelines for management and use of mineral resources
- Identify and operationalize effective ways of knowledge dissemination to the community
- Identify areas for research and preparation of reports
- Review existing rural land ownership and recommend on the best way forward
- Address the issue of landlessness
- Review ownership and access to conservation areas
- Develop guidelines on development and management of coastal sea/land interface.
- Identify areas for research and preparation of topical papers by line stakeholders
  - Address water and soil degradation and conservation issues
  - Address the problem of human /wildlife conflict (imbalanced eco systems)
  - Develop recommendations for the issues identified.

## **2.3.2.2 URBAN LAND USE, ENVIRONMENT AND INFORMAL SECTOR**

### **MEMBERSHIP**

#### **Public Sector**

- All Departments, Ministry of Lands and Settlement
- Ministry of Health
- Ministry of Trade and Industry
- Ministry of Roads, Public Works and Housing
- Ministry of Transport and Communication
- Office of the President
- Urban Development Department
- Micro and small enterprise - Ministry of Labour
- National Council of Science and Technology
- National Environment Management Authority
- Kenya Tourism Board
- Nairobi, Mombasa, Kisumu City Council
- Investment Promotion Centre (IPC)
- Export Processing Zone (EPZ)
- Kenya Wildlife Society (KWS)
- All Regional Development Authorities
- National Housing Corporation (NHC)
- UN-HABITAT
- GTZ, SIDA

#### **Private Sector**

- All relevant University Departments
- COTU
- FKE
- KEPSA
- AAK

- ISK
- KIP
- ALGAK
- NACHU
- IDRC
- KAM
- Urban Harvest

### **Civil Society**

- Kenya Land Alliance
- Nairobi Central District Association
- Intermediate Technology Development Group
- Shelter Forum
- Pamoja Trust
- Kenya Resident Association
- Religious Organizations (NCCCK, SUPKEM and CJPC)
- Slum Dwellers Association
- Nairobi and Environment Food Security, Agriculture and Livestock Forum
- Jua Kali Associations

### **Thematic Group to be guided by the following visions/principles amongst others**

- Cities without slums
- Cities of enterprise
- Sustainable cities
- Safer cities

### **TERMS OF REFERENCE**

- Identify the principles and values that should guide the urban land use and environmental management

- Identify and review all sectoral policies that relate to urban land use and environmental management
- Re-examine the current principles and practices and their impact on the development of our towns for purposes of effective urban management and practice
- Review the existing land and property taxation regimes for optimum utilization of land
- Review the existing land valuation system and give appropriate recommendations.
- Examine how re-zoning can be linked to land development values and charges/principles
- Review existing land markets to ensure a favourable climate for investment and. equity in land accessibility by all.
- Develop guidelines for provision of secure tenure.
- Develop guidelines and standards for upgrading of informal Settlements
- Review waste and water management guidelines, practices and development of environmentally fragile areas in urban areas with a view to enhancing sustainable land use.
- Establish urban and peri urban agriculture/ forestry as a productive and essential component of sustainable urban areas
- Identify areas for research and preparation of topical papers by line stakeholders
- Develop guidelines for development of urban agriculture /forestry with a view of enhancing food security and conservation
- Develop recommendations for the issues identified.

### **2.3.2.3.LEGAL FRAMEWORK**

#### MEMBERSHIP

##### **Public Sector**

- All Departments, Ministry of Lands and Settlement
  - Ministry of Co-operative Development and Marketing.
  - Ministry of Agriculture.
  - Ministry of Roads, Public Works & Housing.
  - Ministry of Local Government.
  - Attorney General's Chamber

- The Judiciary
- Provincial Administration
- CKRC Technical Committee dealing with land and environment issues.
- Kenya National Farmers Union.
- Kenya Law Reform commission
- Land Arbitration Tribunal

#### **Private Sector**

- Building Societies (Housing Finance, Savings & Loans and East African Building Society)
- Institution of Surveyors of Kenya
- Kenya Institute of Planners
- Law Society of Kenya
- University of Nairobi (Faculty of Law)
- Kenya Bankers Association
- Architectural Association of Kenya
- Commercial Farmers Committee.

