

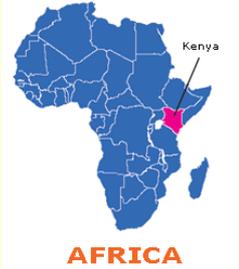
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The Role of Private Sector in Land Adjudication in Kenya; A suggested approach

Eric NYADIMO (Kenya)

Presentation Outline

- Introduction
- Land Adjudication Process in Kenya
- Emerging Issues
- Suggested Approach
- Justification
- Challenges
- Conclusion



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Introduction

- ❑ Land Adjudication as *determination of existing rights in a particular parcel of land ... finally and authoritatively.*
- ❑ should not alter existing rights merely establish what exists
- ❑ Required for the identification of clear property rights
- ❑ Reinforces secure tenure as a basic right

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Land Adjudication Process in Kenya

- Applied to areas under customary land tenure (Trust Land Areas);
- Initiated in 1953;
- Land Adjudication Act – Cap 284 (1968) of the Laws of Kenya;
- Based on the General Boundaries System;

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Land Adjudication Process

- Minister of Lands gives an order for land adjudication;
- Appointment of an adjudication officer, demarcation officers, survey and recording officers;
- District Commissioner appoints an Adjudication Committee;
- Provincial Commissioner appoints a panel from which the Adjudication Officer appoints an Arbitration Board;

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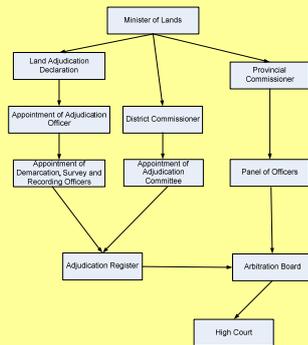
Land Adjudication Method

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    graph TD
      A[Boundary Planting] --> B[Aerial Photography (1/12,500)]
      B --> C[Enlarging of Prints (1/2,500)]
      C --> D[Boundary Identification]
      D --> E[Boundary Marking (on enlarged prints)]
      E --> F[Tracing of Boundaries (PID)]
      F --> G[Registry Index Maps]
      G --> H[Title Deeds]
  
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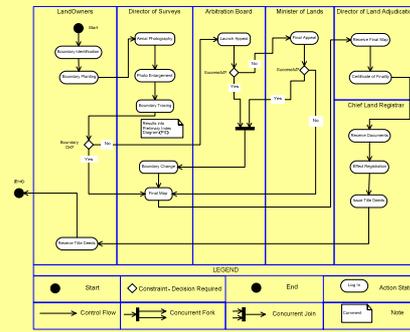
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Present Approach



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Present Approach



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Emerging Issues

- Originally designed to take 10 years;
- Over 7 million hectares registered;
- Land adjudication as a political tool
- Clouded land transactions
- Incomplete land registers
- 50 years later, a face of permanency!! - *Apathy and discontent*

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Emerging Issues

- Outdated Survey Methods
- Poorly trained technical staff – *Junior Survey Assistants*
- Lack of transport
- Land owners are ignored
- Bureaucratic procedures – *use of Provincial Administration*
- Pending Appeals - Minister delegates appeals to District Commissioners
- Exercise is prone to controversy, corruption, confusion and political interference!
- Violence!

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PPP – A suggested approach

- Privatization as the transfer of state tasks to the private sector in its entirety or partly
- Private sector involvement in functions that were hitherto classified as government duties e.g.
 - Involvement in cadastral surveys
 - Private sector as source of finance
 - Involvement of professional bodies
 - Arbitration as opposed to court settlement

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PPP – suggested roles

Land Adjudication Component	Actors / Stakeholders
The identification of boundaries	Lawyers, Surveyors, Government Officials, community elders, the local community
Aerial photography or satellite imagery	Private survey firms
Processing of maps	Private survey firms
Inspection of maps	Local community, Community elders, government officials
Determination of appeals and arbitration	Lawyers, government officials, community elders, Land Adjudication Court

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Justification

- ❑ Efficiency as a result of outsourcing
- ❑ Private sector has an important role in the day to day activities of a land administration system
- ❑ Success stories in countries such as Georgia (Private land ownership system)
- ❑ Encourages Peer – Peer dialogue
- ❑ Public Participation – *changing role of governments.*
- ❑ Return on Investment
- ❑ Land Market Development

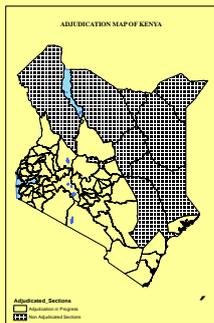
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Challenges

- Huge ASAL – *different lifestyles & requirements*
- Private Sector driven by profits – *increase in costs*
- Resistance to change – *no role for private sector*
- Legal framework – defining public participation
- Establishment of land courts as opposed to normal courts
- Capacity development – focused training

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Challenges: Arid & Semi Arid Lands (ASAL)



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Conclusion

- ❑ Government retains ultimate responsibility over the land adjudication process
- ❑ Role of PPP is to strengthen the process
- ❑ Develop appropriate standards for private sector involvement – Government as an overseer
- ❑ Provide a legal framework that defines PPP.

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