UN/FIG Expert Group Meeting on Secure Tenure: new legal frameworks and tools
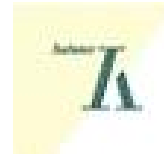
Nairobi 10-12 November 2004

INTERNATIONAL INSTITUTE FOR GEO-INFORMATION SCIENCE AND EARTH OBSERVATION

complexity of land tenure concepts

§ dual systems of western style ownership and customary concepts of tenure based on group ownership

§ 31 of 44 adopted individual ownership as official tenure while 36 have de facto customary tenure

§ legal pluralism

Land tenure security

§ Different perceptions of land tenure security

§ Customary rules create normative system equal to written law

§ Land tenure and social safety net

§ Tragedy of the commons vs tragedy of the individuals
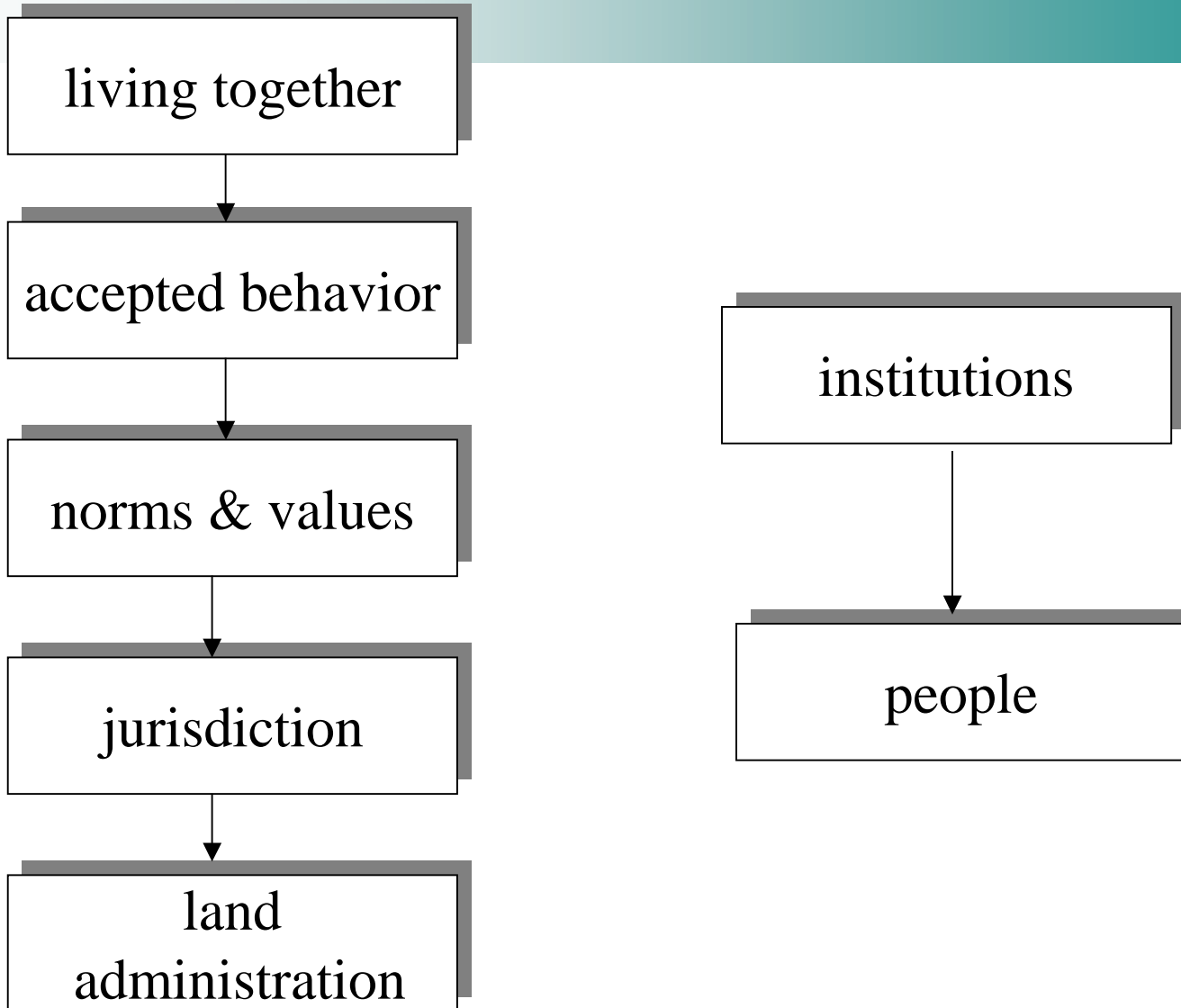
§ Replacement paradigm vs. adaption paradigm

Results

§ Excessive slow progress

§ Land records no resemblance to reality

§ Registration exacerbates uncertainty and conflicts

§ Threatens customary right holders

§ Titling does not reallocate land in most efficient way

Concepts of 'law' development

living together

↓

accepted behavior

↓

norms & values

↓

jurisdiction

↓

land administration

institutions

↓

people

Group of 60 experts

Observations

§ Village titles
§ Certificates of occupancy
§ Group ranch title
§ Flexible title
§ Co-ownership
§ Communal titles
§ Anti-eviction orders

Observations

§ New data-acquisition methods (orthophoto, satellite imagery, LIDAR, GPS, video)

§ Other forms of spatial units

§ GIS and SDI

Daniel Biau
Deputy Executive Director
of UN-HABITAT

Fundamental Questions

§ Subject ?

§ Right ?

§ Object ?

Additional:

§ Delivery ?

§ Conflict ?

§ Participation ?

§ Systems ?

§ Public administration ?

Joshua Orwa Ojode
Deputy Minister for Lands and
Settlements, Kenya

Outcomes

§ Neo-customary land delivery strong alternative

§ Upcoming new land policies

§ Cooperation land surveyors, lawyers and social scientist

§ Apathy towards titling programmes

§ Off register systems

§ Evolutionary approach

Outcomes

§ Informal land delivery

§ Demarcation on demand

§ Primary lease, demarcated lease and qualified lease

§ Relief from evication

§ Self help registers

§ Handheld GPS

§ Sdi priority SOK

§ Computer assisted valuation

Outcomes

§ Malpractices

§ Formal system for high value and local users registration for low value lands

§ Demarcation and wildlife

§ Use of satellite images

§ Fiscal cadastre first?

§ GIS for informality

Conclusions

§ All options are open

§ Tolerate informal land delivery

§ Accept evolutionary approach to land tenure security

§ Include derived rights

§ Don't forget implementation aspects of laws

§ Potential low cost and cheap technology available

§ Scalability, flexibility and dynamics

§ Don't re-invent the wheel

Tangible Outcome