#### **Civil Society**

- Kenya Land Alliance
- FIDA
- Human Rights Commission

#### **TERMS OF REFERENCE**

- Analyse the materials/reports of the Njonjo, CKRC and Ndungu Commissions.
- Review existing Land Laws and sectoral policies for the purpose of rationalization and consolidation: -
  - Review current land delivery systems for purposes of transparency and public participation and recommend appropriate changes on the following issues: -
    - ◆ Compulsory acquisition.
    - ◆ Informal sales of land in slum areas.
    - ◆ Allocation

- ◆ Development control
  - ◆ Registration
  - ◆ Valuation
  - ◆ Physical planning
  - ◆ Land surveying
  - ◆ Land adjudication
  - ◆ Settlement of landless
  - ◆ Access to land records
  - ◆ Security of land records
  - ◆ Land control
  - ◆ Customary law on land rights
- 
- Examine and recommend faster conversion of title registration into RLA
  - Examine land ownership rights and equity in land access.
  - Examine the existing land tenure systems and their impact on natural justice and injustices
  - Examine causes of current land disputes and advice on appropriate remedies
  - Identify areas for research and preparation of topical papers by line stakeholders.
  - Examine current constraints to investments on Land and fixed property.
  - Develop recommendations for the issues identified.



## **2.3.2.4.LAND TENURE AND SOCIAL CULTURAL EQUITY**

### **MEMBERSHIP**

#### **Public Sector**

- All Departments, Ministry of Lands and Settlement
- Ministry of Health
- Ministry of Gender, Sports, Culture and Social Services
- Ministry of Roads, Public Works and Housing
- Ministry of Cooperative Development and Marketing
- National Aids Control Council
- Ministry of Water Resources Management and Development
- Ministry of Agriculture
- Ministry of Livestock and Fisheries Development
- Ministry of Local Government
- Ministry of Planning and National Development
- Ministry of Home Affairs and National Heritage
- AG's Chambers
- Ministry of Regional Development
- Kenya Wildlife Services
- Kenya National Museums

#### **Private Sector**

- Financial Institution (Equity, Kenya Women Finance Trust, K- Rep)
- University of Nairobi – (Department of Range Management)
- Egerton University – Environmental Science and Natural Resources.
- Institution of Surveyors of Kenya
- Kenya Institute of Planners
- Kenya Bankers Association

## **Civil Society**

- Kenya Land Alliance
- NCCK
- SUPKEM
- CJPC
- FIDA
- Pamoja Trust
- Maendeleo ya Wanawake
- National Council of Women of Kenya
- International Technical Development Group
- OXFAM
- United Disabled Persons of Kenya
- Pastoral Development Network of Kenya
- Kenya Alliance for Advancement of Children's rights
- Centre for Land, Economy and Rights of Women
- Kenya Network of women with Aids
- Kenya Aids NGO's Consortium
- Widows and Orphans Society
- Child Welfare Society of Kenya
- Hunters and Gatherers Network
- Jua Kali Association
- Slum Dwellers

## **TERMS OF REFERENCE**

- Examine the existing customary rights.
- Develop guidelines on joint ownership and proprietorship in common.
- Address rural/urban and rural –rural migration.
- Address attachment to land (“ Land complex Syndrome).
- Address land productivity in Kenya.
- Address impact of Aids Pandemic on property rights.

- Review Social injustices, historical injustices and human rights on land (including the modern land law)
- Examine the impact of Social/Cultural factors on land holding and productivity.
- Identify areas for research and preparation of topical papers by line stakeholders.
- Develop recommendations for the issues identified.

