HUMAN CAPACITY REQUIREMENTS FOR LAND REFORM AT COUNTRY LEVEL: SOME REFLECTIONS FROM KENYA

JOINT LEARNING PROGRAMME

INNOVATIVE CONCEPTS, TOOLS AND PRACTICES IN LAND ADMINISTRATION

Presented by

P. M. Ngau and J. N. Mwenda, (Kenya)

and M. Mattingly (UK)

Nairobi, November 9th 2014

Regional Centre for Mapping of Resources for Development (RCMRD)

INTRODUCTION

- In Kenya, the Government is currently implementing of a new set of land laws, including institutional restructuring required by both the new Constitution (2010) and National Land Policy (2009).

- The framework of implementation seeks among other things to provide for human capacity development of the process.

- This report offers some reflections on lessons learnt from a consultancy undertaken for the Ministry of Lands, Kenya on Human Capacity Development needs Assessment and Training Program (2011) and on-going implementation of the process.

OBJECTIVES OF THE STUDY

o To assess human capacity development needs required to implement the new land policies and develop a human capacity building (training) program in Kenya within the new constitutional dispensation

o To develop a generic scoping methodology for assessment of human capacity needs and design human resource development programs for other countries undertaking new land policy or land reforms

INSTITUTIONAL CONTEXT

- Since independence, the Ministry of Lands has been the main Government Institution charged with ensuring proper land administration and management.

- Other actors in the land sector consist of:

- Other state institutions (local authorities, Ministries of environment, agriculture, water etc.)

- Non state actors – Professionals and para-professionals in private sector; the civil society; Citizens and non-citizens

CAPACITY DEVELOPMENT FOR LAND REFORMS

❑ Land reforms in Kenya have aimed at:

  o protection of property rights,

  o to facilitate equitable access to land,

  o the concern for environment,

  o and support for land based investment.

❑ Lack of adequate and competent human capacity to undertake the necessary reforms can be a main barrier in the implementation of any new land policies

KEY REFORMS	STRATEGIES/ MEASURES
1 **New Laws:** Enactment of new laws – to rationalize land tenure regimes	- Enactment to harmonize and rationalize land under public, communal and private ownership (harmonization of land laws). - Acts: National Land Commission Act (2012); Land Act (2012); Land Registration Act (2012); Community Land Bill (2013)
2 **Land Administration, Spatial Information System and Mapping**: Develop and Strengthen Land Administration, improve data capture, storage and access.	- Develop a National Land Information management System (NLIMS) - Establish a National Spatial Data Infrastructure - Establish a modern Geodetic reference system - Parcel Identification Reform - Computerize land records and facilitate access to land information - Business Process reengineering through review of procedures - Decentralized land registries - Develop Land Rent Collection System - Development and implementation of file tracking system and queue management system - Address special Land Issues (e.g. Coast Land Issues, Minority Groups, Gender etc) - Establish a Land Bank

	KEY REFORMS	STRATEGIES/ MEASURES
3	**Land Use Management:** Development and Strengthening of Land use Management mechanisms at national and county levels	- Preparation of a National Spatial Plan - Preparation of a National Land Use Policy - Preparation of Local and Regional Development Plans - Urban and Peri-urban land use planning - Planning for Informal Sector Activities - Conservation and sustainable Management of both urban and rural-based resources - Regularization of Informal Settlements - Land adjudication and Consolidation processes
4	**Institutional Framework:** Establishment of new institutions	- Set up National Land Commission (NLC), County Land Boards (CLBs), Community Land Boards (CLBs) - Rationalize and strengthen key support institutions: Ministry of Lands and related SAGAs, Land Disputes Tribunal and land courts. - Land titles tribunal to determine bona fide ownership of land that was previously public or trust land - Establish a Land Policy Research Centre

METHODOLOGY

➢ The study utilized three lines of inquiry:

1. The demand side analysis-addresses the issue of key personnel and necessary core competencies required for implementation of the new land policies within the new institutional setup.

2. The supply side investigation- aimed to identify and characterize the training presently on offer and propose a framework for human capacity building (training) program.

3. The cost analysis- aimed at costing requirements of meeting the demand, identifying possible sources of funding, and analyzing scenarios.

