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FIG Working Week
17 - 21 May, Bulgaria
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to the challenges of modern world

FIG SOFIA 2015

THE CONTINUUM OF LAND RIGHTS

Clarissa Augustinus, GLTN/UN-Habitat
FIG Working Week, Sophia, Bulgaria, 17-21 June 2015

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UN HABITAT FOR A BETTER URBAN FUTURE **GLTN** GLOBAL LAND TOOL NETWORK



THE CONTINUUM OF LAND RIGHTS APPROACH

“Recognising, Recording, Administering a variety of appropriate and legitimate land tenure forms”

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NEED FOR A PARADIGM SHIFT ON LAND

- The continuum concept emerged from a background of massive challenges on land, and many actors grappling with a concerted, coherent approach to tackle these
- A decade ago individual freehold title was generally being portrayed as the best or only option for land tenure security
- A framework was urgently needed to include the land interests of the majority of world's citizens, particularly the poor, rural and urban
- Social tenures of the majority of people not recognised or legally and institutionally supported

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NEED FOR A PARADIGM SHIFT ON LAND

- An urgent need for change, including recognition that a number of tenure forms are appropriate, robust, effective, legitimate
- The concept of a “range of rights” is necessary but not sufficient
- The continuum concept and approach allow for migration between tenure types, appropriate to context (time, place, history, culture, etc.)
- Need for regulatory environment, administration and land records systems to support

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A CONTEXT OF TENURE INSECURITY

With globalisation, the world has seen

- Increasing insecurity of tenure globally, reaching critical proportions
- 70% of developing country populations outside formal register
- 1.5 billion out of 6 billion rights registered
- Sub-Saharan Africa: more than 60% of urban dwellers live in informality, and poverty
- Conventional land administration too expensive
- Problems of sustainability
- Cannot go to scale
- No recognitions of secondary rights, affordable group rights, etc.
- Need to develop affordable scalable approach – the continuum

A CRITICAL SITUATION IN MANY COUNTRIES

- Where they exist, formal, statutory records systems are in many cases cumbersome, inaccessible and out of date, even redundant



- Formal systems are also in most cases unable to record multiple, overlaying land rights inherent in many customary or traditional systems

THE BENEFITS OF ADDRESSING THE CHALLENGES

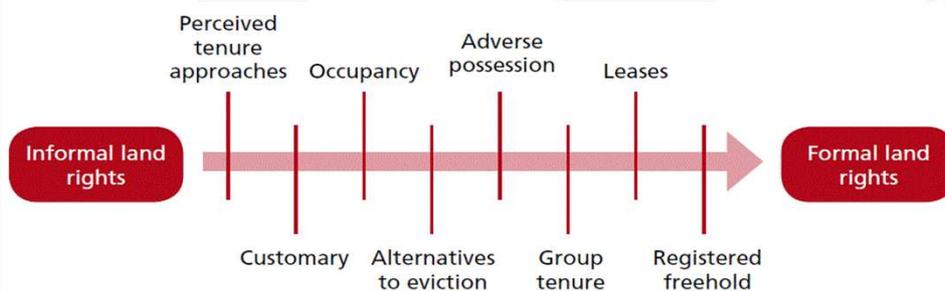
Increased tenure security can:

- Help overcome land, housing and livelihood inequalities
- Promote food security, entrepreneurship and development
- Facilitate provision of essential facilities, services and quality of life
- Reduce physical insecurity and conflict
- Reduce forced eviction, corruption, 'land grabbing'
- Overcome wide-spread discrimination against women
- Create options for youth

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THE CONTINUUM OF LAND RIGHTS

- An alternative to just focusing on individual land titling
- Land rights seen as lying on a continuum between informal and formal rights
- In between these extremes lie a wide and complex range of rights



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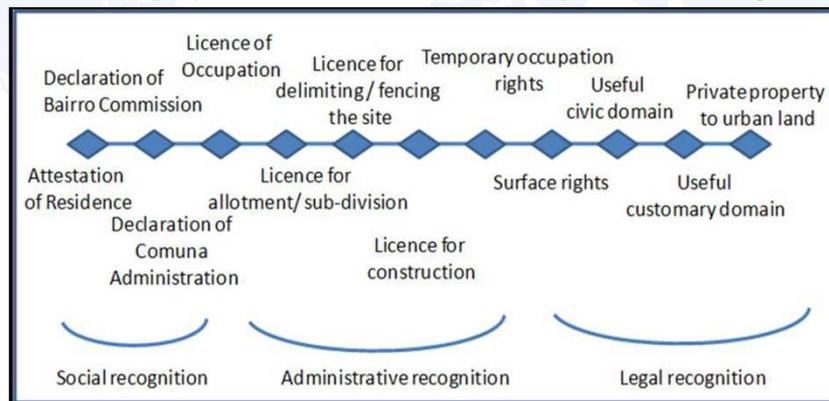
REPRESENTING THE CONTINUUM

“A single graphic representing the continuum that is universal to all situations is inappropriate for robust analysis. Graphical representations of the continuum for robust analysis should be developed on the basis of the particular problem situation to be improved. These may range from the simple bi-polar graphic as per figure [above], to graphical representations of complex local situations for analysis, to incorporation of a continuum of land rights into simulations of different scenarios of the built environment for land use planning purposes.”

