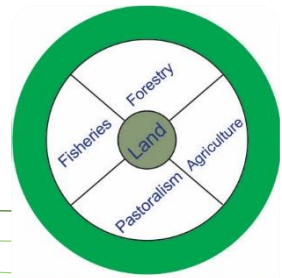


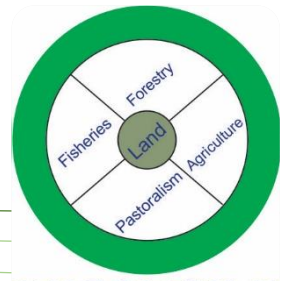
# GENERAL PROVISIONS OF CLA



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- The Act is No. 27 of 2016 came into force on 21st September 2016.
- Gives effect to Article 63 of the Constitution of Kenya, 2010.
- Provides on,
  - Recognition, protection and registration of community land rights.
  - Management and administration of community land.
  - Role of county governments in relation to unregistered community land.
  - Repeals the Land (Group Representatives) Act (Chapter 287 of the Laws of Kenya) and the Trust Lands Act (Chapter 288 of the Laws of Kenya).

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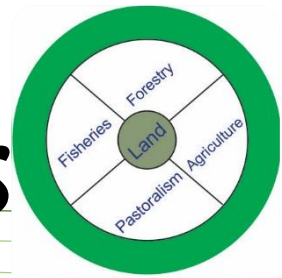


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- Community land vests in the Community.
- The term “**Community**” mean a consciously distinct and organized group of users of community land who are citizens of Kenya and share any of the following attributes:
  - Common ancestry, similar culture or unique mode of livelihood;
  - Socioeconomic or other similar common interest;
  - Geographical space; ecological space; or ethnicity.
- The definition is not limited to ethnic lines.
- Claims in or right over community land means community ought to be registered.

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# Process for registering Communities



- The community issues notice to the Community Land Registrar indicating the need to claim interest over community land.
- Community Land Registrar issue notice to invite all persons with interest to a public meeting.
- Notice is to be in at least one newspaper and radio station of nationwide coverage.
- All available means to communicate the notice should be used such as affix the notice on the headquarters of respective county, sub-county, wards, location and in strategic places where the community land is situated.

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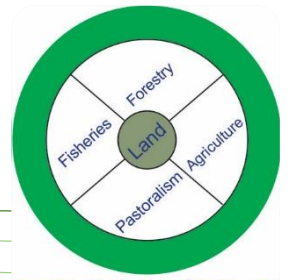
- Notice for invite also reach the national and county government administrators where the community land is located and they are to attend and ensure proceedings and elections are conducted in accordance with relevant laws and regulations.
- In the public meeting Community Assembly members are identified thereafter they elect the Community Land Management Committee.
- Community Land Management Committee come up and keep a comprehensive register of the Community Assembly, name of the community, minutes of the public meeting and rules and regulations of the committee.

# Cont'd



- All the above documents are to be given to the Registrar in a form as prescribe for community registration by the CLMC.
- In a prescribed form once Registrar is satisfied that the name proposed has not been used by another, Act's requirement and regulations have been adhered to and rules of the community are acceptable, the Registrar is to issue a **Certificate of Registration**.
- Members who are not part of a registered community may apply to be part of the registered community. The application acknowledges **Customary Right of Occupancy** and once approved a certificate of customary right of use and occupancy is issued to the applicant(s).

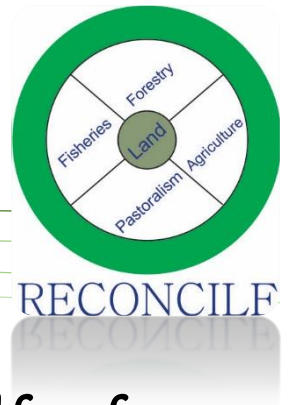
# Roles of Community Assembly



- All registered communities are to have a community assembly consisting of all adult members of the community and are to be in the register.
- Ensure transparency and participatory management and administration of registered community land.
- During decision making processes within a registered community quorum for decision making by community is to be not less than two thirds of the community assembly especially on matters of land disposition. Disposition as contained in the definition of the Land Act 2012.
- Elect 7-15 members among themselves who are to be the Community Land Management Committee in a public meeting called by the Community Land Registrar. Integrity should be key within the confines in Chapter VI of Constitution.

