
Fundamentals of land administration

prepared for Urban Management Training Program
June 2008, Juba, South Sudan

Objectives of the session

1. To share information on land issues and emerging thoughts including major global and continental initiatives
2. To introduce basic concepts land administration and recurring issues therein;
3. To introduce the land agenda being pursued at UN-HABITAT from GLTN perspective

Outline

1. Objectives
2. Introduction: the land rich continent in perspective
3. Caveats in land analysis
4. An overview of land Issues
5. Elements of good practice
6. What do the pundits says : conclusion and the way forward
7. A few words about GLTN

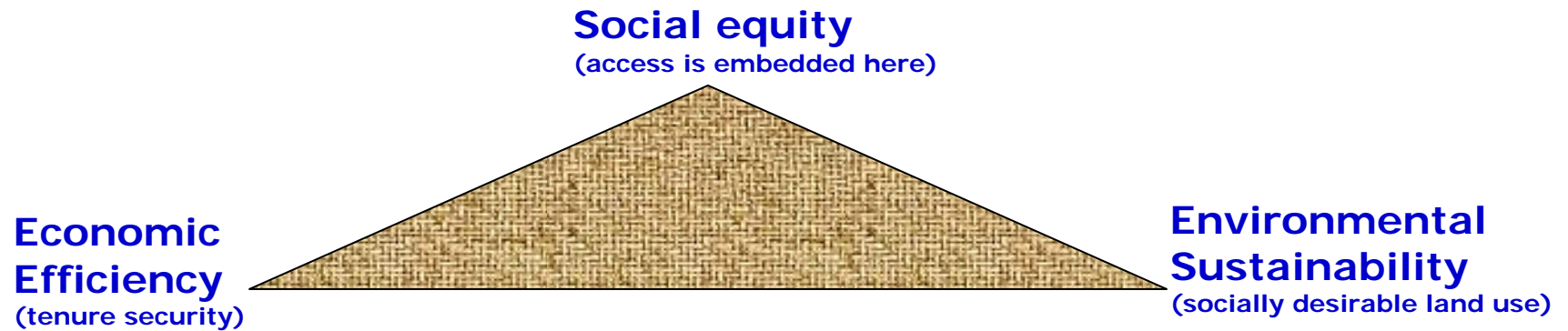
Caveats on reviews of land issues, comparisons and analysis

- Huge diversities among countries and within countries
 - **Spatial:** rural vis-à-vis urban
 - **Rural:** high value crop vis-à-vis subsistence farming areas;
 - **Urban :** metropolitan areas, medium sized cities and small towns: e.g., challenges of large cities are entirely different from challenges of small towns / dormitory communities of rural workers.
 - **Tenure regimes:** statutory / formal, customary, indigenous, informal, etc;
- Differences in policies and instruments due to political persuasion, preferred pathways of development, history, knowledge, etc
 - different regulation for titling land rights;
 - different land registration procedures;
- Characterization of land issues has thus to be taken with a pinch of salt

Opening question

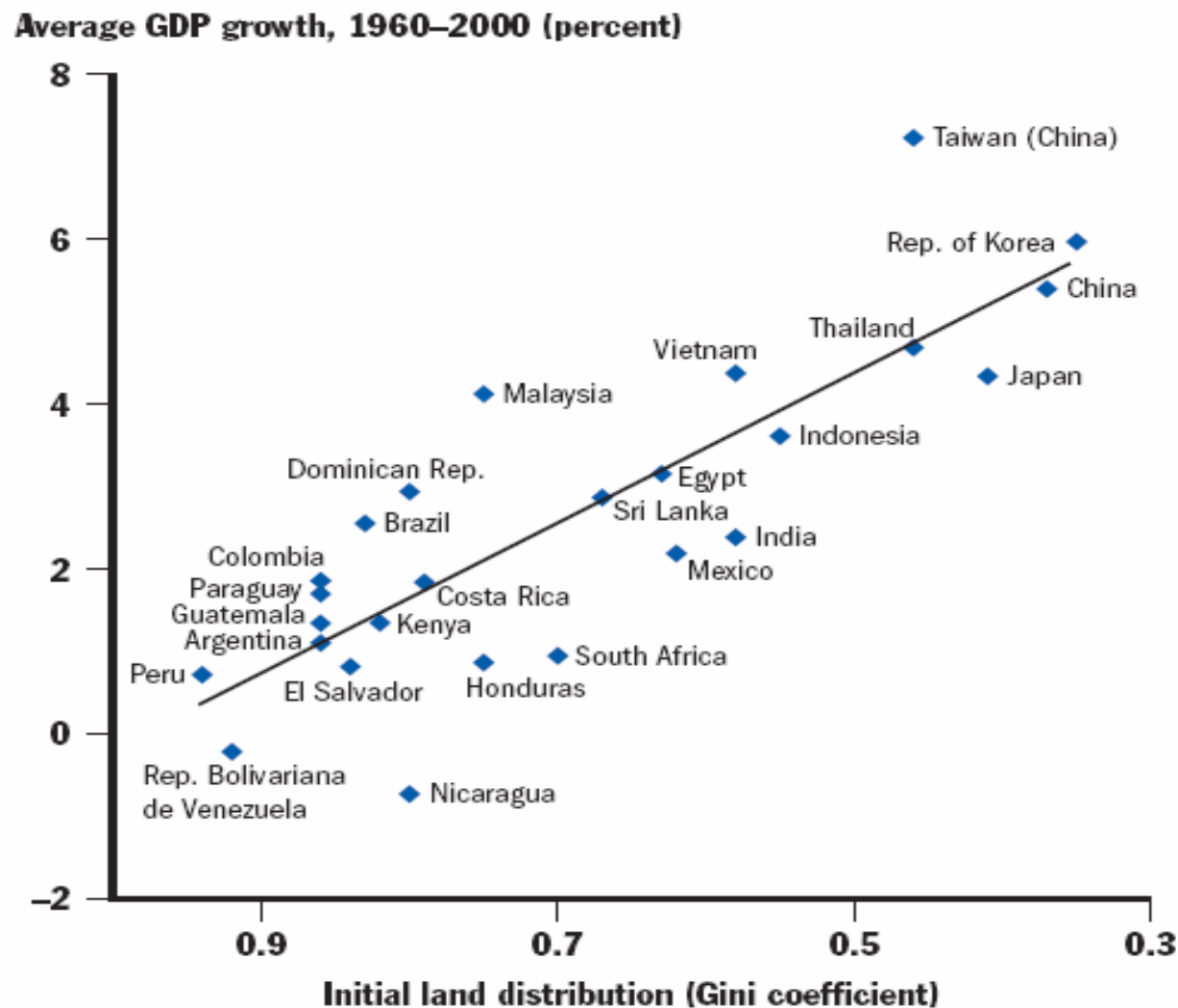
How do you characterize the link between land interventions and growth / socio-economic development?

