



# LAND ADMINISTRATION REFORM IN A PLURAL ENVIRONMENT - THE CASE OF GHANA

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## Outline

- Introduction
- Plural Environment
- Legal Pluralism
- Multiple Institutional Structures
- Land Administration Programme
- Challenges
- Useful Lessons
- Conclusion



## INTRODUCTION

- Ghana - Context
  - several 'independent' traditional states
  - over one hundred linguistic and cultural groups, clans and states
  - land ownership patterns are closely linked with the nature of the traditional systems.
  - commodification and commercialization of land rights still in the primary stages, evolving from customary and indigenous systems.
  - Land reforms thus tend to concentrate on the appropriate management of the evolution, the clearer definition of rights and interests in land, improving security of tenure and the development of appropriate institutions, among others.
- a plural environment for land administration
  - Agriculture accounts for 60% of employment
  - 75% of sector contribution to GDP depend directly on land



## THE PLURAL ENVIRONMENT

- Plural indigenous communities
  - Centralised states
    - Confederation
    - Conquest
    - Fission
    - Absorption
  - Decentralised states
  - Purchase or gifts
  - Migration
- The overall impact of these arrangements is a hierarchy of complex rights and interests associated with the ownership, control and use of land



## LEGAL PLURALISM

- Sources of Law
  - The Constitution
  - Acts of Parliament
  - Orders, rules and regulations made by any person or authority under powers conferred by the Constitution
  - Common law
  - Customary law, defined as the rules of law which by custom are applicable to particular communities in Ghana
  - Judicial decisions of the Superior Court of Judicature
- Over 100 statutes on land ownership, tenure, planning and use in addition to customary laws they pertain to specific localities



## Hierarchy of Rights and Interest in Land

- Allodial interest
- Customary freehold
- Alienation holdings
- Share cropping where the proceeds of a farm are divided
- Share cropping where the cultivated land rather than the proceeds is divided
- Other customary tenancy arrangements.
- Community's common property rights
- A range of derived/secondary rights.

### Hierarchy of Rights and Interest in Land

- The Common law rights
  - Freehold
  - Leasehold
  - Licenses
  - Easements
- Customary and Common law rights often co-exist in the same piece of

80% of total land under customary

### Hierarchy of Rights and Interest in Land

- The value of commodified/commercialised rights depends among other things on
  - The quantum of the rights
  - The security associated with the right
  - The institutional arrangement for the management of the right

### MULTIPLE INSTITUTIONAL STRUCTURES

- Three main institutions for the administration of land
  - Customary institutions
  - Public sector institutions
    - Six main institutions
    - Each agency has its own legal mandate
    - Cooperation, coordination and collaboration are big challenges
  - Judicial institutions

### Overall Effect

- Absence of well defined, demarcated and surveyed boundaries between indigenous land owning groups;
- Hierarchy of rights and interests in land some of which are not properly defined and recorded;
- Difficulty in ascertaining the owners of land in terms of dealings;
- A weak land administration system that is not service delivery oriented and client focussed;
- A legal plural environment that combines customary law, statute law and judicial decisions; Convoluted processes and procedures and litigation is a major issue
- A frustrating environment for land users and developers

### The Land Administration Programme

- A long term program to enhance economic and social growth by:
  - improving the security of tenure,
  - simplifying prudent land management,
  - establishing an efficient system of land administration both state and customary based on clear coherent and consistent policies and laws supported by appropriate institutional structures.

### The Land Administration Programme

- Phase 1 (2004-2008)
  - Primary objective of developing a sustainable land administration system that is fair, efficient, decentralised, cost effective and capable of enhancing land tenure security

## The Land Administration Project

- PROJECT OUTCOMES
  - clear, coherent and consistent set of land administration policies and laws
  - formal recognition of the rights of all categories of land holders
  - an efficient decentralised land administration system
  - enhanced security of tenure
  - reduced litigation
  - up to date efficient land information system



## The Land Administration Project

- 4 components
  - Harmonizing land policy and Regulatory Framework for sustainable land administration
  - Institutional reform and development
  - Improving land titling, registration, valuation and information systems
  - Project Management, Monitoring and Evaluation



## The Land Administration Project

- Challenges
  - Harmonisation in a plural environment
  - Power Play
  - Land Administration Reform as against Land Tenure Reform
  - Participation



## The Land Administration Project

- Lessons learnt
  - Assumptions underlying land administration reforms must be well tested.
  - Champions for reforms among key stakeholders must be sought for before implementation.
  - Smaller and easy to handle projects might be better option than holding the bull by the horn all at once.
  - Communication and managing expectations of stakeholders are absolutely essential.
  - The implementation of complex reform projects as civil service mainstream activity, must be carefully weighed.



## Conclusion

- The processes and objectives of the land administration reform have been appropriately set within the broader context of promoting economic growth and measures to alleviate poverty.
- Its implementation nevertheless calls for a lot of innovation and drive as well as flexibility, which sometimes mainstream civil service procedures do not allow.



Thank You