### **2.3.2.5. LAND INFORMATION MANAGEMENT SYSTEM**

#### **MEMBERSHIP**

##### **Public Sector**

- All Departments, Ministry of Lands and Settlement
- Ministry of Roads, Public Works & Housing
- Ministry of Transport & Communications
- Office of the President
- Ministry of Finance
- The Attorney General
- Department of Remote Sensing & Resource Surveys (DRSRS)
- Communication Commission of Kenya (CCK)
- Postal Corporation of Kenya (PCK)
- Telkom Kenya
- Kenya Railways Corporation
- Kenya Revenue Authority
- Kenya Wildlife Service
- National Council for Science & Technology
- CBS
- ECK
- Nairobi City Council

##### **Private Sector**

- Kenya Bankers Association
- Architectural Association of Kenya
- Institution of Engineers of Kenya
- GIS Association
- RCRMD
- ICRAF
- Kenya Power Limited

- ILRI
- Universities of Nairobi and JKUAT
- Institution of Surveyors of Kenya
- Kenya Institute of Planners
- KARI

### **Civil Society**

- Kenya Land Alliance

### **TERMS OF REFERENCE**

- Examine and review the current management of land information
- Examine and review the current state of technology in acquisition, processing and dissemination of land based information
- Develop appropriate structures and formats of managing land based information
- Examine and review the existing intellectual property rights in relation to land information
- Develop appropriate guidelines on land information system
- Identify areas for research and preparation of topical papers by line stakeholders
- Develop recommendations for the issues identified.

## **2.3.2.6 INSTITUTIONAL AND FINANCING FRAMEWORK IMPLEMENTATION**

**FOR**

### **MEMBERSHIP**

#### **Public Sector**

- All Departments, Ministry of Lands and Settlement
- Ministry of Planning and National Development
- Ministry of Local Government
- Ministry of Regional Development
- Ministry of Finance
- Office of the President
- DPM
- AICAD
- KRA

#### **Private Sector**

- Kenya Law Reform Commission
- University of Nairobi (Dept of Government)
- Kenya Institute of Planners
- Kenya Institute of Management
- KIPRA
- AICAD
- ISK
- KIP
- Kenya Institute of Management
- Kenya Private Sector Alliance
- CKRC

#### **Civil Society**

- Kenya Land Alliance

## **TERMS OF REFERENCE**

- Review proposed institutional framework proposals (Njonjo, CKRC etc).
- Develop institutional framework for implementation of National Land Policy.
- Develop budgetary allocation criteria
- Develop monitoring and evaluation mechanisms.
- Develop public awareness guidelines and tools for the proposed framework.
- Develop framework for capacity building for all the actors for the implementation of National Land Policy
- Identify areas for research and preparation of topical papers by line stakeholders
- Develop recommendations for the issues identified.

