











FRAMEWORK FOR EVALUATING CONTINUUM OF LAND RIGHTS SCENARIOS

SECURING LAND AND PROPERTY RIGHTS FOR ALL







FRAMEWORK FOR EVALUATING CONTINUUM OF LAND RIGHTS SCENARIOS

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DEFINITIONS, ACRONYMS AND ABBREVIATIONS

Antecedent Antecedent may refer to a construct that is causal or temporal precedence to its

related construct. Consequent refers to constructs that were conceptualized as being outcomes or temporally subsequent to their related constructs. (Furneaux and Wade,

2009)

Causal explanations A theory which includes statements of relationships among phenomena that show

causal reasoning (Gregor, 2006)

Constructs Constructs describe and idea or phenomena of interest in a theory. They are an abstract

concept as they are not directly observable (Furneaux and Wade, 2009).

Continuum of land

rights

A concept, or metaphor to describe a situation where different tenure forms incorporating a range of concepts, or interests exist simultaneously, often transforming and changing between forms over time. A range of land tenure types that may exist between a number of possibilities, such as individual ownership and customary

interests, or family and customary lineage.

CSF Critical success factor
CSO Civil society organization
EGM Expert group meeting
EU European Union

FAO United Nations Food and Agriculture Organization
GIZ Gesellschaft fur Internationale Zusammenarbeit

GLTN Global Land Tool Network

HLP High-level Panel of Eminent Persons on the Post-2015 Development Agenda

IFAD International Fund for Agricultural Development

ILC International Land Coalition

Interest in land Land interests include land rights as well as claims that are negotiable. An interest may

be viewed on a continuum with a right at one extreme and a mere hope of obtaining

a right at the other extreme, and a mix of the two in between.

Land Administration The systems which administer land taxation, land tenure, and give effect to the

procedural law and customs for managing the built and natural environment. The emphasis in this document is on land tenure administration; the systems which map people's tenure interests to pieces of land in different ways. Examples are cadastral maps, land registries, other forms of land records and customary administration.

Land titling The process of adjudicating who has particular rights in particular land / property

objects and registering those rights.

LIFI Legal and Institutional Framework Index

LPI Land Policy Initiative

M&E Monitoring and evaluation

MCC Millennium Challenge Corporation
MDGs Millennium Development Goals

Metaphor A figure of speech or a set of symbols that are used to describe something else. For

example, a bundle of rights is a metaphor to describe the various interests in a land

object.

DEFINITIONS, ACRONYMS AND ABBREVIATIONS Continued

MoU Memorandum of Understanding NGO Non-governmental organization

Obligation An obligation or duty includes restrictions and responsibilities that are codified in law

or generally understood as being part of long-standing custom or social convention as rights, restrictions and responsibilities, as well as obligations arising from ethics and

social norms.

OECD Organisation for Economic Cooperation and Development

PBAS Performance-based Allocation System

Positivism Social research based largely on the natural sciences as the model for the social

sciences to live up to. In subscribing to the "natural science model", positivism puts forth elements often associated with the natural sciences. These include independent and dependent variables, mathematical propositions, quantitative data, inferential

statistics and experimental controls (Lee and Hubona, 2009).

Prescriptive statements Statements in the theory specify how people can accomplish something in practice

(e.g. construct an artefact or develop a strategy) (Gregor, 2006)

Right in land An enforceable interest which is backed up by law and/or custom. See interest in land.

SDG's Sustainable Development Goals
SIGI Social Institutions and Gender Index

SPI Social Progress Index

Statements of In theoretical terms, these show relationships among the constructs. Different types (theoretical) of relationships include associative, compositional, unidirectional, bidirectional, relationships conditional and causal. The nature of a particular relationship specified as part of a

theory depends on the purpose of that theory (Gregor, 2006).

Testable propositions

(hypotheses):

Statements of relationships between constructs are stated in such a form that they can

be tested empirically (Gregor, 2006).