TRAINING NEEDS ASSESSMENT

- Training needs are the shortfalls in performance that require to be supplied by systematic instruction:

- P-DK=TN+Ei;   where

    - P = is what and how the employee should perform (current and future)

    - DK = is what the employee already knows and does

    - TN = are the training needs

    - Ei =   Unexplained factors

- The training needs are informed by both current performance gaps as well as future needs (the new roles and functions) that might arise from the new policy and accompanying institutions.

TRAINING NEEDS ASSESSMENT FORM

Job Group	Current Capacity (DK)		Envisaged Capacity (P)			Gaps to be filled (TN)					
	Current Qualific a-tion	No.	Qualifica -tion required	no.	New skills, knowledge and attitudes required	no.	To replace turnover: qualificati on required	no.	To increase staff: qualificatio n required	no.	New skills, knowledge and attitudes required	no.

APPROACH TO DATA COLLECTION AND ANALYSIS

○ Data for the study was collected from both state and non-state actors in land.

○ Data was collected through questionnaires, interview schedules and focused group discussions from:

- The Ministry of Lands in Nairobi, from all eight (8) Provincial Offices and eight (8) representative districts in the country.

- Training Institutions (public and private)

- Private sector and civil society

FINDINGS AND RECOMMENDATIONS

CURRENT STAFFING IN THE MINISTRY OF LANDS

Department	Total Number Approved	Female	Male	Total	% In Post
Administration	304	121	154	275	90.5
Lands	1246	332	427	759	60.9
Survey	2037	268	502	770	37.8
KISM	98	16	26	42	42.9
Physical Planning	390	102	148	250	64.1
Land Adjudication & Settlement	2585	303	618	921	35.6
Total	**6660**	**1142**	**1875**	**3017**	45.3

Overall, ministry is operating at 45.3% staff capacity (61% for lands, 37% for survey, 64%for physical planning and 35.6% for Land Adjudication and Settlement)
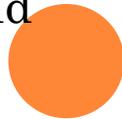
Staff Requirement

- The staff deficit is attributable partly to GOK austerity measures and problem of staff retention.

- At the time of the study the determination by GOK/Stakeholders of the new organizational structures and staffing plans required by the new constitution was not ready.

Staffing by gender

Department/Unit	Female	%	Male	%	Total
Administration	121	44.0	154	56.0	275
Lands	332	43.7	427	56.3	759
Surveys	268	34.8	502	65.2	770
KISM	16	38.1	26	61.9	42
Physical Planning	102	40.8	148	59.2	250
Land Adjudication & Settlement	303	32.9	618	67.1	921
Total	1142	37.9	1875	62.1	3017

NB: Recent national survey reported parity of 28% female in the civil service.
(GOK, July 2011: Ministry of Public Service).

Staff years of service

- Analysis of staff years of service shows an aged workforce

- Overall, over 55 percent of the staff has served above 20 years.

- There is low percentage of years of service 6-10 years. This represents a missing age group of officers in the age bracket around 30-35 years.

- This age group coincides with the period of employment embargo and the new generation of "ICT savvy" individuals who have not been adequately attracted to work in government.

ASSESSMENT OF FIELD STAFF: STAFF YEARS OF SERVICE BY DEPARTMENT

	Departments				
Years of service	Lands	Survey	Physical Planning	Land Adjudication and Settlement	All
1-5	12.3%	12.0%	21.7%	13.3%	13.7%
6-10	3.2%	5.7%	7.2%	10.7%	6.6%
11-15	11.6%	3.8%	8.7%	15.3%	10.0%
16-20	10.3%	12.0%	18.8%	17.3%	13.9%
21-30	48.4%	51.3%	21.7%	32.0%	41.2%
>30	14.2%	15.2%	21.7%	11.3%	14.7%
Mean Yrs of Service	21.4	21.4	18.7	18.4	20.2
Total(No)	155	158	69	150	532

ACADEMIC QUALIFICATION OF STAFF

➢ **We observed:**

- 60% of the staff in the field had only certificate and lower levels of academic qualification.

- 20 per cent had diploma and higher diploma,

- 17 per cent were Bachelors degree holders,

- 4.1 per cent had Masters degrees.

