

The Dynamics of Influencing National Policies and Legislation: The Kenyan Perspective in Land Reforms

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SUMMARY

Most goals in a country and direction that a country goes are achieved through policies and legislation. Any country that believes in the rule of law knows the significance of policies and legislations. In the land and property sector, nothing is more useful than right and well drafted policies and legislation. However, the processes of formulating policies and drafting of legislations including their implementation have in most cases been left to the government and lawyers. This has in most cases resulted in policies and laws that do not fully address the problems in the land and property sector that would have been addressed better had the land and property sector professionals been involved in the process or got involved in the process.

Kenya is one country which had never had a land policy before the year 2009. The country has gone ahead to have a new constitution in the year 2010 and is now in the process of enacting various legislations from provisions in the two blue prints. Other land and property related policies are now being prepared such as Land Reclamation Policy and Land Use Policy.

Institution of Surveyors of Kenya as a professional organization of most land and property sector professionals decided to get involved in the process. The institution was involved in formulation of the land policy, inclusion of land related provisions in the Constitution of Kenya 2010, and is now involved in the process of enactment of land related legislations and policies.

Involvement in the process effectively required use of varied strategies. This included cooperation with the media, engagement with other land sector organizations, working with parliamentarians and collaboration with the relevant ministries and executive. This presentation has attempted to document these strategies for the benefit of other professional organizations around the world, particularly those within International Federation of Surveyors (FIG)

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1. INTRODUCTION

Most professional organizations in many countries are usually shy of getting involved in policies and legislation formulation processes. Several reasons are usually given ranging from being non political organizations to difficulties experienced in being involved in the processes. Interestingly, it is the members of these associations who have first hand information on challenges and problems that face their sectors. They are also the ones who may have all the answers for addressing those problems. Ironically, they are the ones who complain about the problems and whine how the policies and laws are bad.

In Kenya, the professional association of surveyors, Institution of Surveyors of Kenya (ISK), decided to get involved in the process in order to give the citizens better solutions to their land and property related problems. The association is made up of valuers, land surveyors, building surveyors, land managers and administrators, registered estate agents, property managers, geospatial engineers, facilities managers and geospatial engineers. The association may not get hundred percent of what they propose because of many interests at play but they get a chance to substantially contribute to the content of the policies and address the problems in the sector.

Kenya had never had a national land policy until in the year 2009. The country managed to have a new constitution which came into effect on the 27th of August 2010. Institution of Surveyors of Kenya participated in these processes. The association, did not wait to be involved but got involved and has thereafter been involved in most of the processes for formulation land related policies and legislations. A number of laws are being drafted from the constitution for enactment in order to address the problems that have bedeviled the country for a long time. Other policies such as land use policy are also being developed to actualize the land policy.

To effectively be involved in these processes, a number of diverse strategies are needed. The strategies keep evolving and have to be used at different times sometimes without repeating for near similar scenarios. The presentation has thus attempted to share some of these strategies, methods and tools with other associations.

2. THE STRATEGIES FOR INFLUENCING POLICIES AND LEGISLATIONS

2.1 The Media

Accurate communication of right information is important influencing legislation processes. The right information can only be relayed to most citizens through the main stream media. However, for that to happen accurately, the media need to understand the importance of the message and to understand basic issues of the sector. It is thus

imperative any association that intends to involve in the legislative process meaningfully to be a friend of the media.



ISK President addressing the media after a public forum organized by ISK

2.2 Collaboration

Reform process particularly in the land and property sector has multiple players. This is because land is a multi-faceted product that also has multiple values ranging from cultural to economical, political to social. Consequently, it may be important to collaborate with the other interested parties in a meaningful way.

2.3 Research

Advocacy is useful if there is empirical evidence of the propositions and concerns that informs the process of formulating new policies and laws to address the problems identified. It is therefore important for the associations to carry out research on diverse areas of concerns and use the findings to inform the formulation and drafting processes.

2.4 Funding

Engaging in the processes is costly in monetary terms considering the human resource involved, the education, information and communication materials used. Associations must therefore find other professional means of generating funds separate from the usual income for member subscriptions.

2.5 Partnerships

Associations would be better placed to enter into partnerships with local, continental and international associations and organizations that are of same mind and thinking. This enhances capacity of associations to engage authoritatively given the experiences learnt from these partners and support from these partners.

2.6 Continuous Professional Development

Involvement of members of association in the process all over the country is important for comprehensive development. However, for members to be meaningfully involved, they need to be up to date in terms of new development in their sectors. The association must therefore ensure that members are aware of latest developments and challenges in their lines of practice.

2.7 Public Forums

Organizing public forums for candid discussions is important for getting first hand concerns from the citizens. Participants also get the chance to come up with proposals on how to solve the problems as they get to own the process from the word go. The forums also provide good opportunity for the associations to interact with the public, update the public on what is going on in the sector as the public get to understand the role of professionals in the policy and legislation processes.



Member of the public contributing during an ISK public forum in Coast of Kenya

2.8 Network

Loose networks with organizations and groups within the sector are quite useful in providing a common front on the issues that need to be addressed. It also makes it more effective in submission of views and proposals to various bodies that are instrumental in the formulation and drafting processes. The networks should range from other professional organizations to other civil society organizations.

2.9 Capacity Building

Capacity of those involved in day to day management of the advocacy and lobbying processes has to be built continuously. This is in terms of tools and methods, change

management and advocacy approaches, communication strategies and research validation processes, handling of the media to teamwork. More offices may also need to be created and filled to build a formidable force for achieving the objectives and goals.

2.10 Legislators

At the end of the day, the processes end with passage of policies and enactment of the legislations. Making the legislators understand the proposals and how the proposals are going to address the problems of the citizen is important. Legislators whose back ground is from the sector usually provide better platforms for reaching the others from other sectors.



ISK officials addressing Parliamentary Committee on Lands and Natural Resources

3.0 CONCLUSION

The national policies and legislations have huge impact in the practice of the professionals and in the life of citizens. Those who routinely practice in the relevant sectors must therefore be involved in the process or get involved in the processes so as to give the society solutions to problems that bedevil them.

Professional associations must stop sitting on the fence and lamenting later once bad policies and laws have been passed. It is the professionals in the relevant sectors who know the actual

problems and can propose the best solutions based on their knowledge and best practices from other parts of the world.

The strategies are varied and are never exhaustive. The strategies discussed in this presentation may not have been documented anywhere, but has arisen from experience of the author from the time he was a Convener of Land Reforms Committee at Institution of Surveyors of Kenya, to now that he is the President of Institution of Surveyors of Kenya.

The strategies can also not be used repeatedly for the same scenarios as life is dynamic and the only constant is change. However, once an association starts, the process will easily keep rolling as the mind shall have gotten accustomed to involvement in the process and how to get involved.

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BIOGRAPHICAL NOTES

Mr. Collins Kowuor is the current President of Institution of Surveyors of Kenya (ISK) and former Convener of Land Reforms Committee at the Institution. A trained Land Economist with Masters in Valuation and Property Management. A Registered and Practicing Valuer and Estate Agent in Kenya. Member of FIG Task Force on Property and Housing. Member of Association of Professional Societies of East Africa (APSEA) Think Tank on Devolution. Current Chairman of Board of Eastern Africa Regional Real Estate Training Centre (EARRETC)

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