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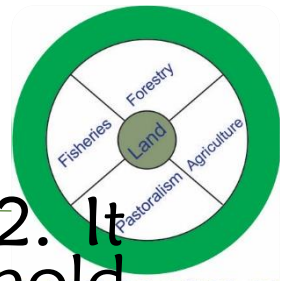
# Roles of Community Land Management Committee



- Manage and administer registered community land on behalf of the respective community.
- Oversee the running of the day to day functions of the registered community.
- Coordinate development of community land use plans in collaboration with relevant authorities.
- Promote cooperation and participation among community members.
- Prescribe rules and regulations to be ratified by the community assembly that will govern operations of community.

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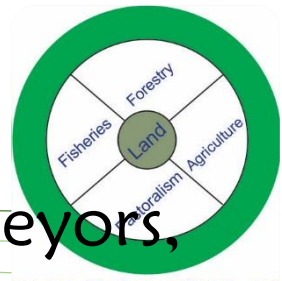
# Process for registering Community Land



- Be registered in accord with Act and Land Registration Act, 2012. It may be held under the following tenure regimes freehold, leasehold or customary and within the following classes communal, family or clan land.
- Registered Community is to issue intention to register Community Land to the Community Land Registrar in a prescribed form.
- The Lands office is to make a search of official confirmation of availability of the land and if available, adjudication notice is issued.
- The adjudication officer is to facilitate in consultation with county government and CLMC the adjudication of the community land including the recording of claims, demarcation and delineation of boundaries.
- A public baraza is called by the adjudication officer in consultation with county government and CLMC to sensitize the Community Assembly on commencement of demarcation, survey and registration of community land.

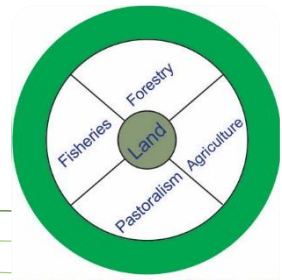


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- CLMC is to work with adjudication team that includes the surveyors, adjudication officers and planner to establish boundaries.
- Disputes arising during adjudication will be resolved by the adjudication team and the CLMC at first or be referred to an adhoc disputes resolution committee.
- Adjudication team is to finalize the maps and submit final cadastral map to office responsible for survey for authentication and publication then Land adjudication officer in team forwards the adjudication records to the Director Land Adjudication and Settlement for checking and publishing.
- On adjudication the title to the registered Community Land is to be issued by the Registrar in prescribed form. The Registrar registers the land and issues a Certificate of Title or a Certificate of Lease to the respective registered community.
- **Certificate of reservation** is a certificate issued as interim by Registrar pending the registration of community land and acquisition of the certificate of title.

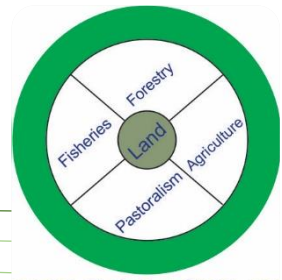
# Roles of Cabinet Secretary



- In consultation with County Government develop and publish in the Gazette a comprehensive adjudication programme for registration.
- Ensure the process of documenting, mapping and developing of the inventory of community land shall be transparent, cost effective and participatory. The inventory is to be accessed by County Government to allow access by communities.
- Issue public notice of intention to survey, demarcate and register community land.
- Ensure land to be adequately surveyed but exclude already adjudicated public or private land within the unregistered community Land.
- By notice in the gazette appoint an adjudication officer.

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# Roles of the County Government

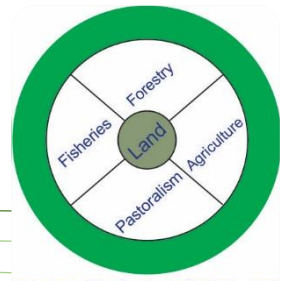


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- Hold in trust all unregistered community land on behalf of the communities.
- Hold in trust for communities any monies payable as compensations for compulsory acquisition of any unregistered community land. Such monies are to be deposited into a special interest earning account by the county government.
- After registration of community land the respective county government is to promptly release the monies to the registered community including the interests earned.
- After registration of community land, the registered community assumes management and administrative functions and the trustee roles of the County Government ceases.
- Not to sell, dispose, transfer, convert for private purposes or any other unregistered community land that it holds in trust.