Sustainable development and the land agenda



Land distribution and economic growth (WB -PRR, 2003)

Figure 2.1 Initial land distribution and economic growth, selected countries



Definitions of concepts

- **Land management:** the activities associated with the management of land as a resource from both an environmental and an economic perspective. It can include farming, mineral extraction, property and estate management, and the physical planning of towns and the countryside. Land administration is part of the infrastructure that supports good land management.
- **Land information system (LIS):** a system for acquiring, processing, storing and distributing information about land.
- **Cadastre** is an information system consisting of: a series of maps or plans showing the size and location of land along with text records that describe the attributes of the land. Often associated with survey and mapping departments.
- **Land register:** information on RRR. No graphic records. Often resides in the courts or justice department.
- **Land tenure** : relationship among people with respect to land and its resources; rules of tenure define how rights to land are assigned within society

Land tenure systems

Freehold tenure:

- Ownership in perpetuity; provides a high degree of security; freedom to dispose, or use as collateral for loans; maximises commercial value.
- Costs of access generally high. Collateral value may become irrelevant if land as a collateral is unattractive to financial institutions; may lose its value in economic downturn.

Registered Leasehold

- Ownership for a specified period from a few months to for example 999 years in Kenya.
- As secure as freehold, but only for the period specified in the lease.
- Requires legal framework.
- Costs of access generally high.

Land tenure system

Intermediate / temporary tenure:

- arrangements like 'Certificates of Comfort', Temporary Occupation Licenses, etc.
- provide reasonable security to invest while maintaining long term public interest / options for change; may entail costs to the public / residents if relocation is required. If costs prove excessive, redevelopment can be inhibited.

Non-formal tenure:

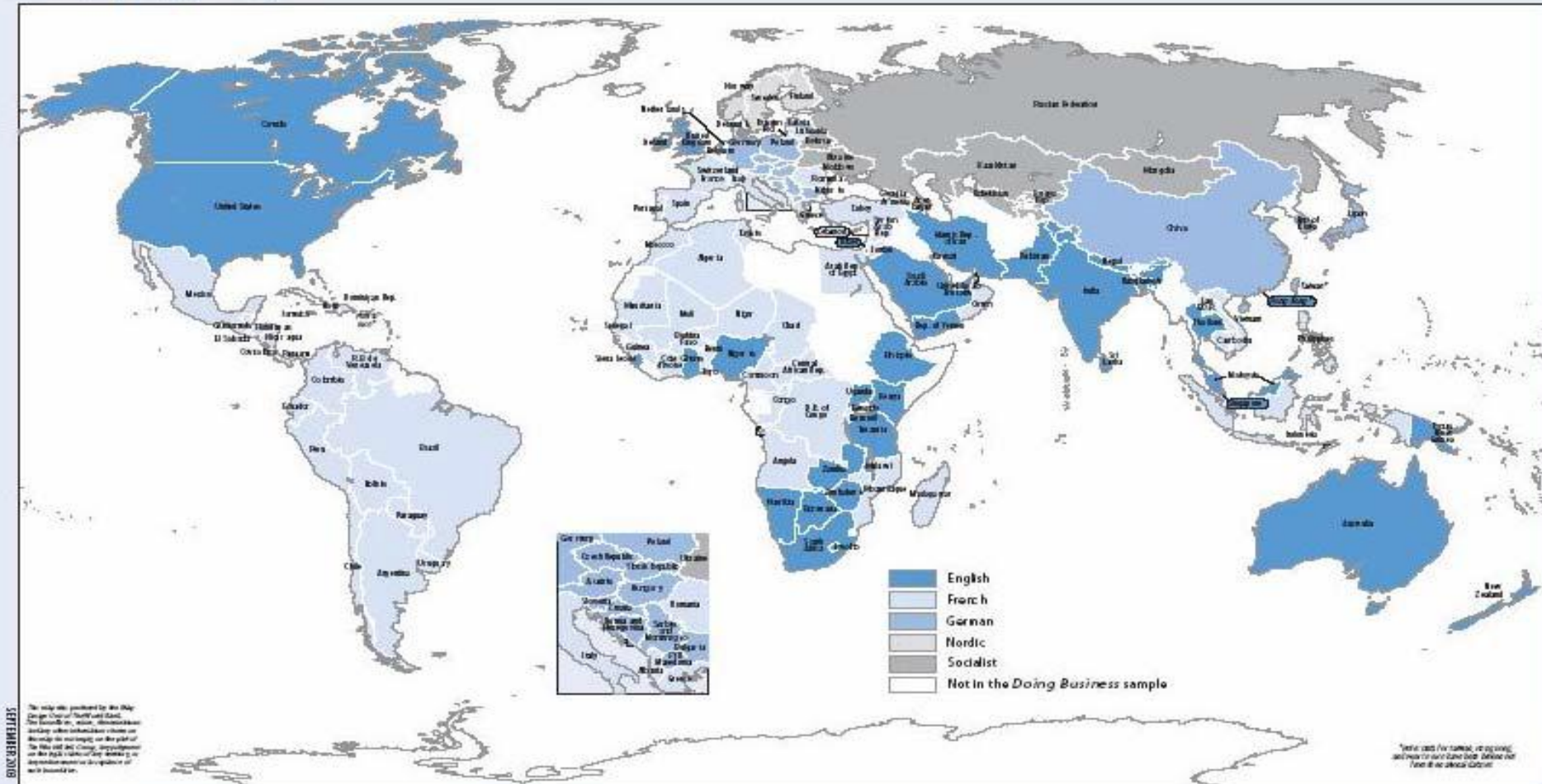
- many categories with varying degrees of legality / illegality: regularised / un-regularised squatting; allocation through unauthorised subdivisions or unofficial rental on legally owned land
- Some of these (e.g., squatting) started as a response to inability of public allocation systems/formal commercial land markets to provide for poor; operated on a socially determined basis.
- With increasing demand, even these can appreciate in value and fail to meet the needs of the poor in terms of access.