UIS Urban Inequities Survey

UN United Nations

UNECA United Nations Economic Commission for Africa
UN-Habitat United Nations Human Settlements Programme
USAID United States Agency for International Development

VGGT Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and

Forests in the Context of National Food Security

WGI Worldwide Governance Indicators

WHR World Happiness Report

Introduction

The continuum of land rights is gaining traction as a concept, or metaphor to guide official recognition of different tenure types that provide various levels of security for landholders given their circumstances at a particular time. The continuum offers an alternative approach to the dominant focus on titling of individually held private property as the ultimate form of tenure security, or the end goal of land tenure reforms. It promotes recognition and increase of security across the continuum, with opportunity for movement or transformation between different tenure forms.

There are questions about how different tenure types on a continuum should be evaluated in terms of the social and economic costs and the benefits that may follow their official recognition. The processes of transforming from one tenure type to another should also be evaluated.

There are a number of evaluation initiatives that focus on land tenure and the associated administration systems. The majority of these are at a grand scale and often at the country level. This report builds on these and addresses a gap in them by providing a framework for evaluating land rights scenarios along the continuum. The framework is structured so that evaluations of continuum scenarios may be harmonized with other evaluation initiatives using different categories of evaluation. These categories are linked directly to types of theory, which makes it possible to establish where and how a particular evaluation should be used and, importantly, how it should not be used.

Problem contexts, management approaches and continuum scenarios

Understanding a problem's context is key to how that problem should be resolved. The notion of tame and wicked problems illustrates contrasting problemsolving approaches and evaluation methodologies when dealing with land issues.

Tame problem contexts are stable and the relationships between their different components are well understood. In these situations, using variations on the standard comprehensive rational strategic management approach to formulate and implement strategies and then evaluate them is likely to be appropriate. The

strategic planning process involves defining the problem to be addressed, the vision, mission, goals and objectives, and key performance indicators for those goals and objectives. Following this is the generation of strategy options to address the goals and objectives, evaluation of strategy options (e.g. using SWOT analysis), choosing the best strategy, and then monitoring and evaluation of that strategy against the key performance indicators once it is implemented. In these problem contexts, top down management approaches and objective-oriented evaluations are suitable, and positivist approaches to evaluation are likely to work. The goals and objectives are clear; key performance indicators are based on measures of hard facts and many of the measures are quantifiable. Numerous objective-oriented evaluation frameworks exist, and objective-oriented evaluation may be a suitable approach if the problem context can be considered tame. In the continuum of land rights context, the major challenge is to evaluate land tenure in problem contexts that are not tame.

In contrast to tame problem contexts, wicked land tenure contexts are complex, often characterized by competing ideological positions, ambiguity, abuse of power, patronage, corruption and conflict, and the vulnerable are at risk of losing long-standing interests in land and of being evicted. Factional disputes may arise over leadership and the power to allocate and manage land interests. Defining the problems to be addressed, the ethical and political dimensions to them, and determining the order in which problems should be addressed are major problems in themselves. The cause and effect relationships between different issues may not be clear (e.g. improved land tenure may lead to economic benefits in some cases, the reverse may be true in others, and in others such a relationship may not be discernible) and the stakeholder group may comprise multiple actors who have multiple agendas and interests. Strategies to improve a situation tend to be bottom up, incremental and evolutionary rather than top down. Even then, to be effective they should occur in a climate of functional anarchy (e.g. threats of violence are low) where, even though it is difficult, it should be possible to negotiate paths to improve a situation in small steps. Following a "management by walking about" approach, with frequent visits to the field in some projects, and using interpretive approaches to continually evaluate the situation, are likely be suitable.

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There is a range of tenure situations which fall somewhere between these tame / wicked contexts. The challenge for the evaluator is to decide which evaluation methodologies suit the situation. In reality, a comprehensive view of the situation may rely on mixed positivist/interpretivist research approaches and a mix of top down and evolutionary planning and management to address the problem in some situations.

