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MANAGEMENT OF THE COAST

ADMINISTRATION

There are basically two layers of government in Kenya - central government and local government. Central Government is effected through Provincial administrations and the coastal areas of Kenya are administratively governed together as the Coast Province.

Coast Province has six Districts namely, Mombasa, Kilifi, Kwale, Tana-River, Taita-Taveta and Lamu. The chief administrator of the Province is the Provincial Commissioner while the Districts are under the jurisdiction of District Commissioners. Each District is further subdivided into Divisions which are governed by District Officers. Locations and Sublocations, which are smaller administrative units within Divisions, are under Chiefs and Assistant Chiefs respectively. Apart from the organization of the Districts on an administrative basis, there are also political constituencies. Each Constituency has a Member of Parliament who represents it in the National Assembly.

In addition, there are also wards which are represented in Municipal, Town, Urban and County Councils by Councillors who are elected by popular vote.

Management of the Coast

The limitations of size and scale imposed on this Atlas do not allow coverage beyond approximately 50km inland from the coast, however, this still allows consideration of the majority of Coast Province. While the map coverage omits all but a small portion of Taita-Taveta District, it extends over the entire Districts of Kwale, Kilifi, Mombasa and Lamu, as well as taking in the lower reaches of the Tana-River District.

COASTAL LEGISLATION

There are a number of Kenyan statutes which impinge directly or indirectly on the coastal and marine environment, its resources and their management. The figure opposite illustrates the relative extent of their jurisdiction.

Following is a summary of the objectives and provisions of selected statutes.

The Water Act (Cap. 732)

The Water Act provides for the conservation and controlled use of water resources in Kenya. It is implemented by the Government through the Ministry of Land Reclamation, Regional and Water Development. The Act prohibits pollution of