Three systems for recording rights in land are:

- **Private conveyancing:** transfer through authorized lawyer. Authorization comes from relevant laws provided by the State.
- **Deeds registration:** transfer through a designated government office. Records are created and maintained during transfer. An entry into registry serves as evidence to transfer. Records may not be complete and the evidence is not guarantee of title.
- **Title registration:** property identified on the map and RRR recorded on the register. Land rights are guaranteed by the public bodies. Compensation is given for dispossession emanating from the functioning of such a system.

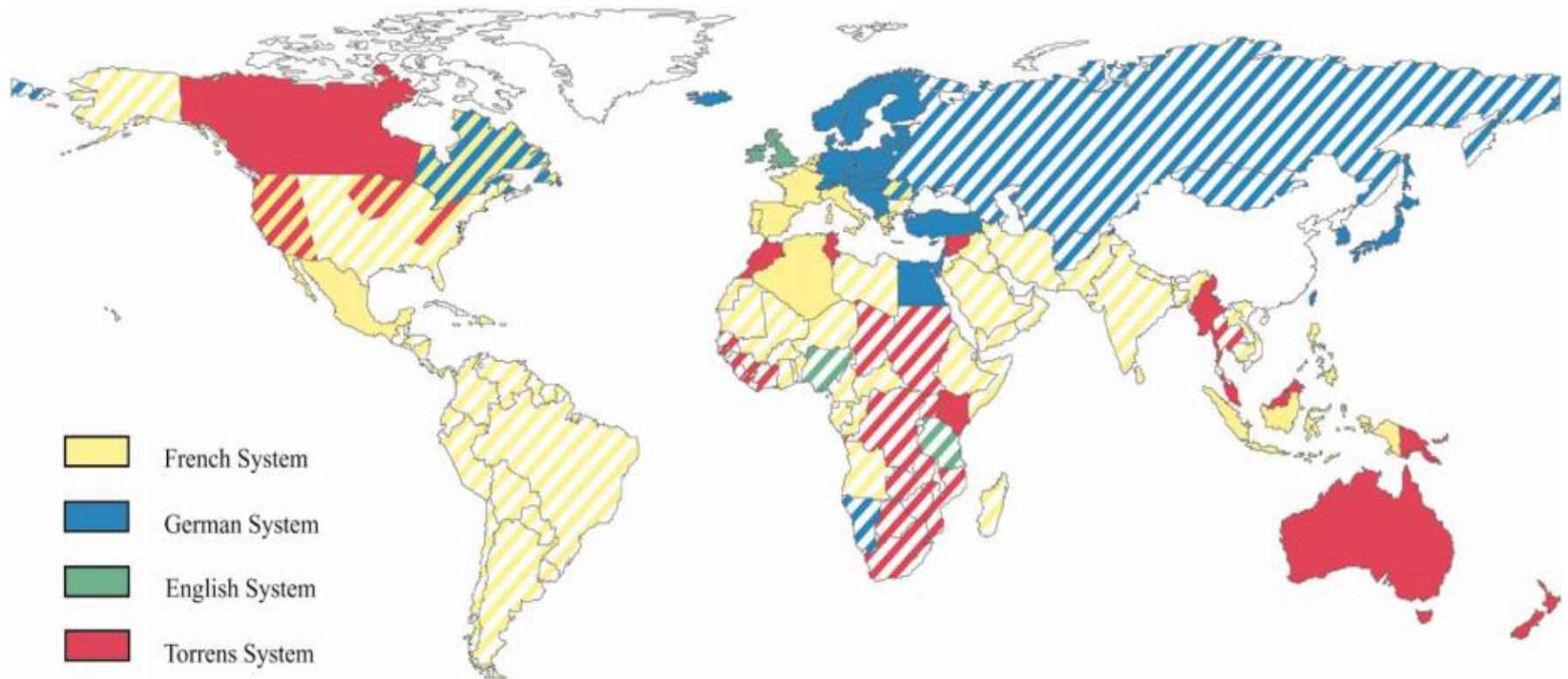
Land policy and land law – influence of colonialism

Figure 7.2
World Map of Legal Origin



Source: Doing Business database.