Categories of land evaluation

The proposed evaluation framework is based on four general categories of evaluation, which can be linked directly to types of theory: (1) theory which describes; (2) theory which describes and explains; (3) theory which explains and predicts; and (4) theory for design and action. Situating the evaluation category in a theory category should encourage rigour in the evaluation, as the correct type of comparisons should be made between theory and practice. The four categories of evaluation are:

- (1.)Evaluations that measure the status of a situation only. Examples are the Worldwide Governance Indicators and the Global Land Indicators initiative. They address the "what" question only. They provide a score or a series of scores based on aggregates of a number of data sets. The indicators may be used to compare across situations, such as the ranking of countries in terms of governance. They are diagnostic. They tell what the situation is at a particular time, but they do not explain why and how that situation came about. They aggregate a range of data sets in a particular country to generate a set of indicators. How they might apply in continuum scenarios is discussed under category 2 below.
- (2.) Evaluations that measure status with some explanation, such as the identification of correlations between different factors. However, the validity of these relationships is explored superficially or not explored at all. These evaluations are also diagnostic but they may be used as support for theories based on more detailed and deeper category 3 evaluations where the correlations have been explained. As an example of a category 2 evaluation, evaluations may show that there is increased

agricultural productivity when people hold land under tenure type A. We do not know if productivity is increased as a direct consequence of people changing their tenure to type A, or if people chose to change their tenure to type A because productivity has increased and they need tenure type A to maintain this level of production. In continuum scenarios, an example of where category 1 and 2 evaluations might feature is a municipality's annual report, which quotes figures and changes in particular figures over a period of time (for correlation and impact analysis). Such a report may include counts of transformation of tenure type from A to B; number of tenure type B certificates which have both partners names on them; children who are at school in a particular settlement type; number of households with improved access to sanitation; fresh water and public transport; number of small businesses registered since a change to tenure type B; etc. These figures may be used to justify (or not) existing programmes and projects, the allocation of budgets and other resources, and to motivate for further resources and future programmes and projects. Whereas there is a strong argument for evolutionary strategies and in-depth analyses argued under category 3 below, one should not lose sight of the fact that reporting on the sources and applications of funds and resources and the impacts thereof are vitally import to funders, managers, potential donors and politicians. These types of category 1 and 2 evaluations keep programmes and projects going, and they are important in the broader context of evaluating continuum scenarios.

(3.) Evaluations that seek to explain and predict particular outcomes in order to guide some form of design and action to improve a situation. These are likely to be the most useful evaluations in improving continuum scenarios. They may be used to evaluate the process of transforming from tenure type A to type B and they can be used to evaluate the impacts of the change to tenure type B. They tend to be detailed, indepth studies of a situation. They may apply at a range of scales, from the settlement level to country level. At the country level, they are likely to include category 1 and 2 type evaluations in

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their analysis. These types of evaluations may range from large-scale evaluation programmes or something as simple as a field inspection report in a tenure transformation programme which demands immediate attention.

(4.)Evaluations of programmes and projects against predetermined criteria, and the impacts / outcomes of projects and programmes. They evaluate certain types of design and action. These are ongoing project / programme managementtype evaluations, post-project impact assessments and reflective studies on the lessons learned in a project or programme. They employ category 1, 2 and 3 type evaluations, but particularly category 3 in ongoing project management assessments. In incremental improvement strategies, category 3 type evaluations and actions based on them may have a very short timeframe. For example, in a tenure upgrading project, daily or even weekly inspections may be necessary to prevent land or houses being invaded by people excluded from the process, or leadership disputes may render agreed rules related to the process unenforceable. Consequently, existing strategies to improve the situation need to be re-evaluated and changed if necessary.

Purposes and quality of a land evaluation

It is important to ensure that the purposes of an evaluation, how it should be used and how it should not be used, the quality of the evaluation, and the scope and limitations of it are clearly communicated. Criticism of an evaluation should be expected in terms of the level of rigour of the evaluation, and this may be a function of both methodology and the way different stakeholders view the situation. Land is a political issue. Any land evaluation has political implications, and many land evaluations measure the performance of government. Thus a land evaluation may also have significant consequences for some individuals and institutions. A functionalist strategy to improving land tenure administration, in which operations management procedures and technology are the major drivers of change, has to be evaluated in the context of the broader social, political, economic and legal environment during and after the change process. In addition, criticism should also be expected

with much of it having a political dimension, which means components of the evaluation are likely to be emphasized and others ignored to advance a particular political position. Thus, evaluators need to be prepared to handle different forms of criticism.

