Cadastral mapping of water as an individualised human right:
Water, water everywhere, nor any drop to drink

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I am so sorry I am unable to present this personally, due to COVID constraints. Please note the concepts in this paper can also be applied to distribution of essential goods for the use of households in need during the pandemic.

FIG Working Week 2020 - Amsterdam
Every human has the right to shelter (housing), food and water

Title deeds record an owner as an individual right holder
This makes landowners’ rights stronger than their dependents’ rights

Individualised title deeds leave others in the household group at risk

#Please empower me too

Records for potable water in the name of one person will run the same risk

‘Orphan Street, Cape Town 2020’

Image L Downie ©
Private ownership by individualised deeds and surveyors’ diagrams have been registered in the Cape cadastre over five centuries, with South African land titling implemented by the Dutch in late 1600’s (Titling system retained by British colonisers)

* A deed of transfer (transportakte) is still the ‘vessel’ that transfers land
* Deeds for land are registered in the names of individuals or co-owners
* Rights of poor dependents that are not recorded in the cadastre are easily lost
* Pro-poor water rights in SA use a similar individualised ‘vessel’ to record water in the name of an accountholder

Is it time to get out of the boat?
The Western Cape in South Africa recently had a serious drought. A ‘day zero’ was imminent, in which municipal potable water could no longer be supplied. This paper looks at the scenario of citizens needing to queue for water. The issues are similar to those for queuing for essential goods during COVID lockdowns.
The South African cadastre is now at a WATERshed.

A cadastre / land information system (LIS) records entitlements. Water records will be included in our integrated and consolidated system.

SA is working towards one data portal for all land administration and information records.

Records for potable water should be seen as a critical titling challenge.

Will 21st Century imperialistic wars / group conflicts be fought over water before land?
The African communitarian worldview often conflicts with the Western notion of individual rights. Individualised title deeds (and being able to sell land) is problematic in customary societies.

Constitutional equality principles founded on Western philosophical principles often conflict with group and traditional rights.

Will 21st Century land and water information systems achieve a better balance between communitarian rights and individualised rights?
Centuries of rights that have been lost were facilitated by colonial and apartheid cadastre.

(A member of the White Group as described in the Group Areas Act no 36 of 1966)
Centuries of women’s rights lost with patriarchal cadastral practices

Eg: Wives’ names often left out of older land records —> rights made invisible

The legal and surveying professions are the gatekeepers of formal land records and how they should be structured.

Every LIS practitioner should read: *Invisible Women: Exposing data bias in a world designed for men* by Caroline C Perez 2019

Who is responsible?

‘We men’ / ‘Wo-men’
Every human has the right to shelter (housing), food and water

Title deeds record an owner as an individual right holder. This makes landowners’ rights stronger than their dependents’ rights.

Individualised title deeds (in the name of an owner or co-owners) often leave the rights of other vulnerable dependents in the household at risk.

Records for free potable water intended for an indigent household (but recorded in the name of one person) will run the same risk.

#Please empower me too

[Image: 'Orphan Street, Cape Town 2020']

Image L Downie ©
Designing an LIS for water: Focus on the law as a process

SA gives indigent households 6 Kl of free water monthly

LIS practitioners must use their common sense. Watch how the process of recording the ‘right holder’ affects other’s rights.

When you fill in a government form look how sole right holders are created. Watch how the information about dependents ‘walks of’ the official page.
Account holder = the formal holder of the free water right

1 in 3 parcels of privately owned land registered in the SA cadastre was previously state-subsidised. Most awarded for free to households in need. BUT individualised land titling left household dependents invisible.

Applying for free water uses a similar record keeping approach.
Information about individual dependents must be recorded. If not, dependents’ human right to water will remain an illusion.

Correct cadastral mapping of indigent dependents could offer a real-world solution for resolving many water conflicts.
THANK YOU

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