➢ **Low staff qualification poses challenge for new technological adoption and re-training**

Highest Academic Qualification

Qualification	Frequency	Valid Percent	Cumulative Percent
Below O-level	52	10.6	10.6
O-level	107	21.8	32.4
Certificate	128	26.1	58.6
Ordinary diploma	46	9.4	68.0
Higher National Diploma	53	10.8	78.8
Degree	84	17.1	95.9
Masters	20	4.1	100.0
Total	490	100	

CAREER/PROFESSIONAL TRAINING RECEIVED

- 33% of all the staff in the field stations had not received any career/professional training since joining the Ministry.

- The most common type of training received is in the two categories- **Induction Courses; basic land management for new clerical staff.**

- Only 7 out of every 100 have undergone basic computer training since joining the Ministry.

- Senior management has the highest numbers training (11%).

CHALLENGES IN ACCESSING TRAINING

- The main challenges in accessing career and professional training:

- Lack of support and poor communication whereby information reaches potential candidates late or not at all,

- Lack of relevant courses,

- Perceived bias in selecting staff for the training

CAPACITY AT OTHER STATE INSTITUTIONS

- Most other state institutions rely on MoL officers for public professional services.

- Few have recently began to hire their own public land professionals (surveyors, Valuers, Physical planners, and lawyers).

- The Professional Registration Boards record few registration an licensing of land professionals.

- ISK has a membership of 468 land surveyors but only 74 (16%) are licensed

- KIP&AAK have membership of over 500 Physical planners but only 153 (31%) are registered .

- LSK has membership of 8,880 lawyers but only half (4,460) (50%) are active.

CAPACITY GAPS

Overall Gaps	
• Adapting to changes in the new dispensation/ attitude change	
• Customer care/ image change/integrity	
• Proficiency in modern computer skills	
• Knowledge of modern record management systems	
• Gender and power relations in land	
• Knowledge of minority land rights	
• Knowledge of land policy provisions of the new constitution	
• Knowledge of environmental sustainability	

CAPACITY GAPS

Land Administration, Valuation and Registration
• Preservation and backup of Land Records
• Efficient and timely verification of documents and detection of fraudulent documents
• Specialized training in Land Law and Registration Procedures
• Computerized tracking of movement of files in the offices
• Faster and more efficient execution of the Valuation function
• Need for adequate number of staff to perform land Administration and Valuation functions
• Computer and ICT proficiency at all levels
• Knowledge of legal provisions on land
• Inadequate approach to succession management

CAPACITY GAPS

Surveying and Mapping	Physical Planning
Poor records preservation and management	Participatory approaches to Planning
Efficient and timely verification of documents and detection of fraudulent documents	Knowledge of new planning paradigms and approaches
Inability or limitations in use of the File Management tracking system	Computer and ICT proficiency – GIS, RS, Auto- CAD
Skills to operate NSDI	Skills in scenario building and Spatial Planning
Capacity for Hydrographic surveys and Nautical Cartography	Training in Planning for Assistants Planners/ Draughtsmen
Use of modern technology for positioning in Surveying	Secure record and file management
Skills in Remote Sensing and GIS	Managing succession
Proficiency in Computer and ICT	
Orientation and pupilage of young employees	

CAPACITY GAPS

Land Adjudication and Settlement	Administration
Knowledge on special land tenure issues - Gender; Islamic Tenure; Coast Issues	Knowledge on modern database management
Record archiving and automation.	Modern Accounting practices
Automation in Land Records and Accounting processes	Modern Procurement procedures
Higher training in land adjudication	Fraud detection and Document security
File management system	Asset management
Computer and ICT proficiency –GIS, RS, Auto- CAD	Fleet management
Knowledge on land law and dispute resolution	Monitoring and evaluation of budget
Basic adjudication and settlement knowledge	Human resource management
Skills in Document verification and fraud detection	Monitoring and evaluation
Knowledge on Accounting Computer Packages	

CAPACITY GAPS

Civil Society and Professional Societies
• Networking
• Communication
• Lobbying
• Negotiation
• Awareness of land issues in the Constitution and National Land Policy
• Bill of rights
• Continuous Professional Development

TRAINING INSTITUTIONS

- Training of professional and para-professionals is offered by both institutionalized and non-institutionalized training providers in Kenya.

- Non-institutionalized training consists of :

  - ad hoc basis – candidates study on their own

  - short study visits, short tailor made courses

  - conferences, workshops

- Institutionalized Training:

  - Provided by public, private and faith based institutions

 -Consists of Levels: artisan/craft; certificate, diploma, higher diploma, degree, masters, and PhD .