Barry and Augustinus. 2015

REPRESENTING THE CONTINUUM

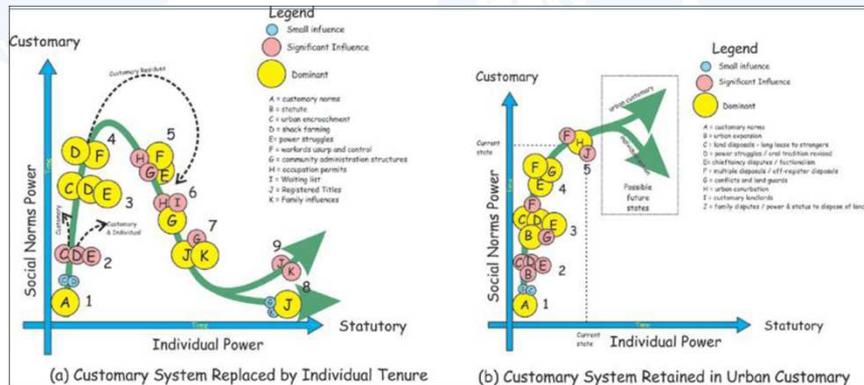
Context-specific use of the continuum: the example of Huambo, Angola



Source: Royston et al, 2014

REPRESENTING THE CONTINUUM

Explaining and Predicting Tenure Transformation along a Time Continuum



Source: Barry, 2015

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REALITY ON THE GROUND

The continuum concept recognises that:

- Tenure can take a variety of forms
- The various rights do not in fact lie on a single line, and they may overlap with one another
- Rights at the most formal end of the continuum should not be seen as the preferred or ultimate form of land rights
- They are one of a number of appropriate and legitimate forms; the most appropriate form depends on the particular time and context

See: *Handling land*, GLTN 2012

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GAINING GROUND: AFFIRMATION & APPLICATION

Articulations of the continuum concept and approach increasingly evident in various forms (resolutions, statements, tools, programmes, practice)

Examples include:

- UN-Habitat Governing Council Resolution, 2011 (GC 23/17); 2015 (GC 25/6)
- Land Governance Assessment Framework (LGAF)
- Namibian Flexible Land Tenure Act, 2012
- Voluntary Guidelines
- Social Tenure Domain Model concept
- Fit-for-Purpose Land Administration approach

MOVING FORWARD: GLTN TOOL DEVELOPMENT

GLTN land tools relate to the HOW of implementing pro-poor and gender-responsive land policies for tenure security

They are developed to accommodate and support the continuum concept and its in-country application

Complementary land tools for application of the continuum:

- The Social Tenure Domain Model – to accommodate and record a range of different land tenure rights
- Participatory Enumeration Methodologies – generating land tenure information through a participatory process
- The Gender Evaluation Criteria – addressing gender issues in land management

MOVING FORWARD: LEARNING AND IMPLEMENTATION

Strands of ongoing learning and elaboration of the continuum concept:

- Investigating the continuum in practice in five Southern African countries – concluded (FIG, Urban LandMark, Univ Twente,)
- Support to implementation of Namibia Flexible Land Tenure Act – underway (Government of Namibia, SDI, GIZ and national partners)
- Research and development of a theoretical foundation - concluded
- Evaluation framework for the continuum of land rights – underway
- Developing a strategic framework for the operationalisation of the continuum of land rights approach, with focus on country level implementation – being finalised (Dutch Kadaster)

MOVING FORWARD: LEARNING AND IMPLEMENTATION

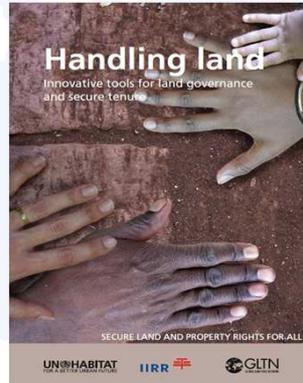
- Engagement with GLTN partners on the application and use of the continuum concept in their work – underway (All partners)
- Integration of continuum work into GLTN land tool development and application – ongoing
- Collation and integration of all innovations and findings and discussion – EGM 2015 (GLTN Partners Meeting)

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WANT TO KNOW MORE?

Contact us:

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