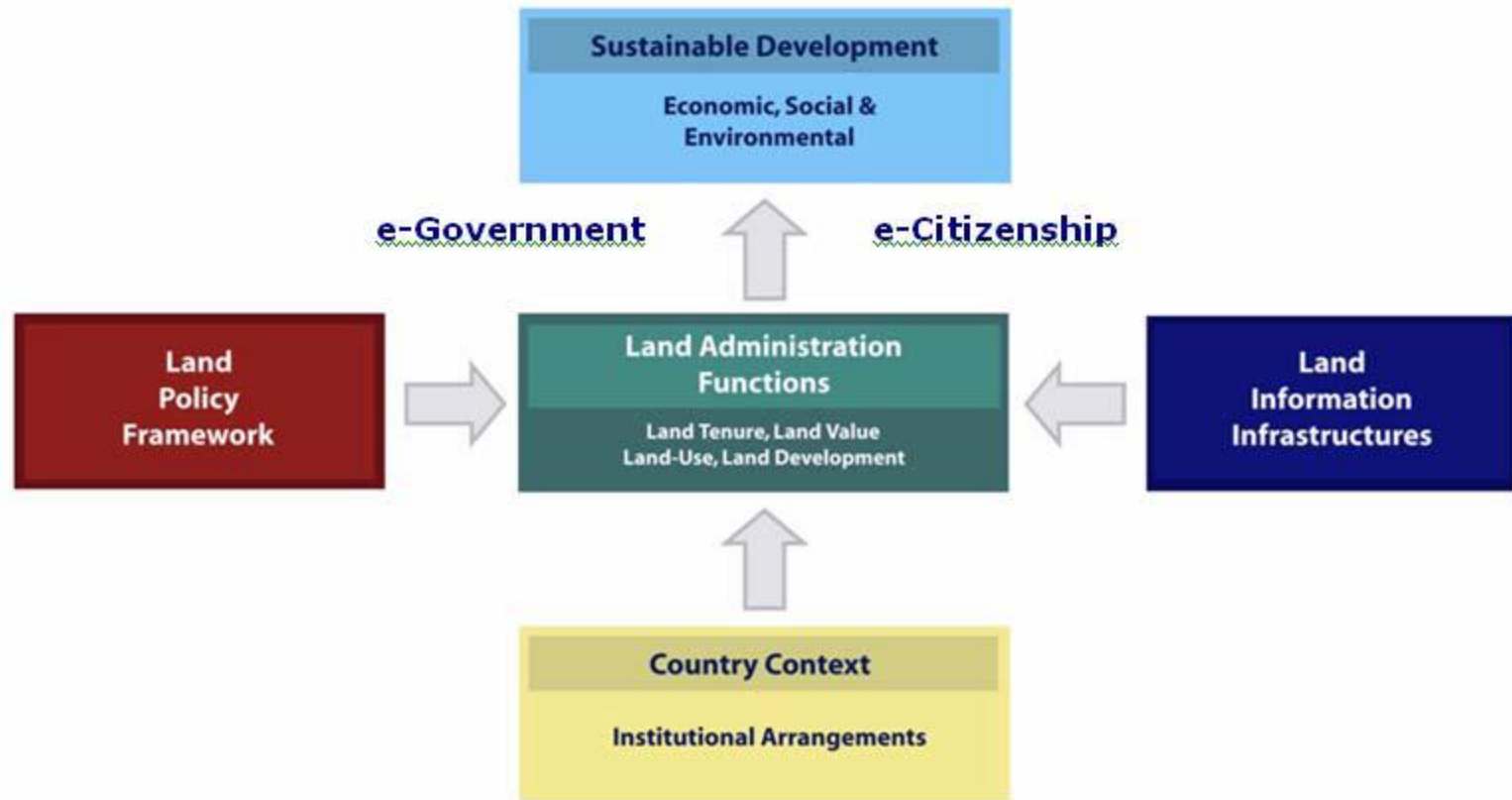
Land policy and land law – institutions reflect history



Diagonal indicates a mixed system

World registration systems, Enemark

The Land Management Paradigm (moving beyond the information paradigm)



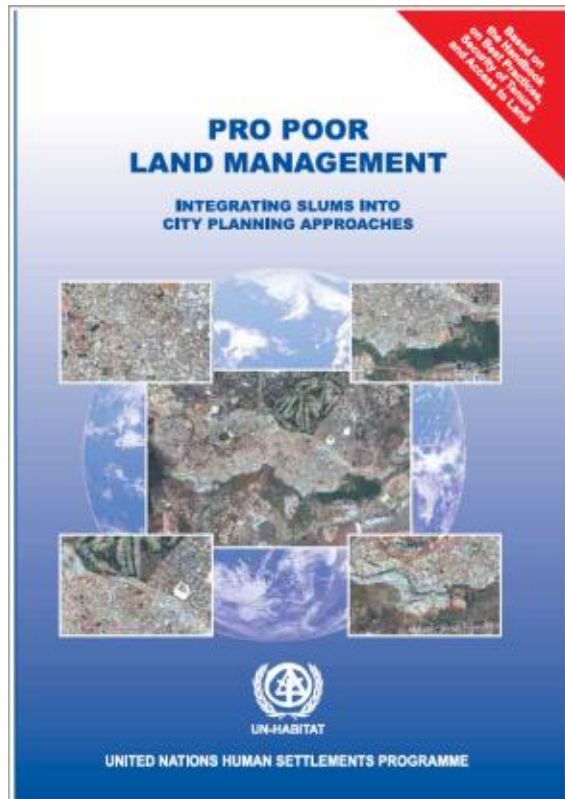
An overview of land administration

Land administration : a processes of recording & disseminating info about land rights, value and use of land and its associated resources. Such processes include the determination (adjudication") of rights and other attributes of land, the survey and description of these, their detailed documentation and the provision of relevant info.

Core functions of land administration

- Legal (registry) function: definition of rights (who has what rights); rules and procedures for adjudication, registration, re-registration, etc.
- Cadastral function: who has what rights gets spatial expression (i.e., where) in terms of location and this is often realized through surveying.
- Dispute resolution function: administrative hearings and rulings often accomplished in quasi-legal capacity and are often subject to appeals in formal judicial organs.
- Regulatory function: oversight on certain activities (e.g., land use or land development control) and professional services.
- Fiscal function: direct and indirect activities aimed at generating and collecting revenue.

Land administration - different sets of tools



What you may use the land for (land use management plans)

Taxation duties (the costs of holding and using land and receiving services)

Systems used to identify who has what where and rights where (land administration systems and information management systems).

Land management tools

- laws, policies and practices that include:

Types of rights you may have on land (tenure forms)

Future development plans

Services you should or may access (regulation of standards)

The land diamond



Discussion question

How do YOU see land? Do the key words on the previous slide have any relevance to the land agenda?