ANALYSIS OF TRAINING INSTITUTIONS

- The following observations are made:

  - There is an abundance of training providers in Kenya and spread all over the country.

  - A wide range of subjects, specializations are offered.

  - there is lack of multi-skill type of courses

  - there are wide variation of duration for the courses particularly among certificate courses

  - there are also wide cost variation at all levels

  - the courses are now available at regular and parallel basis – enabling life skill improvement.

- The lack of standardized curricula/ an examinations at all levels means qualities vary widely.

THE LAND SECTOR FOUR-WAY TRAINING MODEL
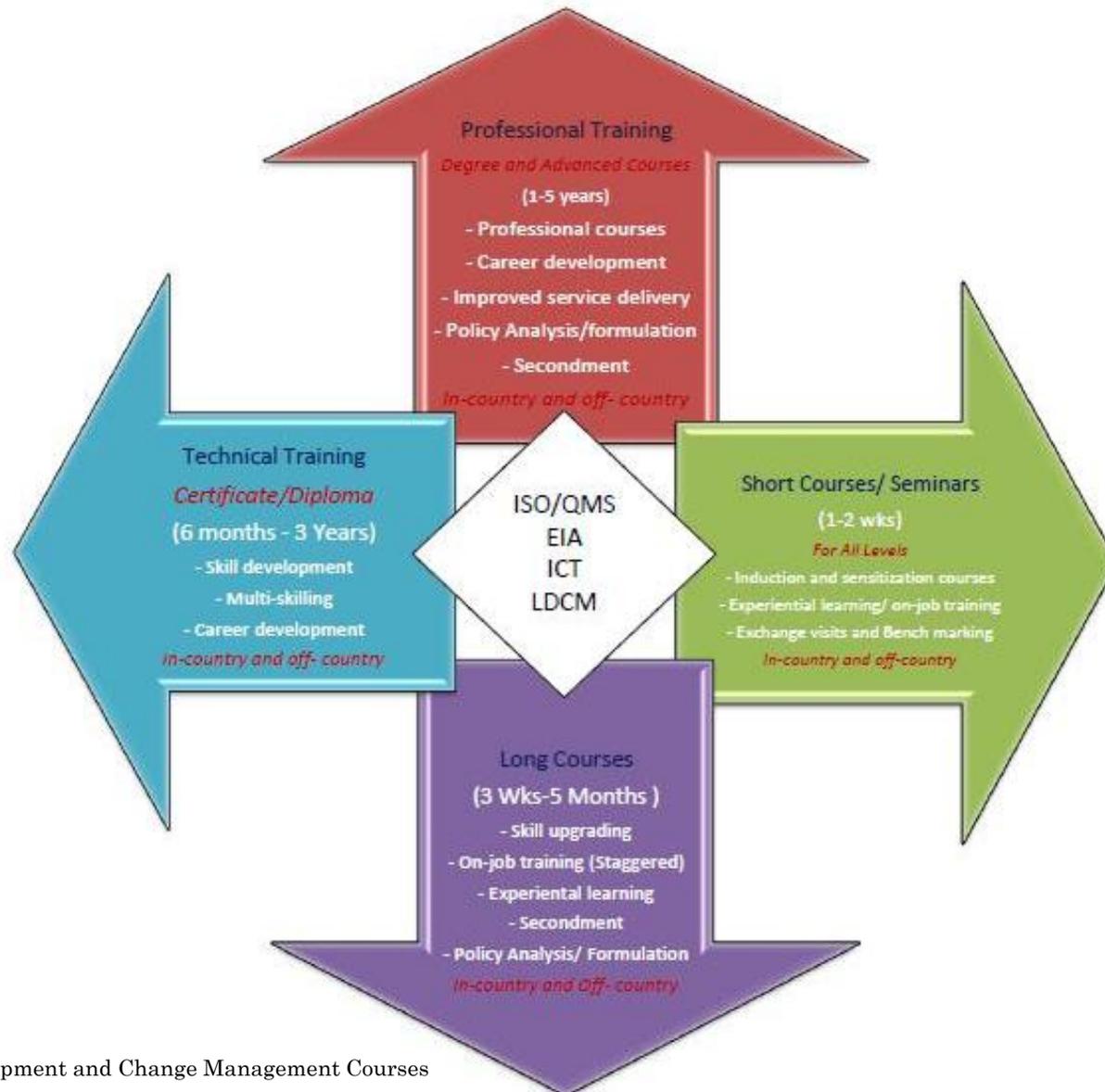
DESIGN FOR TRAINING PROGRAMS

❖ The following process was proposed for design of training programs – It entails identification of:

1. Targeted actors
2. Programs
3. Aims
4. Modes
5. Strategies used
6. Technologies
7. Costs

❖ Based on above, a framework for design of land based training courses was then prepared

Framework for Design of Land Based Training Programs/Courses

	PROGRAMS Long program Short program Centralized learning Decentralized/distance learning Group learning Individual learning	COST LEVEL High Medium Low	AIMS Knowledge increase Skill increase, Attitude change	MODES Lecture Demonstration Seminar/discussion Tutoring Role playing Learning by doing Self-teaching Dramatisation	TARGETED ACTORS e.g. elected officials, government staff, professionals
TARGETED ACTORS Elected officials Senior government officials Middle level government line staff Government administrators General public NGO members CBO members Senior private sector professionals Junior private sector professionals Academics Future students					
STRATEGIES Place in school curricula On-the-job learning Apprenticeship Counterpart training Awareness raising Training trainers Degree/certificate course Short courses Workshops Learning visits					
TECHNOLOGIES Meeting Documents Video Radio TV Web site Internet social networks; e.g. Facebook, Twitter You Tube Cell phone, land line Smart phone Skype Podcast					
COST LEVEL High Medium Low					

MODULE 1: TRAINING PROGRAM ON NEW LAND POLICY FOR SENIOR GOVERNMENT OFFICERS

CAPACITY GAP:	**Identified as the lack of knowledge among senior government officers of the provisions of a new constitution regarding land Policies**
TARGET GROUP:	**Senior Government Officers**
AIMS	**(e.g Knowledge increase, skill increase, attitude change): increase knowledge of constitutional provisions regarding land**
OPTIONS FOR PROGRAMS	**(e.g Long or short program; centralized or decentralized/distance learning; group or individual learning): a short, centralized program, because of the difficulty of engaging such officers in training for long. This difficulty suggests that an individual, decentralized learning program might be an option; yet, no feasible strategy comes to mind in the absence of a suitable scheme for motivating senior officers to study this subject on their own.**
OPTIONS FOR STRATEGIES	**(e.g. intensive or intermittent activities, on-the-job learning, short courses, degree/certificate courses, apprenticeship, counterpart training, awareness raising, training of trainers, imbed in school curricula): intensive short course, but these officers cannot be pressed to make space for a course in their agendas, and a common meeting date will be very difficult to establish. A more promising strategy is needed.**
OPTIONS FOR MODES	**e.g. lecture, seminar/discussion, tutoring, workshop, demonstration, learning-by-doing, self-teaching, dramatization, role playing): lectures, seminars, and workshops – the usual ones**
OPTIONS FOR TECHNOLOGIES	**e.g. meeting/classes, documentation, sound recording, video, radio, television, website, internet social networks (e.g. Facebook, Twitter, You Tube), cell phone/land line, smart phone, Skype, Podcast): meetings in classes, documents, videos – the usual ones**
COMMENTS ON COSTS	**Bringing these officers together will probably be of medium expense because they will tend to live in the same city and accommodation costs will not be incurred. Use of local trainers can minimize their costs.**

REFLECTION ON GOING IMPLEMENTATION PROCESS

There is need to:

❖ Address the challenges of **transition:** personnel succession; institutional changes and reforms

❖ Carry out structured, aggressive and consistent **CPD** in professional organizations to support the reform process

❖ Address both "soft skills" and "technical/hardware" **capacity gaps simultaneously.**

❖ Develop a program targeting the younger generation and organizations at the local level ("grassroots")

❖ Develop closer linkages and cooperation between land service providers and training institutions.

ACKNOWLEDGEMENT

❖ Thanks and acknowledgement for guidance and support from:

1. The Ministry of Lands, Kenya
2. GLTN
3. UN-Habitat
4. Sida-Kenya

THANK YOU