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Property Metaphors, Property Theory and Communicating the Continuum of Land Rights

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CONTENT

What is the continuum of land rights?

- a metaphor, a theory, an advocacy tool, or aspirational tool

Contrasting development and property theories,

1. evolve to some modern global uniform society, or
2. let a community evolve according to its own unique circumstances

Graphical communication of the continuum

- Multiple, purpose specific graphics – suited to the situation
- How do we use the continuum in scenario analysis?



DEFINITIONS

Metaphor

- partial representation of what is perceived as reality (Jackson)
- A tool to describe and conceptualise a situation, possibly to explain and predict – description is biased by world view or paradigm

Theory – a set of explanatory & predictive hypothesis and conditions

- H1: *Under the following conditions, if X occurs then Y will occur*
- Substantive to grand theory to paradigm or world view

World View – political and a view of science

- theoretical orientation –realist reliant on observable facts (deductive) versus interpretivist (inductive) – all meanings are social constructions

Graphics

- Aid, for visualising, exploring, analysing, explaining and predicting or a map to navigate the real or conceptual world.
- Science of signs, symbols and their meaning - semiotics

Continuum and Modernisation Theories

- Continuum evolved and accepted as a concept independently of large body of philosophy – not examined in terms of property theories or development theories
- Modernisation development theory and evolutionary theories of property have dominated the development agenda
 - People should modernise –an inevitable, irreversible linear evolutionary process
 - Individual, private property is the best, if not the only way to go
 - Two evolutionary theories of property often cited theories:
 - Individual, private property economically efficient (Demsetz)
 - Tragedy of the commons (Hardin)

Land Titles and the Bundle of Rights

- Titling is harshly criticised when based on evolutionary theory
- Failure to check if the enabling conditions exist
- Simplistic, driven by economics alone & inequitable
- Few pragmatic, actionable alternative theories with a solid empirical foundation
- Bundle of rights is also criticised as a metaphor
- Generally articulated in terms of the proprietary unit – the legal model that gives procedural effect to real property law
- Can accept it as a bare bones metaphor – each stick splinters and forks and has two troublesome ends – a constellation of interests

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ALTERNATIVE CONCEPTS

Legal pluralism, anthropological and ecological perspectives

Personhood perspectives – property is a sense of identity for some

Land as a web of interests

Land as a constellation of interests

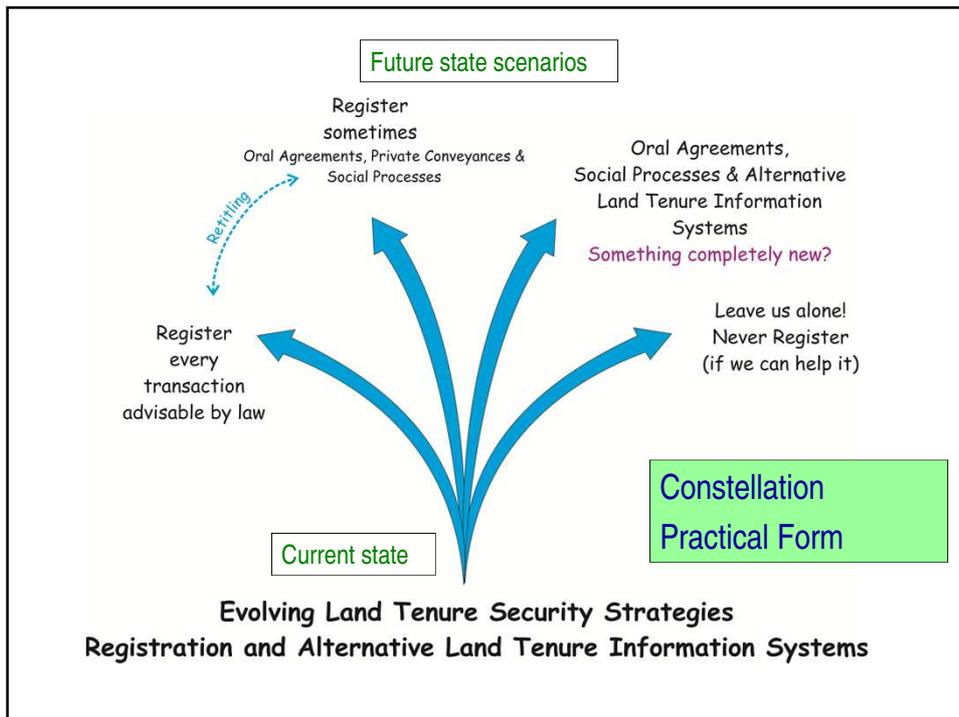
–Ideological layer

–Categorical layer – legal relationships, proprietary unit

–Actual, concrete layer – social matrix of relationships

Constellation in harmony with continuum – don't reject the bundle metaphor either