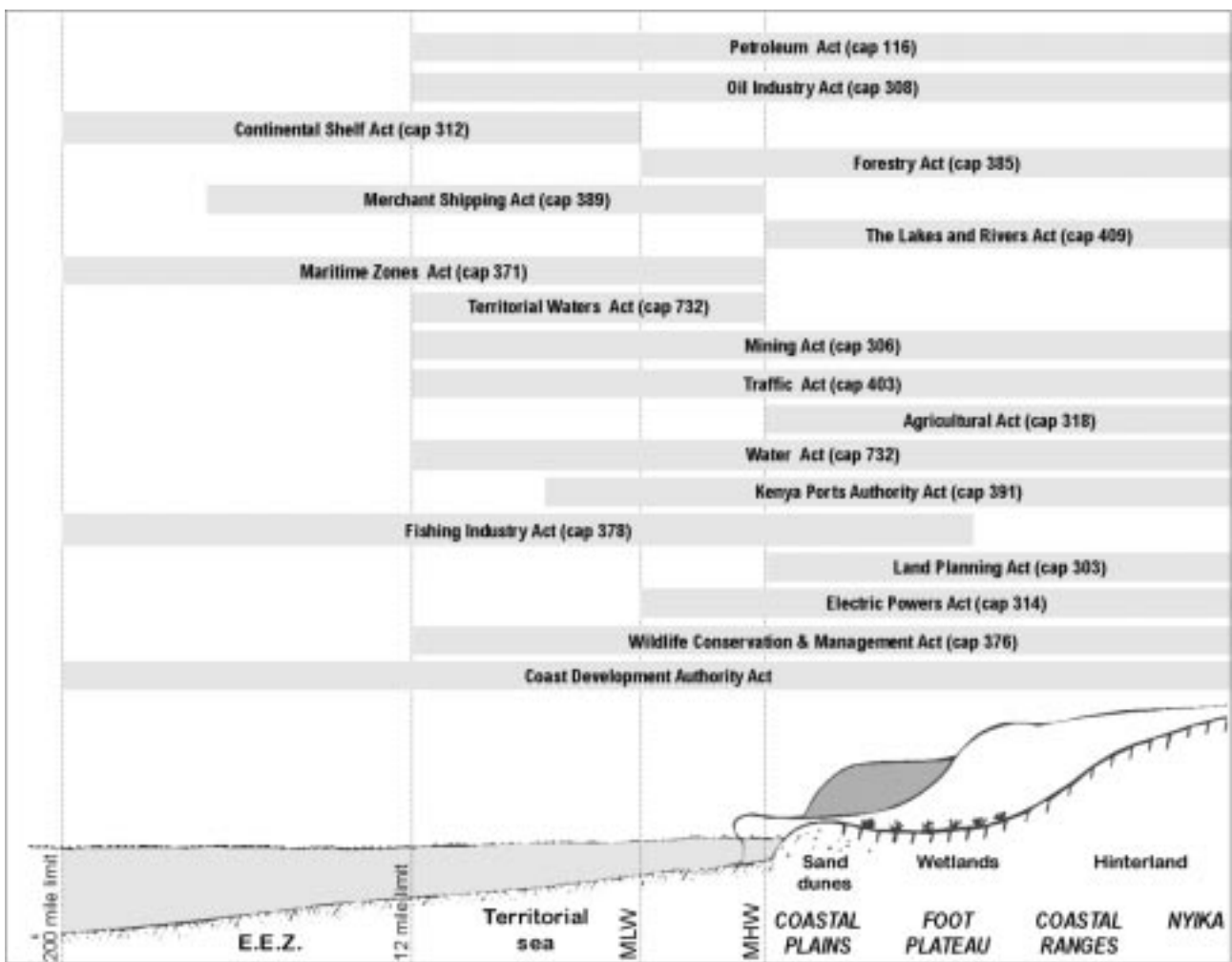


Figure 71 : Laws and Regulations applicable in coastal zone management in Kenya

water resources and controls the discharge of industrial and municipal effluents into rivers and the ocean. The Ministry has therefore established the technical mechanisms (including laboratory facilities) for monitoring the quality of various water resources of the country.

Through the judicious apportionment of river and lake water resources, the Act also ensures the constant availability of freshwater for coastal communities in Kenya.

Agriculture Act (Cap 318)

The Agriculture Act contains provisions for promoting agricultural development, and it is implemented by the Ministry of Agriculture, Livestock Development and Marketing. The long-term objective of the Act is to ensure the development of arable land in accordance with the sound practice of good land use. It therefore stresses the need for conservation of soil and its fertility and has provisions for soil erosion control. Through these provisions it has the means to control one of the most important pollutants of the Kenyan marine and coastal environment namely, sediments eroded from agricultural lands.

By regulating the utilization of different categories of land in Kenya for various agricultural purposes, the Act strives towards the sustainable utilization of land resources, including coastal lands.

Forestry Act (Cap 385)

The Forestry Act is implemented by the Ministry of Environment and Natural Resources and it has provisions for the establishment, control and regulation of central forests and other forests in Kenya. It encourages the conservation of vegetation of all types (both indigenous and exotic).

The Act applies to mangrove stands, lowland forests as well as other coastal forest resources and can provide the means through which the exploitation of these resources can be managed for sustainability.

Government Fisheries Protection Act (Cap 379)

The Government Fisheries Protection Act is implemented through the Ministry of Environment and Natural Resources. It has provisions for the control and management of certain coastal and marine species such as the pearl oyster and other resources which are threatened with depletion through commercial exploitation.

Fish Industry Act (Cap 378)

Fish Industry Act has provisions for control of fishing activities and subsequent processing in both inland and coastal waters of Kenya. The act is implemented by the Ministry of Tourism and Wildlife in conjunction with other state organizations. The act has great relevance for the management of the Kenya's coastal fisheries resources and guards against over-exploitation through over-fishing and the use of harmful fishing methods.

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Merchant Shipping Act (Cap 389)

The Merchant Shipping Act which is implemented by the Ministry of Transport and Communication in conjunction with other Ministries, is the statute which provides for the control of pollution of the sea by oil from ships. The Act can be considered as the mechanism for regulating the pollution of Kenya's territorial waters arising from ship-based sources.