## 2.4 ADVISORY SERVICES

To include the following: -

- ◆ Consultancy services
- ◆ Financial Management
- ◆ Publicity Management

### TERMS OF REFERENCE FOR TECHNICAL ADVISOR

The Technical Advisor will have the following roles and responsibilities: -

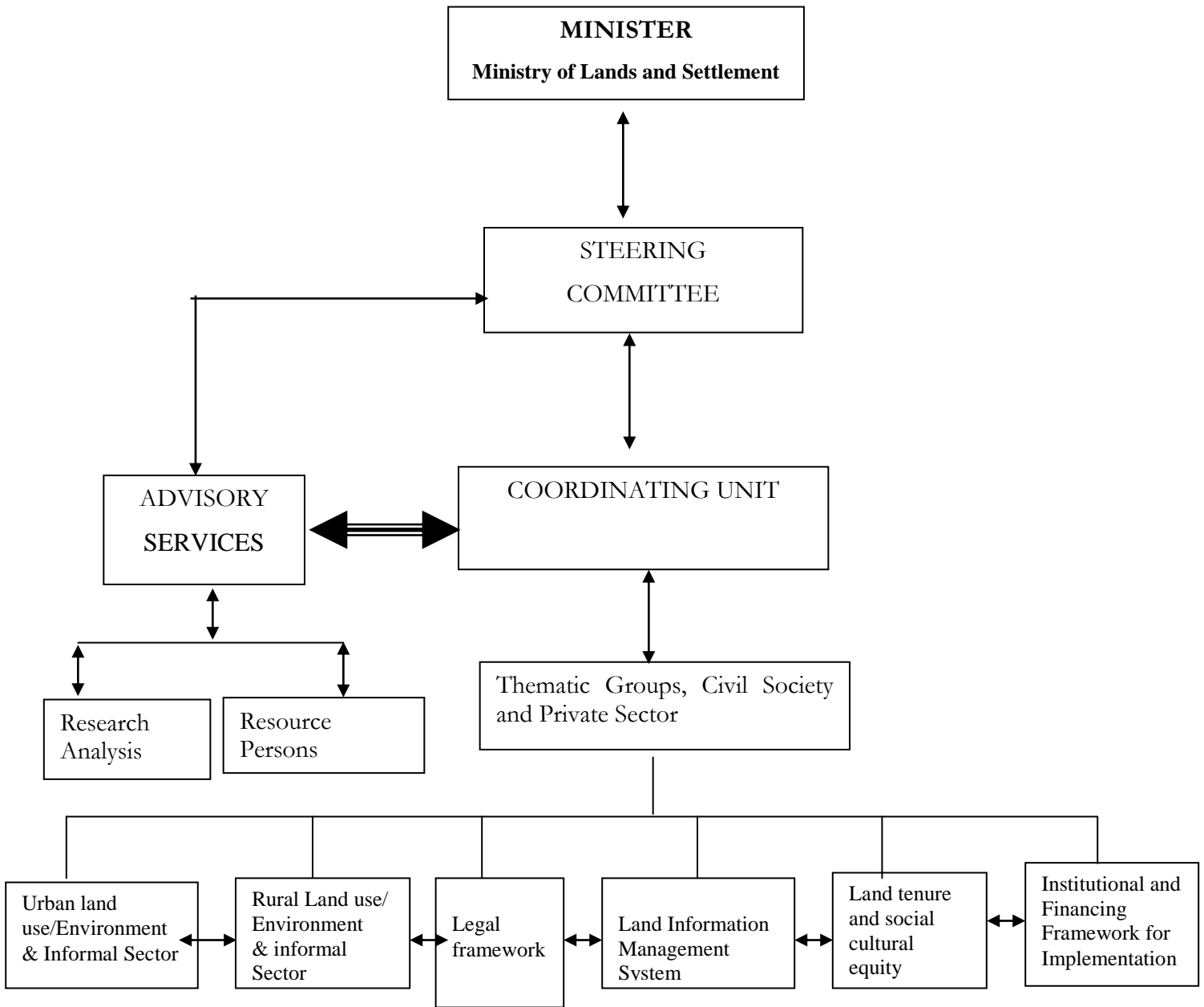
1. Be responsible, with the Land Policy Formulation Process Project Coordinator, to the Steering Committee, for the technical direction and co-ordination of the land policy formulation process up to completion of the policy document
2. Provide technical advice to both the Steering Committee and the Project Secretariat on all issues pertaining to the process
3. Ensure that the process pays due attention to cross cutting issues of poverty reduction, HIV/AIDS and gender
4. Assist the Coordinator to ensure the effective supervision and co-ordination of the Thematic Groups and other experts involved in the process
5. Assist the Coordinator, to ensure the effective and timely completion of all project activities and performance of all groups and persons involved in the process
6. Facilitate disbursement of funds provided by DFID and other donors in support of the land policy formulation process in close collaboration with the MOLS Coordinator, and according to the systems and procedures established by MOLS with interested parties. It is envisaged that such funds would be required for procurement of research and consultancy inputs, workshops, public awareness, and best practice
7. With the coordinator, establish and manage a draw down facility for accessing and procuring national and international expertise to support the land policy process
8. Co-ordinate the Thematic Groups in conjunction with the MOLS appointed Coordinator in the identification of areas requiring specialized research, timing and preparation of research reports