Is your land agenda as complicated as illustrated in the land diamond? What are the items that populate your land diamond?

Example: main registration formats

Field formant



Registry Book



Book of holding



ABITAT

Example: contents of a simple register

Part 1

Recording First Registration

Holding ID

Name and address of the holder

Name and address of the guardian

Parcel information – ID, area, neighbors, land use, fertility status, encumbrances, central coordinate, etc

Family members/orphans

Sr.no. of the book of holding

Signature

Part 2

Recording transaction

Possession of new parcel

Dispossession

Subdivision/partition

**Consolidation
(amalgamation)**

Belongings

Opening page of ownership certificate... note it is joint titling



Walking with handheld GPS and recoding own boundary



NETWORK



Surveying is very much man dominated field;

Decision making and professional work inland matters need to be gender responsive.



Satellite images allow participatory low cost, quick data capture



NETWORK



Satellite images showing farm boundaries



Farm boundaries digitized on screen



On Screen boundary identification process

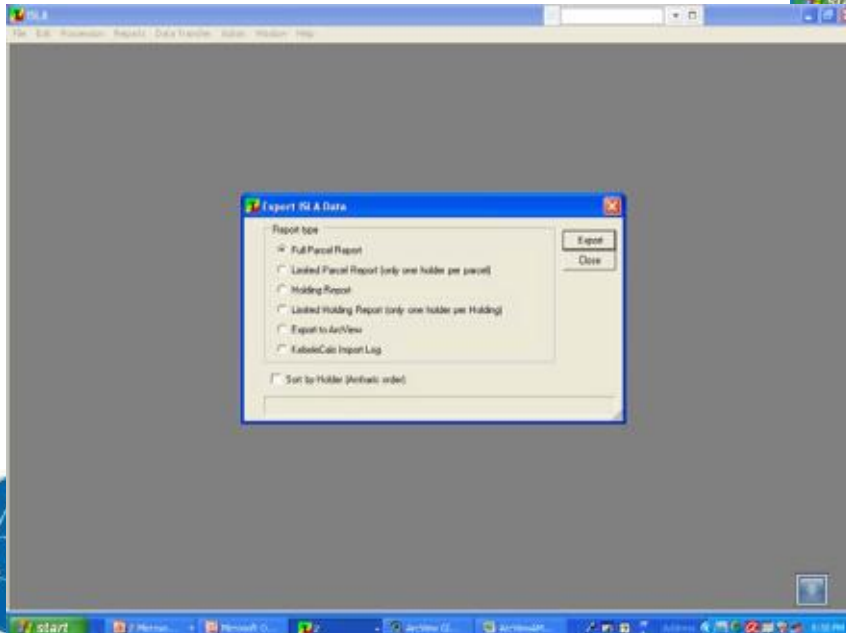
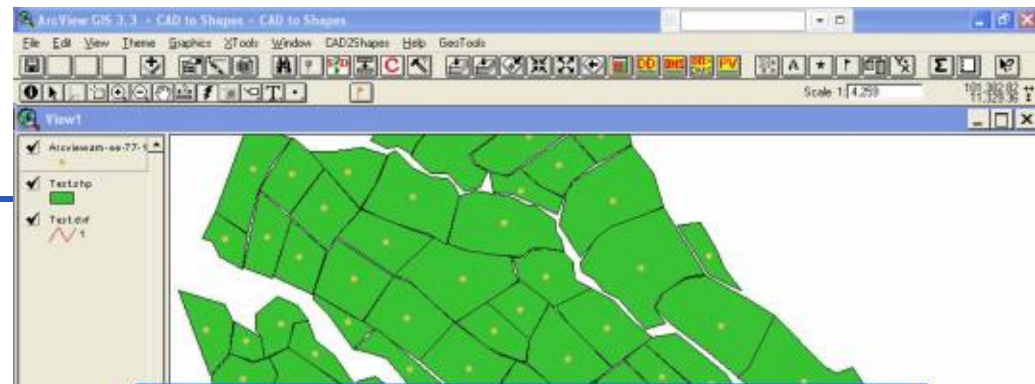


Data processing

Text data mgt (registry...ISLA)

Graphic data mgt (Arcview)

Additional support (excel)

[illegible]