Drawing on and identifying the key aspects of the evaluation literature, the following need to be considered when designing, during and after a land evaluation:

- Purposes of an evaluation and the most (1.)important questions that it addresses. The more focused the purpose, the more likely the data collected actually measure what is intended to be measured. Managing the risk of an evaluation being used for the wrong reasons is ever present, and if the purposes are determined incisively and communicated well, the risks of the evaluation being used for the wrong reasons are reduced. For example, Study A may show that powerful elites in a rural customary society are selling off agricultural land, rendering a significant proportion of the youth landless. Study B may show that there is an increase in informal settlements in urban areas. The purposes of Study A include an examination of the livelihood strategies of landless youth and associated migration patterns. If Study A shows that landless rural youths migrating to urban areas form a significant proportion of informal settlers, then an appropriate use of Study A is that rural land grabbing is a significant cause of expanding urban informal settlements. If Study A does not explore migration patterns of landless youth, then the inference that land grabbing is a significant cause of informal settlement growth is an inappropriate application of it.
- (2.) Audiences and users who are the audiences and how are they likely to use the evaluation(s)? There are a wide range of stakeholders, some of whom might be affected by the evaluation, some of whom might use it to drive policy, law and strategy, and some who might use it to advance a political agenda. The land sector typically has a wide range of stakeholders, including from the public and private sectors, professionals, civil society and many others.

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- (3.) **Useful and easy to use** users should find the evaluation useful and easy to interpret and apply. It should be clear to non-experts how people can use it, how they should not use it, and what are the possible grey areas in applying it. If it is not easy to use, people are unlikely to use it.
- (4.)Ideological and paradigm biases - what is the world view justifying an evaluation and the characteristics of that world view in designing and analysing an evaluation? There are a number of dimensions to ideology and paradigm biases. The first dimension is the political and economic ideology of the people driving the evaluation and those who might oppose the findings. The second dimension relates to the evaluation methodology itself, and the different conceptual approaches to research. It is important to know if the evaluation has been carried out by people who will only accept data that represents hard facts (the positivist approach) or by people who adopt a more nuanced approach and try to look beyond the facts and the different understanding of their meanings (interpretive perspective). Positivist approaches tend to drive many global indicators studies. In contrast, interpretive studies build theory from the data and they tend to be far more detailed and qualitative, or are a mix of qualitative and quantitative. Interpretive evaluations are suitable in situations where the land tenure system is not fully understood and the problem situation is unstructured. Thus, interpretive approaches are particularly suited to wicked problem contexts and therefore in situations where incremental approaches to improving a situation are applied.
- (5.) Evaluation practice what does evaluation practice within a particular evaluation tradition look like? Whose interests does it serve? What major questions does it answer? What are the important critiques of this evaluation tradition and how can criticism be addressed as part of the risk management process?
- (6.) Participant biases who conducts the evaluation, who participates in an evaluation and what is the character of their participation? Who is excluded or refuses to participate and

- what are the implications of their exclusion? For example, if officials refuse to participate in workshops possibly because they may have to agree on evaluative statements that might be construed as critical of their supervisors, how does this impact on the validity of indicators or scores generated in these workshops. If this phenomenon occurs across a country, how might the nuances in this pattern of behaviour be incorporated into an evaluation?
- (7.)Power considerations - what are the forces influencing preferences among evaluation purposes? Evaluations of continuum scenarios would often examine the power structures, particularly in wicked problem contexts. Evaluations themselves may be tools in power contests. Altruistic or aspirational thinking with a focus on change, for example in regard to land governance, might be behind a land evaluation. In reality, evaluations are often for self-interest purposes. For example, a developer with a vested interest in acquiring land may commission a study to show that individualization of tenure is in the best interests of rural farmers, and they may bias the study to support this proposition. Thus power consideration questions include: who might use the process for self-serving purposes or other "wrong" reasons? Who might be threatened by the process? Who might actively seek to undermine the process?
- (8.) Leverage points where or what are the leverage points for an evaluation to make a contribution? How can an evaluation be used to leverage change? How frequently should an analysis of leverage points occur during continuum scenario evaluations, especially when incremental improvement strategies are employed?
- (9.) Examples when considering a set of different evaluation methods for a particular purpose, what do the existing examples of each evaluation approach look like? In general, what are the different methodologies that characterize evaluation practice across and within the four evaluation categories? Having decided on a category for an evaluation, what do examples of