Wildlife Conservation and Management Act (Cap 376)

This act of parliament is implemented by the Government of Kenya through the Ministry of Environment and Natural Resources in conjunction with other relevant government agencies such as Kenya Wildlife Service. The act has provisions for the preservation and control of wild fauna and flora. The intention of the act is to ensure Kenya's fauna and flora flourish naturally in their habitats. Various marine and other national parks apply the act in protecting flora and fauna in their areas of jurisdiction.

Maritime Zones Act

The Maritime Zones Act gives the government of Kenya greater rights on the control of marine resources situated within Kenya's territorial waters as well as Kenya's exclusive economic zone (EEZ). Kenya's territorial zone and exclusive economic zone extend 12 nautical miles and 200 nautical miles respectively. In these zones the government has rights similar to those applicable on terrestrial environments. The government has rights on the exploitation and development of marine resources and the conduct of research by international research agencies.

The Continental Shelf Act (Cap 312)

The Continental Shelf Act of parliament commenced in 1975. It gives the Government of Kenya rights in respect of the management and exploitation of natural resources of the continental shelf situated within Kenya's territorial waters. Such rights include the exploitation of fisheries resources, conducting scientific research, etc.

Land Planning Act (Cap 303)

The Land Planning Act is implemented through the Ministry of Lands and Settlement. The act has provisions for planning the use and development of land. The act therefore determines the extent of use and development of land in the coastal zone of Kenya in addition to other areas of the country.

Town Planning Act

The Town Planning Act has provisions for the proper planning of urban and rural centres in Kenya. It is relevant for the management of coastal resources since the sustainability of such natural resources is affected by the nature of urban and rural centres. Such centres have to be planned taking into consideration their possible environmental impacts.

Local Authority Government Act (Cap 265)

The Local Authority Government Act (Cap 265) provides for local councils to establish and maintain sewage and drainage systems. It has also provisions for the construction of water supply systems and measures for the prevention of pollution in urban areas.

Coast Development Authority Act

This Act provides for the establishment of the Coast Planning Authority to plan and coordinate the implementation of development projects in the whole of Coast Province and the EEZ. The Act gives powers to the Authority to plan, coordinate, gather and disseminate information, and to generally manage and develop coastal resources in a sustainable manner. In an effort to avoid duplication of effort and to ensure the best use of available technical resources, the Authority maintains close links with other Government institutions and the private sector.

Kenya is therefore well served with legislation to provide for the protection and management of the coastal zone. However, implementation of the applicable statutes has not always been as efficient as the legislators intended when Parliament enacted the legislation.

Environmental Impact Assessment Process

The Environmental Impact Assessment Process is a conscious effort to determine the likely consequences on the environment of any policy or development decision; following which, ways and means are evaluated to avoid or minimize those impacts, such that they remain within predetermined, tolerable limits. The EIA Process also plans for monitoring to ensure that impacts do remain within these limits.

In Kenya, unfortunately, there is, as yet, no set environmental impact assessment procedure. This has led to many development projects (including some large scale ones) being implemented without any predictive assessment of the impacts and therefore without any attempt to minimize the impacts. However, it is heartening to note the growing awareness and concern for the environment among many groups in Kenya as well as among donor agencies. This has led to an appreciation on the part of the Government of the importance of the EIA Process.

The absence of a formal EIA Process does not mean there is an environmental protection vacuum in Kenya. Firstly, the National Environment Secretariat (NES), which is a state agency under the Ministry of Environment and Natural Resources, prepares district environment assessment reports. These reports are normally based on a general evaluation and assessment of the state of the environment at district level. Secondly, a number of non-governmental organizations (NGOs) as well as state institutions conduct research on most aspects of the environment and their findings are normally useful in environmental planning and management. Thirdly, there are several acts of parliament which address environment protection issues. These statutes can be grouped into three clusters -

- Acts providing for the conservation of natural resources,
- Acts providing for pollution control, and
- Acts providing for environment protection standards.

The more salient of these statutes have already been described above.