9. Assist the MOLS appointed coordinator, in ensuring that drawing up of terms of reference, identification, and supervision of researchers required for identified areas is carried out in timely fashion and that high quality inputs are delivered
10. Assist the Coordinator in drawing up a strategy to strengthen human resource development within the MOLS in relation to the land policy process

CHAPTER THREE

3.0 ORGANISATION STRUCTURE.



**ANNEX I: IMPLEMENTATION PLAN**

<b>Activity</b>	<b>Task</b>	<b>Time</b>	<b>Actor</b>	<b>Resources</b>	<b>Expected Output</b>
1. Developing concept paper	<ol style="list-style-type: none"> <li>1. Finalizing the draft concept paper</li> <li>2. Developing terms of reference for workshop facilitators and resource persons/TA</li> <li>3. Prepare a Land Policy Principles Paper</li> </ol>	1 Month	<ul style="list-style-type: none"> <li>- Permanent Secretary</li> <li>- Co-ordinator</li> <li>- Ministerial Task Force</li> </ul>	<ul style="list-style-type: none"> <li>- Allowances</li> <li>- Stationery</li> </ul>	A Paper that spells out the critical path of the process, effective structures and time frame.
2. Holding a Stakeholders Workshop and launching of Land Policy	<ol style="list-style-type: none"> <li>1 Identification and notification of stakeholders</li> <li>2 Invitation letters</li> <li>3 Presentation and adoption of Concept Paper</li> <li>4 Prepare report of workshop proceedings</li> <li>5 Finalization of Concept paper</li> </ol>	1 month	<ul style="list-style-type: none"> <li>- Permanent Secretary</li> <li>- Co-ordinator</li> </ul>	<ul style="list-style-type: none"> <li>- Accommodation for 30 persons for 2 days</li> <li>- Meals for 90 persons for 2 days</li> <li>- Stationery</li> </ul>	Consensus and acceptance of the planned process
3. Formation of Steering Committee, coordination unit and Thematic Groups.	<ol style="list-style-type: none"> <li>1 Establishment of a secretariat</li> <li>2 Appointment of members</li> </ol>	1 week issuing of appointment letters	<ul style="list-style-type: none"> <li>- Minister</li> <li>- Permanent Secretary</li> <li>- Co-ordinator</li> </ul>	<ul style="list-style-type: none"> <li>- 5 computers, furniture and equipment (Server, Photo copier, Copy printer, Binding machine, LCD projector &amp; Scanner)</li> <li>- 1 saloon</li> </ul>	Functional organizational structures
4. Steering Committee Workshop	<ol style="list-style-type: none"> <li>1. Presentation by resource persons/ Technical Advisor</li> <li>2. Developing goals and guidelines</li> <li>3. Team building</li> <li>4. Prepare report of the workshop proceedings</li> </ol>	2 days	<ul style="list-style-type: none"> <li>- Minister</li> <li>- Co-ordinator</li> <li>- Technical Advisory</li> <li>- Steering Committee</li> </ul>	<ul style="list-style-type: none"> <li>- Accommodation for 20 for 2 days</li> <li>- Allowances</li> </ul>	<ul style="list-style-type: none"> <li>- Effective and cohesive leadership</li> <li>- Goals and guidelines for the process</li> </ul>
5. Joint workshop of Steering committee and Thematic Groups	<ol style="list-style-type: none"> <li>1 Joint discussions between Steering committee and Thematic Groups</li> <li>2 Dissemination of the guidelines</li> <li>3 Identify key topics for research and develop work programme</li> <li>4 Team Building</li> <li>5 Prepare report of the workshop proceedings</li> </ol>	10 days	<ul style="list-style-type: none"> <li>- Co-ordinator</li> <li>- Technical Advisor</li> <li>- Chairmen of Thematic Groups</li> <li>- Convenor</li> </ul>	<ul style="list-style-type: none"> <li>- Accommodation for 180 for 10 days</li> <li>- Stationery</li> <li>- Consultancy fees (8 Resource Persons)</li> <li>- Allowances (sitting)</li> <li>- Transport &amp; operating expenses</li> </ul>	<ul style="list-style-type: none"> <li>- Team building</li> <li>- Common understanding and vision of the process</li> <li>- Specific work plan and outputs</li> </ul>