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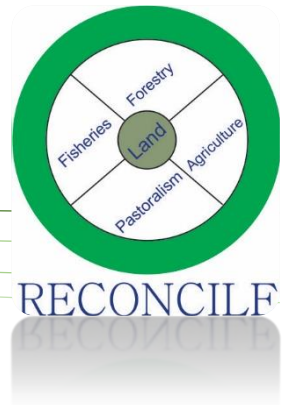
# Process of Conversion



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- Registered Community Land can be converted to public or private land but subject to approval from the two third of Community Assembly.
- To Public Land through compulsory acquisition, transfer or surrender while in private through transfer or allocation or as provided within the Land Acts, 2012.
- Public and private land may also be converted to unregistered Community land through allocation or transfer, surrender or operation of the law in relation to illegally acquired community land respectively or as provided within the Land Acts, 2012.
- Registered Community may also set aside part of registered community for public purposes.

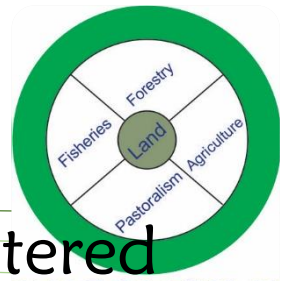
# Sustainable Development of Community Land Management



- The registered Community is to establish by-laws or rules on matters as envisioned in the Act to help in the management and administration of the registered community land such as; investments, conservation, planning e.t.c.
- With regards to environment and natural resource management, a registered community is subjected to undertake activities that ensure accountability, transparency, sustainability, equitable benefit sharing and as provided by the policies, Constitution and written laws.
- A registered Community is on their own motion or county governments develop a land use and development plan of the registered community land.

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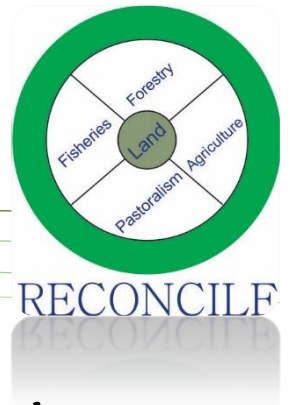
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- In planning, customs and practices of the respective registered community are to be upheld such as grazing rights, farming, cultural, religious, settlement, urban development, access to right of way e.t.c
- It should be noted that registered communities may allocate part of the registered community land to a member of a community but a separate title is not to be issued in that respect. Individual entitlement is not superior to community title.
- Members granted exclusive use of part of the registered community land is subjected to conditions as provided in the act. Failure to follow the conditions subjects one to fine/ imprisonment and land revert to registered community.
- For purposes of conflict management, the Act appreciates traditional use of conflict mechanisms within a registered community embedded in their by-laws before using the formal ADR mechanisms thereafter the courts.

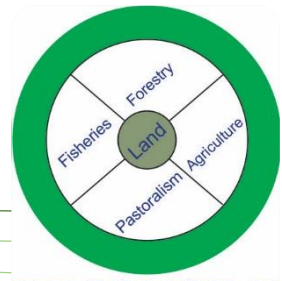
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# AREAS FOR REFLECTIONS & FURTHER CLARIFICATION



- Other than the highlighted issues under section 48 what are the other issues that needs regulations? The list under section 48 include;
  - Procedures of recognition and registration of community land rights.
  - Procedure for settlement of disputes arising from registration process.
  - The requirements for investor partnerships.
  - Procedures of registering any other entity holding community land.
  - Conversion of other categories of land into community land.
  - Fees payable for any application or issue of any certificate or other documents.

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- Public education and awareness process on the rights of communities over community land.
- Payment process of royalties to communities from income generated from resources within community lands.
- The timelines within which the adjudication programme must be gazette including guidelines on how to ascertain community or individual claims of interest in or right over community land.
- The rules and procedure for election of a community land management committee.
- The procedures for registration of interest in community land as enriched in article 63 of the Constitution.