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evaluations within that category look like? What methods did land evaluators use and why? What data could they acquire and not acquire, and why did they choose to acquire and analyse the data that they did use? How did the evaluators assess the quality of their evaluation? How well were these evaluations received? What were the major positive comments and what were the criticisms of it? How good was the evaluation in terms of its stated purposes? How was it used for purposes outside of those purposes and what were the consequences?

This is currently a challenge in continuum scenario evaluations as very few, if any, examples of evaluations specifically dedicated to continuum scenarios exist. However, in the absence of evaluations of continuum scenarios, there are related types of evaluations in land administration project reports, reports on tenure upgrading projects, and consultants' reports for land administration authorities which may be useful as examples.

- (10.) **Contingency models** if one model or methodology is found to be unworkable once the process has started, what contingencies are there to move an evaluation forward?
- (11.) Quality how rigorous is the methodology underlying an evaluation? Evaluation is a form of science conducted in the real world, rather than a laboratory. Thus, the process cannot be controlled to the extent that a laboratory experiment can be controlled, and so the same level of rigour cannot be achieved. Some description of the quality of the data and the data analysis needs to form part of the evaluation documentation, irrespective of whether the evaluation applies a positivist or interpretive methodology. How valid are the data? Does the data measure what it is supposed to measure? Do the analyses of different data sets used in the evaluation triangulate, and do they agree with the findings in other studies? If they do not triangulate, what are the causes? Are they different because there are differences in agendas in the population being studied or differences in levels of power among those being studied (e.g. between men and women)? Are any

possible differences in results due, perhaps, to the design of the evaluation, to bad data or data that is not sufficiently far reaching to represent the full picture, or to the different philosophical/ideological/conceptual biases of different evaluators and participants? Thus, a general statement on quality needs to accompany an evaluation report as do explanations of different or opposing indications and explanations of phenomena that emerge in the study.

Conducting evaluations

In choosing a category of evaluation, the purpose of it needs to be established first. The fundamental questions are what is, how, why, when, where and what will be? These determine the category of evaluation. Category 1 addresses the "what" and in some cases the "where" question. In addition to the "what" and "where" questions, category 2 evaluations may partially address the "why" question, while category 3 evaluations address all of the questions: "what is", "how", "why", "when", "where", and "what will be".

There are two types of category 4 evaluations of projects and programmes that may occur and they are determined by the problem context and the style of management that is likely to work best. As discussed above, management by objectives and objectiveoriented evaluation may work well in tame problem contexts. Monitoring occurs as part of the evaluations to see if work has been completed in accordance with predetermined milestones and if the work complies with what was planned, complies with standards and specifications, is within budget, and according to schedule. There is also likely to be an evaluation of the outcomes and impacts of the programme, and documentation of lessons learned that may be applied in future. These evaluations are likely to emphasize a positivist view of the world. Hard facts are what the evaluator seeks, preferably ones which can be used to develop quantitative scores, which are backed up by statistical analyses and descriptions of those scores.

In contrast, unstable, wicked problem situations are complex and continually changing, and the abuse of power and conflict are likely to be prominent in local politics. Management by walking about and continually monitoring the situation is likely to be a better

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approach. Unlike stable problem contexts, many of the factors affecting the project cannot be controlled. Identifying the problem(s) to be addressed can be a major challenge. If goals can be determined, agreeing on ranking the priority of those goals is likely to be strongly contested by different stakeholder groups. In these cases, programmes examine where the maximum leverage can be obtained by making small incremental improvements, and then re-evaluating what constitutes the problem, establishing a new set of goals, and designing strategies to improve the situation in small steps. Risk assessment and risk management is an important component of both evaluation and strategy formulation.