6. Sourcing and compiling of existing data and information on land policy	<ol style="list-style-type: none"> <li>1. Sourcing of information</li> <li>2. Analysis of Njonjo Commission materials and CKRC</li> <li>3. Compilation and analysis of other information on land policy</li> </ol>	1 months	<ul style="list-style-type: none"> <li>- Coordinator</li> <li>- Technical Advisor</li> <li>- Chairman of - Thematic Groups</li> <li>- Convenor</li> </ul>	<ul style="list-style-type: none"> <li>- Consultancy fees for 8 persons</li> <li>- Allowances for 8 persons</li> <li>- Transport &amp; operating expenses</li> <li>- Accommodation for 30 persons for one week</li> </ul>	<ul style="list-style-type: none"> <li>- Functional resource centre</li> <li>- Processed data and information for Thematic Groups</li> </ul>
7. Preparation of specific Issue papers	<ol style="list-style-type: none"> <li>1. Identify key issues</li> <li>2. Identify research areas</li> <li>3. Develop TOR for research topics</li> <li>4. Sourcing and hiring for resources persons</li> <li>5. Preparation and circulation of papers by resources persons</li> <li>6. Convening of meetings for discussions and consensus building by line stakeholders</li> <li>7. Writing of issue papers on identified key issues and research topics</li> </ol>	3 month	<ul style="list-style-type: none"> <li>- Coordinator</li> <li>- Representatives of identified stakeholders</li> <li>- Technical Advisor</li> </ul>	<ul style="list-style-type: none"> <li>- Accommodation for 30 persons for 2 days per paper</li> <li>- Stationery</li> <li>- Consultancy fees</li> <li>- Allowances</li> </ul>	Well researched specific issues papers
8. Thematic Groups Workshops	<ol style="list-style-type: none"> <li>1. Presentation of papers by resources persons under activity '7'</li> <li>2. Discussion and adoption of papers and reports under activity '7'</li> <li>3. Identification of critical issues and gaps</li> <li>4. Build consensus on land policy issues</li> <li>5. Preparation of synthesized working document</li> </ol>	5 days per thematic group	<ul style="list-style-type: none"> <li>- Coordinator</li> <li>- Technical Advisor</li> <li>- Convenor</li> </ul>	<ul style="list-style-type: none"> <li>- Accommodation for 20 x 5 x 8</li> <li>- Stationery</li> <li>- Transport and operating expenses</li> <li>- Allowances</li> </ul>	- Identified gaps - Consensus on identified issues
9. Visits of selected areas by Thematic Groups	<ol style="list-style-type: none"> <li>1 Meeting with identified local leaders and stakeholders</li> <li>2 Meeting with local resource persons</li> <li>3 Collection of in fill data/research</li> </ol>	2 months	<ul style="list-style-type: none"> <li>- Coordinator</li> <li>- Convenor</li> <li>- Technical Advisor</li> </ul>	<ul style="list-style-type: none"> <li>- 3 vans</li> <li>- Transport and operating expenses</li> <li>- Accommodation for 20 x 5 x 8</li> <li>- Consultancy fees</li> <li>- Allowances</li> </ul>	- Field visits reports
10. Individual Thematic Groups workshops	<ol style="list-style-type: none"> <li>1 Updating the working papers on identified issues</li> <li>2 Discuss and build consensus on the issues</li> </ol>	5 days per Thematic Group	<ul style="list-style-type: none"> <li>- Technical Advisor</li> <li>- Convenors</li> <li>- Coordinator</li> </ul>	<ul style="list-style-type: none"> <li>- Allowances</li> <li>- Consultancy fees</li> <li>- Accommodation 20 x 5 x 8</li> <li>- Stationery</li> <li>- Transport and operating expenses</li> </ul>	Individual Interim Thematic group reports

