

Assessment and Application of Land Administration Concepts to South Africa for All Forms of Land Tenure

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Abstract:

Land includes not just the surface of the Earth but also the air above and the spaces below (including the oceans, lakes, rivers, and other bodies of water). Land availability can contribute to income, nutrition, health, education, and social services. Many people living on customary lands have insecure access to land, raising the risks of destruction of cultural land-use practices, forced evictions, social conflicts, and poverty. Despite a high-quality cadastre covering South Africa's surveyed or formalized areas, much of the rural population lives in former Bantustans, on land outside of the formal land tenure system. Secure tenure for all tenure types is essential to attaining at least 10 of the United Nations' 17 Sustainable Development Goals (SDGs). These SDGs are linked to people-to-land relationships; hence the value of land and its administration is widely acknowledged, and is reflected in the SDGs. SDG target 1.4 aims at tenure security for all. This target requires land administration systems that clarify and formalise land rights to promote secure land markets, poverty alleviation, and national development (Bexell and Jönsson, 2017; UN-Habitat, 2018). This demonstrates that the land administration is important for the global development agenda (Jahan et al., 2015; Koeva et al., 2020). Nations prosper with efficient land administration. Reliable land administration enables dynamic land markets and effective land use. It is important that all types of land ownership (public, private, communal, indigenous, customary, and informal) be considered. The modernization drive has dominated land tenure studies, and the standard responses to communal and customary land administration systems reflect this view of them as backwards and antithetical to progress.

Urban insecure tenure issues

Communal land tenure issues

<ol style="list-style-type: none"> South African urban areas have extreme spatial inequality. <ul style="list-style-type: none"> Land grabbing Many legitimate land occupations are excluded from the formal land administration system. 	<ol style="list-style-type: none"> Increasing traditional leaders' power and influence, making 20 million rural South Africans second-class citizens. <ul style="list-style-type: none"> Negative impact on fair and sustainable resource distribution including illegal land occupation. Loss of traditional culture
<ol style="list-style-type: none"> Persistent apartheid-style spatial segregation. <ul style="list-style-type: none"> Overcrowding and spatial inequality. Isolation from economic growth and opportunity urban poverty and unlawful evictions 	<ol style="list-style-type: none"> 60% of the population have customary land rights, therefore their land rights are insecure. <ul style="list-style-type: none"> Emerging farmers are unable to invest if their land is not registered. (Challenges of financial access)
<ol style="list-style-type: none"> Existing land administration system unable to address urban land issues. <ul style="list-style-type: none"> Land administration records are incomplete land registration procedures are often expensive 	<ol style="list-style-type: none"> The lack of clarity about the status of land rights in communal areas <ul style="list-style-type: none"> violates the constitutional rights of women to access land Land conflicts/tenure disputes
<ol style="list-style-type: none"> Existing land legislation does not match urban settlement tenure forms, land rights, and spatial units. <ul style="list-style-type: none"> Conventional land administration systems are ineffective in sophisticated tenure forms. 	<ol style="list-style-type: none"> Customary tenure and different forms of non-statutory tenure exist in peri-urban and urban areas, they often overlap with formal tenure. <ul style="list-style-type: none"> no protection against natural disasters

Table 1: Land tenure issues

Table 1 lists Urban and Rural land tenure issues in South Africa. Land administration systems are intended to provide stability by making available accurate, authoritative, dependable, and unambiguous information about who owns what land, where it is located, how much it is worth, how it is used, and how it could or must be used (Zevenbergen et al., 2015; Bennett et al., 2019). An effective land administration system is essential to land reform, economic growth, and equitable change, and it pursues the aims, plans, and strategies of a nationally accepted land policy. Customary and neo-customary tenure can provide legitimate and functioning land administration and tenure security systems, including allocation,

demarcation, adjudication, and dispute resolution. This can be seen in many parts of South Africa, where semi-formal and hybrid systems exist alongside customary and freehold tenure types. According to Hull and Whittal (2018), customs and traditions are deeply embedded in developing countries such as South Africa. As a result, people in customary will resist being made to conform to an enforced formal land administration system. Cousins (2005) posits that the formal land administration system is based on a parcel-based cadastre and cannot incorporate a system not based on land parcel objects. Having many different ways to own land at any given time is called "tenure pluralism," and is very important. Williams-Wynn (2020) notes that reasonable estimates indicate that more than 5 million land occupations exist outside of the formal land tenure system in South Africa and, consequently, outside of the formal land administration system.

International good practice approaches need to be explored to assess whether they can contribute to integrated and more efficient land administration that can also address land reform objectives in South Africa. This paper reviews how international good practices, such as fit-for-purpose land administration (FFP LA), the Land Administration Domain Model (LADM), and the Social Tenure Domain Model (STDM), could help meet these needs by assessing undocumented rights on communal land and in informal settlements. FFP LA, LADM, and STDM can describe non-formal rights, restrictions, and responsibilities, improve the current cadastral system, and facilitate equitable tenure security for all. This paper has four (4) phases and Figure 1 shows the research methodology flow diagram followed in this paper.

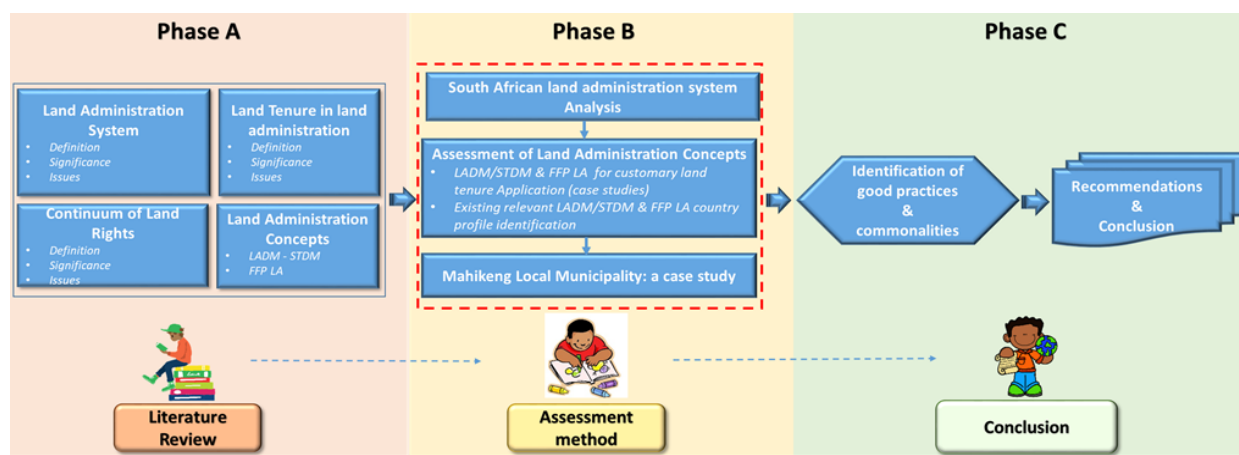


Figure 1: Research methodology flow diagram

This paper assesses and investigates case studies on adopting a spatial framework for fit-for-purpose land administration that exploits the LADM and STDM. The case studies will be reviewed using data collected from primary and secondary sources. There are now clear indications that the South African government recognises the long-term importance of improved land tenure security and is working to improve land rights allocation and management in all spheres. The findings of this study show that tenure insecurity persists in South Africa. Minor changes to the legislation governing the cadastral system are required. This paper also contributes to the global land community's efforts to address communal land tenure spatial framework issues by providing country-specific proposals to assist in the development of FFP LA, LADM, and STDM land administration systems in developing nations.

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