Possible Cadastral index map of a Boma



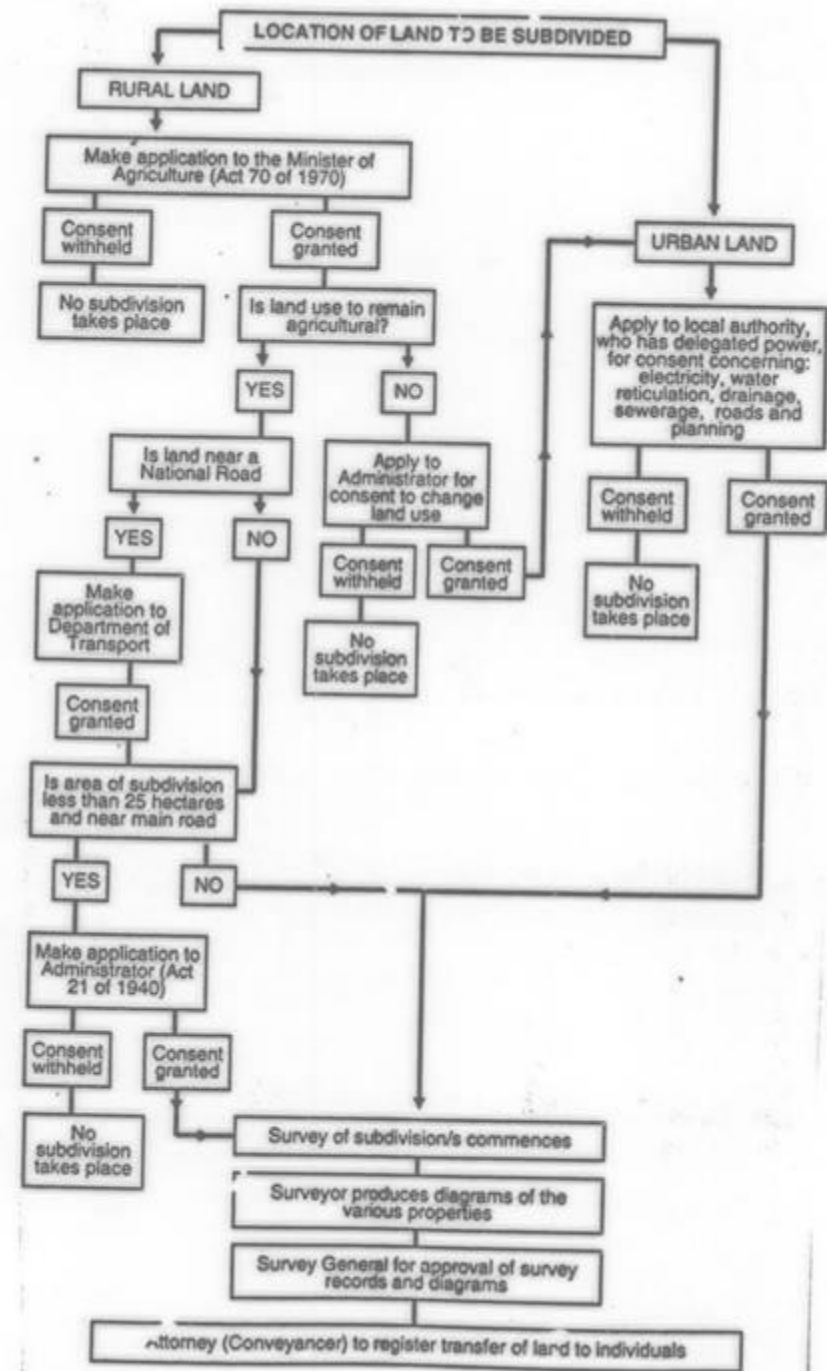
Why do we need land administration?

- Promotes access and security of tenure
- Protects the rights of women, children and other vulnerable groups
- Facilitates land and property taxation
- Provide security for credit
- Regulates land markets
- Protects public land (proper inventory)
- Reduces land conflicts
- Facilitates land reform and implementation of land policies
- Rationalizes land use and urban planning; facilitates service and infrastructure provision
- Supports environmental management

Recurring issues of land administration

- Institutional fragmentation within government (several departments plus municipalities); competing interests from diverse groups of stakeholders
- Land information: based on expensive methods; limited coverage; obsolete data holding; etc
- Different of property systems (statutory, customary and informal) leading to a disconnect between LA and the majority service recipients
- Limited capacity and weak service delivery; land systems routinely under-resourced; land profession monopolized / mystified through licensing; archaic delivery models
- Gender exclusion: women face discrimination in both customary and statutory systems;
- HIV/AIDS related dispossession: land/matrimonial homes grabbed by husband's kins (an aspect of tenure security)
- State monopoly and the attendant practice of administrative allocation leading to
 - Rent seeking / graft;
 - Patronage : land a means to hold citizens hostage and to award political allies

Path to property characteristics...the reality in many countries is far more complex than depicted here



Lengthy land administration : path to property in South Africa

42 steps

110 actions

| | | | | | | | | |
|---|--|-----------------|--|-------------------------|--|--|--|--|
| register. | | | | | | | | |
| Deeds Registrar examines and approves documents for registration and opens township register of new urban development | Act 47 of 1937 Deeds Registries Act (as amended) | Umtata registry | Dept. of Land Affairs | Examiner | | | | |
| Conveyancer informs Subdivision: Surveys of Local Government and Housing that land titles are available for awarding to individuals | | | | Private sector | | | | |
| Subdivision: Surveys of Local Government and Housing inform municipality that titles are available for awarding to individuals | | Provincial | Subdivision: Surveys of Local Government and Housing | The Chief land surveyor | | | | |
| Municipality informs engineers responsible for development that titles are available for handing to individuals | | Municipal | ?Planning department | ? | | | | |
| The transfer or selling of erven by the township developer (the LM/DM) can commence | | | | | | | | |
| Titles are handed over to individuals by engineers on behalf of developer | | Municipal | ?Planning department | Private sector | | | | |

| | | | | | | | | |
|---|-------------------------|------------|--|--|--|--|--|--|
| Conveyancer submits approval of town, approved layout plan, approved general plan and proof that condition of establishment has been met to the registrar of Deeds to open the township | 1937 Deeds Registry Act | Provincial | | | | | | |
|---|-------------------------|------------|--|--|--|--|--|--|

1976 (Transkei)

and rural

Services Committee

continuity and identity affected rights holders. Valuers called in

An inadequate
land records
system.