11. Holding of Joint Workshop for 6 Thematic Groups	1. Preparation of working papers by Thematic Groups 2. Discussion of Reports 3. Identification of cross-cutting issues	2 weeks	- Technical Advisor - Coordinator	- Allowances - Accommodation for 160 x 14 days - Transport and operating expenses	Harmonized Interim Thematic Groups report
12 Study tours to countries with best practices.	Visit to Ghana, Malawi, Botswana, South Africa, Cameroon, Tanzania	2 months	- PS - Coordinator - Technical Advisor	- Air tickets - Overseas allowances for 25 persons	Study tours report
13 Holding of Joint Workshop for 6 Thematic Groups	- Comparing notes and sharing experiences gained from the tours - Prepare draft issues and policy recommendation report	5 Days	- Chairmen of thematic groups - Coordinator - Convenor - Technical Advisor - Thematic group members	- Consultancy fees (6 Resource persons) - Allowances - Accommodation for 180 x 5 days - Stationery - Transport and operating expenses	Draft issues and policy recommendation report
14. Preparation of Draft Issues Report	Compiling the draft issues reports from the thematic Groups	1month	- Chairmen of thematic groups - Coordinator - Convenor - Technical Advisor	- Consultancy fees (8 Resource persons) - Allowances - Accommodation for 30 x 30 days - Stationery - Transport and operating expenses	- Interim Draft issues and recommendations report
15. Workshop on Draft Issues Report	- Presentation of Draft Issues Report to the Steering Committee and Thematic Group - Discussions on the report - Developing consensus and way forward	3 days	• Coordinator • Technical Advisor	• Accommodation for 30 x 3 days • Consultancy fees • Allowance • Transport and operating expenses	- Consensus - Draft issues and recommendations report
16. Regional Workshops on draft issues report	- Debating on Specific Issues within the specific region - Prepare regional issues report	24 Days	• Thematic Group Members • Coordinator • Convenor • Stakeholders • Technical Advisor	• Consultancy fees • Accommodation 400 x 3 days (8 Regions) • Allowances • Stationery • Transport and operating expenses	Regional specific issues reports