Bottom up, evolutionary planning and implementation and continual evaluation using an interpretive approach is likely to be more appropriate in these situations.

Processes, structures and outcomes are continually monitored, and then incremental changes are designed and implemented according to what the data suggest to managers. The situation is then re-evaluated in the next cycle. The notions suitable-to-circumstances or fit-for-purpose apply. A single, one size fits all approach to improving these situations is unsuitable, and evaluation may need to be continual. This is in contrast to grand strategies which seek to make major improvements with large-scale projects. Interpretive or mixed methodology approaches rather than the purely scientific method approaches are likely to be important for continuum of land rights' evaluations.

A number of organizations have evaluation report structures for projects and programmes, which may inform the design of a continuum scenario evaluation. The World Bank Internal Evaluation Group, for example, has a comprehensive structure and set of processes for project and programme evaluations. They are designed for objective-oriented evaluations rather than incremental, inductive approaches to improving a situation in wicked problem contexts. However, components of existing project and programme evaluation designs are instructive for evaluations of continuum scenarios, as parts of them can be adapted to rapidly changing scenarios. They also provide a broader picture of how an evaluation may be used, even though the evaluation may be at the settlement level. Other evaluation initiatives, such as the World

Development Indicators, the Global Land Indicators Initiative, the Worldwide Governance Indicators and the Social Progress Indicators, are also useful sources of themes, possible data sources, discussions on the validity of evaluations, and the nature of criticism that can be expected.

Conclusions

Land evaluation is a complex topic, interwoven with numerous other themes. Design and action based on land evaluation, such as strategies to improve policy, law, planning land administration and land tenure security, should be based on evaluations that fall within the appropriate evaluation category and are suited to the level of uncertainty and structure in the situation. Where objective-oriented planning, management and evaluation best suits the situation, there should be a solid empirical basis for the results of an evaluation. Further, a study should be conducted with a level of rigour and explanatory and predictive power (if desired) that is appropriate to the possible consequences of that evaluation. If a series of studies results in recommendations for action to improve a situation, the conditions under which the perceived benefits might occur should be present or they should be created. In contrast to objective oriented approaches, in uncertain, complex, situations where multiple actors who have a multitude of goals and objectives exist and a number of different of scenarios may unfold over time, an evolutionary incremental approach is appropriate. In these cases, structures and processes should be examined continually and action to improve implemented in small steps. Generally, an interpretive methodology or mixed interpretive and positivist studies are suited to evaluating these situations. Overall, the problem contexts and the four categories of evaluation determine how an evaluation should be designed and conducted, how it should be used and how it should not be used.



INTRODUCTION

1 INTRODUCTION

A significant portion of land interests around the world are not recorded, leaving a large number of people vulnerable to land grabbing by the state and other powerful interests. The continuum of land rights is gaining traction globally as a metaphor to guide policies and strategies to improve equity in land tenure and land transactions, and to increase official recognition of different tenure types that provide various levels of security. The continuum offers an alternative approach to the dominant focus on titling of individually held private property as the ultimate form of tenure security, or the end goal of land tenure reforms. It promotes recognition and increase of security across the continuum, with opportunity for movement or transformation between different tenure forms.

There are questions about how different tenure types on a continuum should be evaluated in terms of the social and economic costs and benefits that may follow their official recognition. What should also be evaluated are the processes of transforming from one tenure type to another. There are a number of evaluation initiatives that focus on land tenure systems and the associated land administration systems. The majority of these are at a grand scale and often at the country level. This report builds on these initiatives, and it addresses a gap in land evaluation initiatives by providing a framework for evaluating land in continuum of land rights scenarios. The framework is structured so that evaluations of continuum scenarios may be harmonized with other evaluation initiatives using different categories of evaluation. These categories are linked directly to types of theory. This makes it possible to establish where and how a particular evaluation should be used and, importantly, how it should not be used.