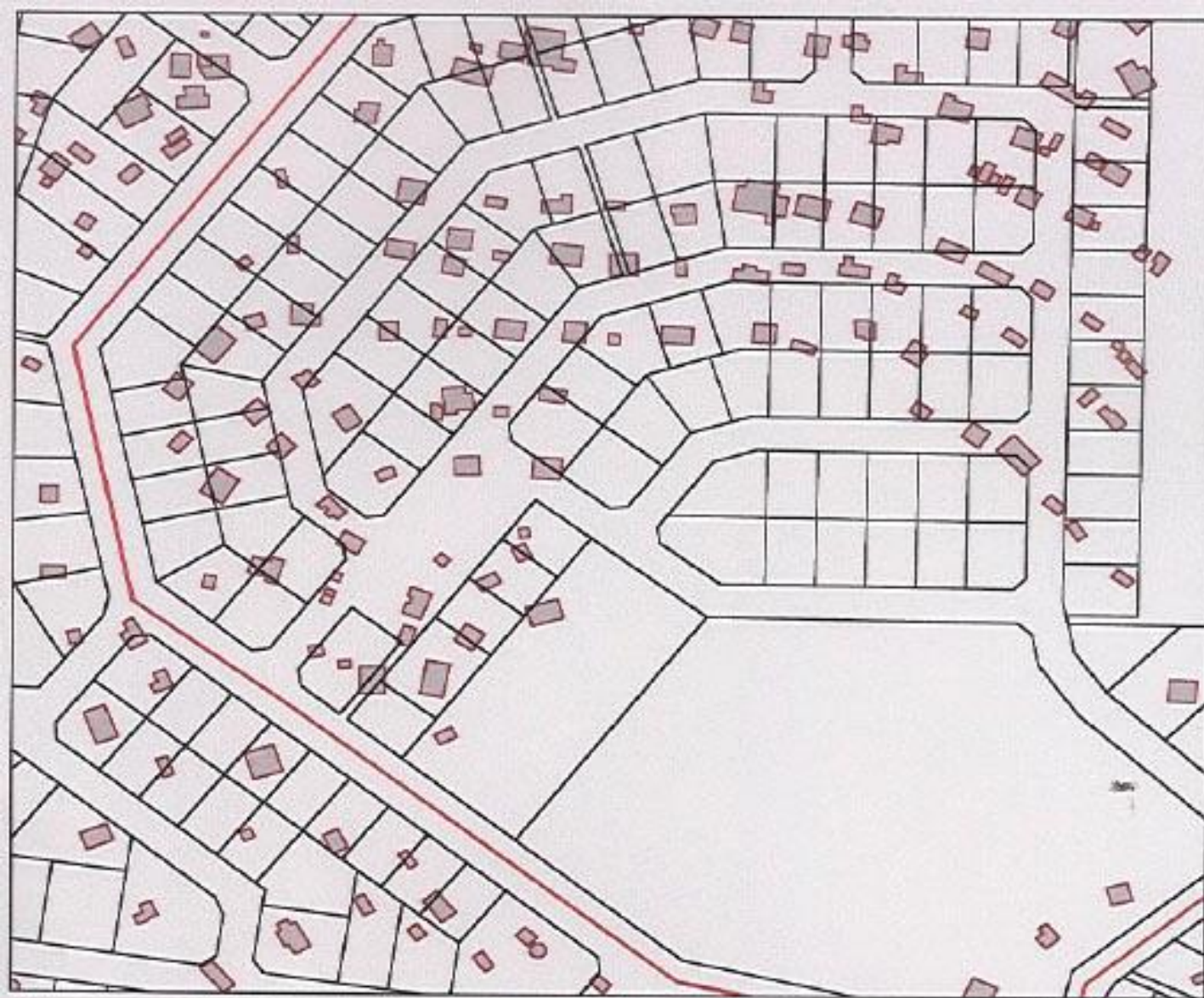


A modern land
records
system.



Land invasion
in the middle of
the path to
property – a
common
problem in
developing
countries.

Will lead to
evictions.