17. Workshop for finalization of the Draft Report	- Consensus Building - Revised draft issues report	2 days	<ul style="list-style-type: none"> <li>• Technical Advisor</li> <li>• Co-ordinator</li> </ul>	<ul style="list-style-type: none"> <li>• Consultancy fees</li> <li>• Accommodation 30 x 3 days</li> <li>• Meals for 130 persons x 2 days</li> <li>• Allowances</li> <li>• Stationery</li> </ul>	1 <sup>st</sup> Draft issues report
18. Preparation of the final draft issues report	Writing of the final draft issue report	1 weeks	<ul style="list-style-type: none"> <li>• Coordinator</li> <li>• Technical Advisor</li> <li>• Convenors</li> </ul>	<ul style="list-style-type: none"> <li>- Accommodation for 12 x 7 days</li> <li>- Allowance</li> <li>- Consultancy fees</li> <li>- Transport and operating expenses</li> </ul>	Final draft issues report
19. National Symposium on draft issues report	Presentation of draft issue report	2 day	<ul style="list-style-type: none"> <li>• Permanent Secretary</li> <li>• Co-ordinator</li> </ul>	<ul style="list-style-type: none"> <li>- Accommodation for 50 for 1 day</li> <li>- Meals for 250 persons</li> <li>- Transport and operating expenses</li> <li>- Stationery</li> <li>- Allowances</li> </ul>	Consensus on the final issues report
20. Preparation of draft National Land Policy document	1. Evolving of policy statement and guide lines 2. Preparation of Policy Report	3 months	<ul style="list-style-type: none"> <li>• Technical Advisor</li> <li>• Convenors</li> <li>• Co-ordinator</li> </ul>	<ul style="list-style-type: none"> <li>- Consultancy fees (8Resource persons)</li> <li>- Allowances for 15 persons</li> <li>- Stationery</li> <li>- Transport and operating expenses</li> </ul>	Draft National Land Policy document
21. National symposium on the draft National Land Policy	Presentation of draft land policy to wider stakeholders	1 day	<ul style="list-style-type: none"> <li>• Minister</li> <li>• Permanent Secretary</li> <li>• Coordinator</li> </ul>	<ul style="list-style-type: none"> <li>- Accommodation for 50 persons</li> <li>- Meals for 300 persons</li> <li>- Allowances</li> <li>- Stationery</li> <li>- Transport and operating expenses</li> </ul>	Consensus on Draft National Land Policy
23. Preparation of final National Land Policy	Updating the draft National Land Policy document	2 weeks	<ul style="list-style-type: none"> <li>• Coordinator</li> <li>• Technical Advisor</li> </ul>	<ul style="list-style-type: none"> <li>- Consultancy fees</li> <li>- Allowances for 25 persons</li> <li>- Meals for 25x6days</li> </ul>	Final draft National Land Policy
24. Preparation of Sessional Paper	1. Writing the Sessional Paper 2. Presenting the Sessional Paper to the Minister	1 week	<ul style="list-style-type: none"> <li>• Steering Committee</li> <li>• Attorney General</li> </ul>	<ul style="list-style-type: none"> <li>- Allowances</li> <li>- Stationery</li> <li>- Transport and operating expenses</li> <li>- Accommodation for 15 x 7 days</li> </ul>	Sessional Paper on National Land Policy

## ANNEX II IMPLEMENTATION MATRIX

Activities	Dec 2003	Jan 2004	Feb 2004	Mar 2004	Apr 2004	May 2004	Jun 2004	Jul 2004	Aug 2004	Sep 2004	Oct 2004	Nov 2004	Dec 2004	Jan 2005	Feb 2005	Mar 2005	Apr 2005	May 2005	Jun 2005
1. Developing concept paper																			
2. Providing Secretariat Services and Publicity																			
3. Holding a Stakeholders Workshop and launching of Land Policy																			
4. Formation of Steering Committee, coordinating unit and Thematic Groups.																			
5. Establishment of coordinating offices, Setting websites & Internet facilities and Equipping resources Centre																			
6. Steering Committee Workshop																			
7. Joint workshop of Steering committee and Thematic Groups																			
8. Sourcing and compiling of existing data and information on land policy																			
9. Preparation of Inception Report by Thematic Group																			
10. Preparation of specific Issue papers																			
11. Thematic Groups Workshops (Individual)																			
12. Visits to selected areas by Thematic Groups																			
13. Individual Thematic Groups workshops																			
14. Holding of Joint Workshop for 6 Thematic Groups																			
15. Study tours to countries with best practices.																			
16. Holding of Joint Workshop for 6 Thematic Groups																			
17. Individual Thematic Groups Workshops																			
18. Preparation of Draft Issues Reports																			
19. Individual Workshop on Draft Issues Reports																			
20. Workshop for Integration of the Draft Issues Reports																			
21. Regional Workshops on Draft Issues Report																			
22. Preparation of the final Draft Issue and recommendations Report																			
23. National Symposium on Draft Issues Report																			
24. Stakeholders Meeting on Draft Land Policy																			
25. Preparation of Final Policy Document																			
26. Preparation of Sessional Paper																			