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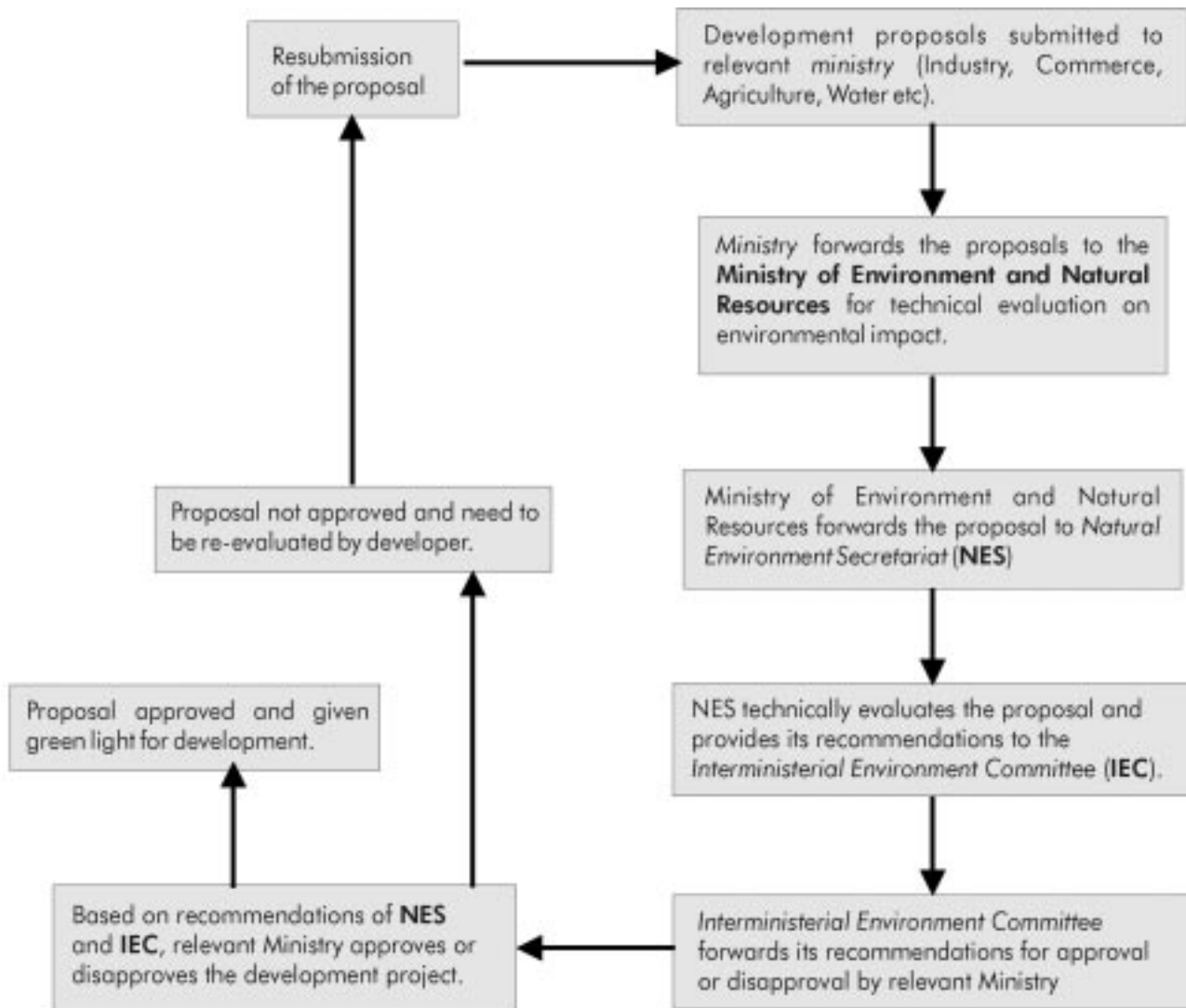


Figure 72 : Environmental Impact Assessment (EIA) process applicable to development proposals in Kenya