

Hybrid Governance, Organisational Culture and Effective Land Records

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SUMMARY

Worldwide, there are major drives to record land interests and issue some form of certificate of tenure. In part, this is motivated by Indicator 1.4.2 of Sustainable Development Goal (SDG) Goal #1, to End Poverty, which measures the proportion of adults with legally recognized documentation. The fit-for-purpose land administration initiative provides strategic options to meet the indicator. The question is; what happens when the recorders leave? Unless there is a sustained effort to maintain the records, they will fall out of currency. There is also the risk of abuse, where the powerful use the certificates and/or records to grab land, or they become a tool for speculators to secure land that they would not have been able to access were it not for the certificates.

The paper reports on hybrid governance and organizational culture in the effectiveness of land records in three case studies in the Western Cape province of South Africa. An effective record system is one that residents actually use to effect transactions and defend their tenure, and therefore the records remain current and accurate. Two of the case studies, Dunoon and Mbekweni, are state-subsidised housing projects where land is held in ownership under individual title. The third case, Monwabisi Park is a community record system in an informal settlement where an NGO, Violence Prevention through Urban Upgrading (VPUU), engaged in a participatory development programme with community based organisations (CBOs), the primary one being the local branch of the South African National Civics Association (SANCO).

Hybrid governance often occurs in sub-Saharan peri-urban communities, where de facto governance arrangements involve both state and non-state agencies. Risks to recognising hybrid governance arrangements include non-state actors can be more oppressive, coercive, illegitimate forces than a tyrannical state. That said, hybrid governance may be inescapable, and it is a situation that needs to be managed.

Organisational culture, the way people do things and solve problems in an organisation, is a hybrid administration phenomenon that has to be negotiated between different agents and agencies. Land registries are typified by a machine culture. Adhering to rules and procedures is paramount as the organisation generates legal documents. Innovation is discouraged. NGOs overseeing a planning initiative that is truly participatory may assume an adhocracy culture in the negotiations leading to community development plans and the development of community record systems to support those plans. Adhocracies typically eschew standards and rules to reach particular goals in a constantly changing, complex environment. CBOs may assume a role in land tenure governance and administration. Typically, they have a political organisation culture, which is likely to be characterised by ongoing schism in the form internal conflict and competition over access to power and resources and solidarity in dealings with outside agencies such as an NGO or a municipality.

In Mbekweni, CBOs such as SANCO were not involved in local land tenure administration. This was left to state structures such as the local municipal housing office and lawyers who were responsible for registering title deeds in the Deeds Registry. In Dunoon, SANCO was involved in providing alternative transaction strategies to the deeds registration system to residents for more than a decade after the housing beneficiaries had had their properties registered. As a consequence, there are a number of cloudy titles where the de facto owner is not the registered owner. In the Monwabisi Park informal settlement, VPUU focussed on designing an open-ended community record system to administer tenure as part of a participatory development planning initiative. Instead of examining international standards, such as the STDM, the record system was developed according to what designers saw as a response to what was negotiated at various times. The results is a system that operators in the community find easy to use, it is widely accepted and residents appear to use it to record their interests and transactions in land.

In conclusion, in many peri-urban situations, land records should not be implemented without considering the various hybrid governance scenarios that are might materialise and the strategies to achieve a secure system of tenure and an effective land records system to support it. The organisation cultures of each of the potential role players should be understood and incorporated into strategic plans and monitoring and evaluation systems in order to achieve this.