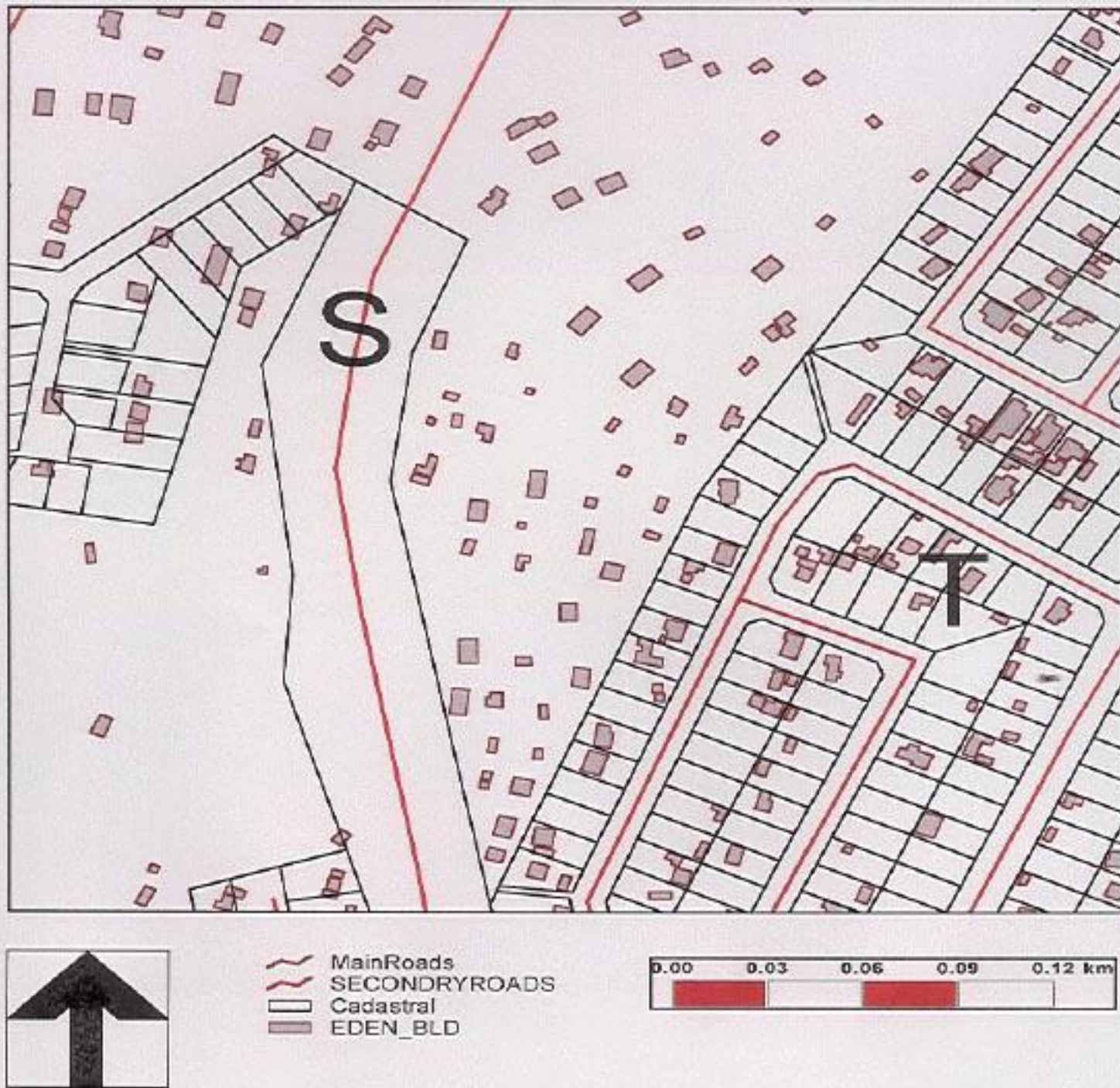


MainRoads
SECONDARYROADS
Cadastral
EDEN_BLD



Invasion of
State land –
another
common
problem.

Will not be
serviced.



Elements of good practice...

- Better coordination of land organizations (preferably through a single MICL)
 - A systems of checks and balances for both upward and downward accountability; decentralisation to check and validate claims on the ground; internal oversight; citizens charters; codes of conduct; etc
- Two pronged LA strategy:
 - more formal and systematic registration in areas where land value is high and
 - less formal and demand driven registration in subsistence agriculture and customary areas
- Alternative methods / specialized tribunals to resolve land disputes rooted in multiple layers of legislation, strained by demographic pressure and diminishing land stock;

Elements of good practice

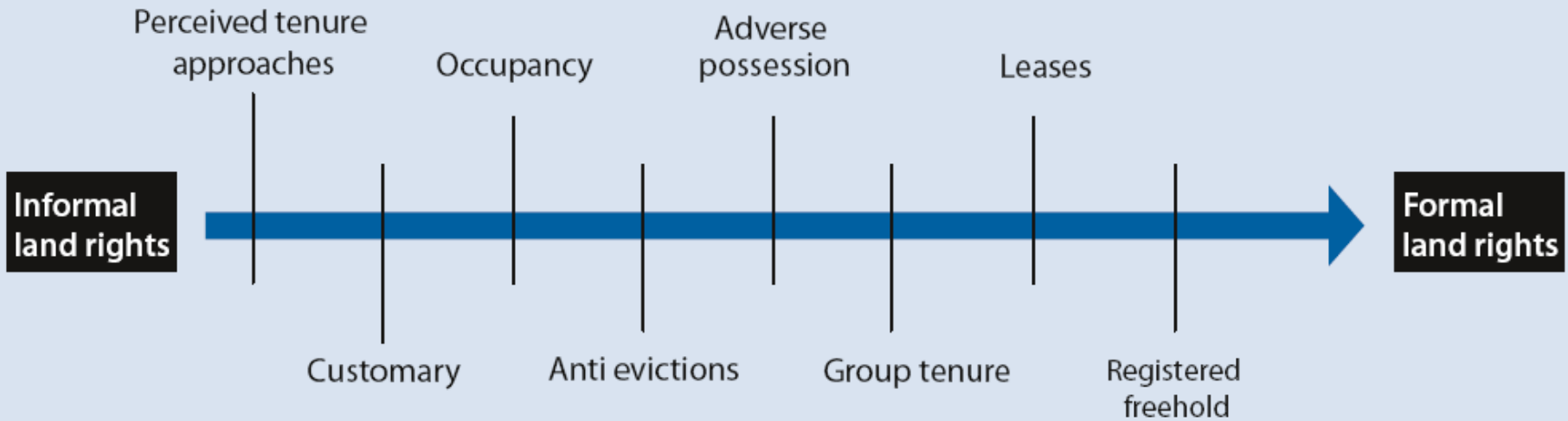
- Operational land act adhering to both **social legitimacy** and **statutory legality**
- A flexible and inclusive land registration and cadastral system (preferably hosted in 1 location; or linked (through IT) and operating from single window)
- An improved transactions processing (reduction of procedures / steps to register rights)
- Simple, low cost and community based methods tailored to local needs;
- Co-ownership; joint titling to strengthen women's property and inheritance rights
- Participatory reforms (private sector, CSOs, professional bodies, etc)

- Is about promoting pro-poor land tools to improve access and security of tenure

What does pro-poor mean?

- Anti-rich? Anti-middle class?
- Pro-poor first and foremost means fighting existing policy development mindset and practice that often marginalize the poor
- It is also about consciously targeting and getting on board a section of society (the majority of the population in most developing countries) that is the core of development endeavors
- It is about recognizing unenviable position of women
 - The axiom 'poverty has a woman's face' is not a cliché
- Pro-poor articulates the poverty reduction / alleviation agenda;
- Pro-poor augurs well with the Millennium Declaration.

Basic concept: continuum / range of land rights



GLTN 18 tools / 5 themes

implementation of some of these could make a dent on land problems

1. Land rights, records and registration

- 1a. Enumerations for tenure security
- 1b. Continuum of land rights
- 1c. Deeds or titles
- 1d. Socially appropriate adjudication
- 1e. Statutory and customary
- 1f. Co-management approaches
- 1g. Land record management for transactability
- 1h. Family and group rights

2. Land use planning

- 2a. Citywide slum upgrading
- 2b. Citywide spatial planning
- 2c. Regional land use planning
- 2d. Land readjustment (slum upgrading and/or post crisis)

3. Land Management, Administration and Information

- 3a. Spatial units
- 3b. Modernizing of land agencies budget approach

4 Land law and enforcement

- 4a. Regulatory framework for private sector
- 4b. Legal allocation of the assets of a deceased person (Estates administration, HIV/AIDS areas)
- 4c. Expropriation, eviction and compensation

5. Land Value Capture

- 5a. Land tax for financial and land management