Evaluation is fundamental to human nature. Psychologists observe that people are more likely to make an evaluative judgment than they are to attempt to describe or explain a particular situation (Mark et al 2006). Therefore, it is important that decisions about land policy, law and administration should be based on studies that are grounded in sound methodology and stand up to thorough critical examination. Evaluations should be used according to the purposes for which they are intended and applied with an understanding of their limitations. That said, managers often rely on incomplete information when making decisions. The challenge is to evaluate land in ways that are practical

and with a level of rigour that produces credible and useful information.

In following paragraphs, continuum scenarios are described in terms of tame and wicked problem contexts. Many situations which may be described in terms of a continuum of land rights feature some special challenges because they are generally highly complex, often but not always fluid, are sometimes contested, often associated with poverty, and are continually changing. The challenge is to make valid measurements and analyses that are representative of a complex set of relationships and which remain useful for a period of time that managers and other stakeholders can act upon them.

The continuum of land rights describes a situation (a continuum of land rights scenario) where, in a particular country, region or area, different tenure forms incorporating a range of interests exist simultaneously. The situation is changing and transforming, and landholders change between tenure forms over time. The rationale behind the continuum as an initiative to drive land tenure policy is that tenure forms other than ownership may be better suited to local circumstances at a particular time, providing the enabling conditions for them to function effectively exist. Tenure forms other than ownership or near ownership (e.g. freehold, long term leases) may hold lower levels of risk of some of the possible negative consequences associated with land titling (Barry, 2015). In addition, a significant proportion of land around the world in which people have an interest is not registered, and much of that land falls outside of any statutory protection at all (e.g. rural customary land, aboriginal land). Current registration processes will take too long, especially as the inequality gap is ever widening (McLaren 2011), but some form of record of interests in land and statutory support for legitimate interests should reduce the chances of this land being grabbed by elites and the politically connected. The thinking driving the continuum is that improving tenure security using a progression of different tenure types using an incremental approach until landholders acquire a form that best suits their needs in the long term is more likely to succeed than a grand, sweeping titling programme. This should improve the lives of the poor and other vulnerable groups (e.g. women, the elderly, an extended family) and lead to a better managed natural and built environment. The

proviso is that the conditions can be created that will enable a progression of continual improvement in tenure security (Barry 2015). One evaluation challenge is to identify these enabling conditions and analyse if they are present in a given situation.

A major challenge is that many of the situations where a continuum of land rights should be considered as a guide to policy, law and land tenure improvement strategy may be classed as wicked problem situations. These tend to be characterized by conflict and competition over land, and leadership struggles, which precipitate fractious local politics. The problems may seem intractable, and where and how to start addressing them is a major challenge. Often, the people involved are poor and have to continually negotiate their continued occupation of their current home, possibly within their community and within the home (e.g. women). Sometimes they have been displaced as a consequence of conflict, and they are vulnerable to eviction in their current location and to losing their interests in the territory from which they have fled. There are also numerous possible continuum scenarios which are stable or tame problem contexts, or perhaps somewhere between wicked and tame. These include customary lands, aboriginal lands, rural lands with ambiguous interests, and lands in which the people with the greatest claim have no statutory recognition of their interests. Strategies to improve all of these situations, tame or wicked, need to be evaluated to ensure that the interventions are indeed improving the situation. The emphasis in this report is on wicked problem contexts because these are the ones needing urgent attention.

The evaluation framework is based on four categories of evaluation. The categories can be applied to any type of land tenure evaluation, but they are presented here with an emphasis on evaluating continuum of land rights scenarios. The choice of which evaluation category to use depends on the purposes and the scale of the evaluation. It also depends on whether improving the situation is best served by top-down planning and objective driven management and assessment, or bottom-up, open ended, evolutionary planning (Miller, 1985). In the latter, management-by-walking-about (Peters and Waterman, 1982) and incremental improvements in a number of related areas are more likely to produce the desired results. Good evaluations

should have a sound theoretical basis. It follows that being mindful of different views of how knowledge is developed is of major importance when evaluating land in continuum scenarios.