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Graphical Communication

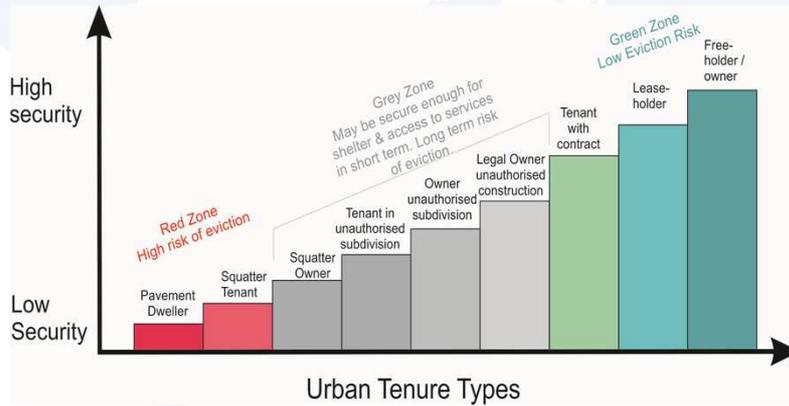
Current graphic – a number of alterations to this representation and a number of problems associated with it.

Does the graphic drive the explanation, prediction, design and action or visa versa, or should both develop according to the context or likely contexts of a situation?

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Purpose Oriented / Generalised –

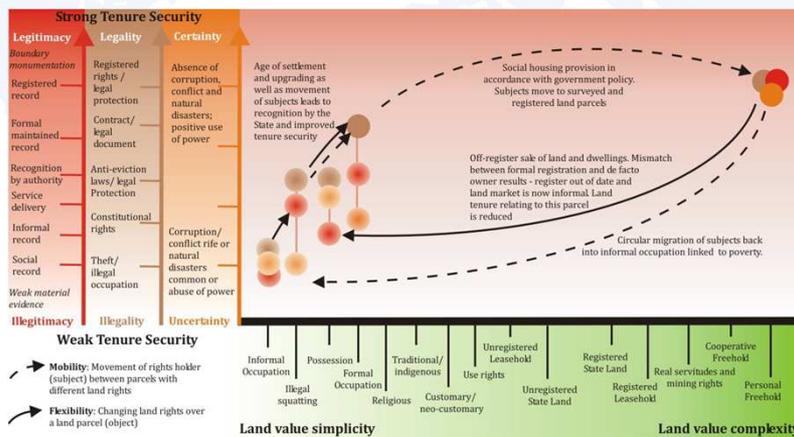
USAID – Payne et al 2014



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Context Specific - South African State Housing

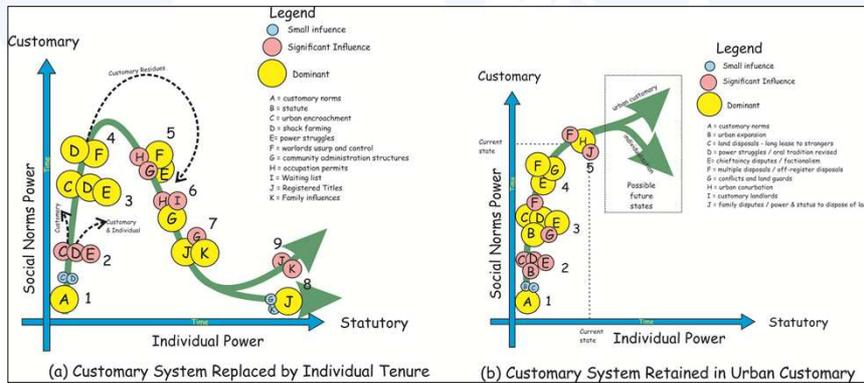
Whittal 2014: Complexity of Land Value & relationship to three other constructs



Rich Picture describing a complex situation or a Navigation Aid?

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Peri-urban Customary South Africa & Ghana Explanation & Prediction Aid



Extend Axes / Variables into simulation models using gaming engines?

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CONCLUSIONS

Promote the continuum of land rights as a metaphor, not a theory or advocacy tool - use it in those contexts

Land as a constellation of interests as the explanatory metaphor – don't reject the bundle

- Tensions between explaining complexity and simple messages required by politicians and funders
- Keep it simple and stupid (KISS)?
- – you risk being party to something s....

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CONCLUSIONS

How do we deal with KISS & complexity?

Objectives are clear, enabling conditions in place, few uncontrollables, then grand scale programmes and detailed project plans may work... = Utopia!

If ≠ utopiaDevelop the vision and objectives

Series of small scale projects for incremental improvement with major attention to risk analysis and go / no-go evaluation points

CONCLUSIONS

Graphical communication

- Very few other property metaphors have a “graphic”
- Think of a map – for explanation, analysis or navigation
- Signs, symbols, and projection chosen according to primary purposes – e.g. navigation or thematic (projection characteristics - equal area, distance, azimuth, preservation of shape)
- Navigation – is it a road map (KISS) or a nautical chart?
 - Chart only tells you the general variables. You check them everyday and adjust according to where you want to go
 - you can still get blown around the Horn or end up on hostile shores

CONCLUSIONS

Graphical communication & continuum

- State explicitly the purpose of a continuum graphic and the context in which the continuum is to be applied.
- Provide a detailed explanation to go with it
- How can we incorporate the concept in applying the latest technological toys (gaming engines) – specifically scenario analysis?