1.1 The Gap in Land Evaluation

Given the importance of land and how people relate to it, it is surprising that there is a major gap in how different land tenure systems should be evaluated in relation to economic performance, social considerations, and the impact of particular tenure forms on the natural and built environment. Some argue that there is a relationship between land tenure security and each of the eight Millennium Development Goals (Payne et al, 2014). Land tenure evaluations should contribute to improved tenure security, which in turn should form part of the achievement of broader social, economic, ecological and built environment goals. In general, a land evaluation may comprise a mixture of rigorous scientific studies of natural environment processes and impacts, social studies, and less rigorous ongoing feedback mechanisms through public engagement, expert opinion inputs and field inspection reports. Land governance and general administrative governance and accountability are likely to be important components of these evaluations.

Land matters are complex, as the discussion on wicked problems makes clear. Land tenure security is related to a number of factors, and these are complex, political and, often, emotional relationships. The cause and effect relationships between tenure security and other factors differ from place to place and over time. For example, in one time and place, land tenure security may be a major factor in stimulating economic growth. In another time and place, land tenure security may follow economic growth. Further, a number of other conditions have to be satisfied for both tenure security and economic growth to be realised. If land tenure security and a number of other related factors are measured, this should, at a minimum, provide some indication of what needs to be addressed to improve social progress, economic conditions and land-use planning.

There are a number of purposes and forms of land tenure evaluation. At one end of the scale are evaluations that measure the performance and impacts of programmes and projects. Evaluations in

this category also measure whether what has been developed conforms to what was planned. At the other end of the scale are evaluations that measure the status of a particular situation only. They might form the basis for comparative analysis between jurisdictions, for example in the manner that the aggregated scores of the Worldwide Governance Indicators (WGI), Social Progress Index (SPI) and the World Happiness Report (WHR) are used to compare and rank the status of governance and social well-being respectively across different countries and to measure broad trends over time. The particular indicators that are used to develop the WGI, SPI and WHR aggregate scores are descriptive. They might indicate what needs to be addressed (e.g. improve governance, access to sanitation and access to fresh water), but not how this should be done.1 More detailed, in-depth work is required to understand the situations requiring attention and to design programmes, policies and projects to do this. A landrelated evaluation in this category is the Global Land Indicators Initiative (GLII), which is currently developing land-related indicators relevant to the Sustainable Development Goals (SDGs).

There are also evaluations that measure status and identify patterns of relationships, such as correlations between land tenure security and economic performance. The correlations show that a relationship exists, but the correlation may not be meaningful and merely due to chance. More detailed evaluations examine relationships between different constructs and seek to explain a situation and predict the different scenarios that may emerge. Evaluations in this last category often form the basis for design and action to improve a situation. In many continuum scenarios, especially where incremental improvement strategies are applied, this type of evaluation is likely to play a major role.

There are vast differences between the way different land tenure evaluations should be conducted and used, depending on their purposes and the scales at which they may apply, and the status of related matters, such as land-use planning. A number of international agencies, such as the World Bank Internal Evaluation Group, have established systems to measure the performance of programmes and projects. Agencies such as Millennium Challenge Corporation (MCC), the Global Land Indicators Initiative (GLII), USAID and GIZ, among others, are also involved in land evaluation.

This report adds to these existing land evaluation initiatives in that it addresses a gap in how land may be evaluated in continuum of land rights scenarios, and it addresses land evaluation in wicked problem contexts. In addition, it examines land tenure evaluation in terms of established evaluation theory. It presents a four category framework, and the categories are tied directly to categories of theory. These are: (1) theory which describes, (2) theory which describes and explains, (3) theory which explains and predicts, and (4) theory for design and action. The rationale is that a sound theoretical base should encourage rigorous evaluation as the explanatory and predictive power of an evaluation can be linked directly to relevant theory in the same category. "Nothing is as practical as a good theory," (Lewin, 1945:129), while at the same time "nothing is as dangerous as bad theory" (Ghoshal, 2005:86).

1.2 The Purposes of the Framework

The framework provides a structure for land tenure evaluations which are as rigorous as possible given the circumstances under which they occur. Mapping evaluation categories to categories of theory (Gregor, 2006), the framework uses four evaluation categories which are based on an evaluation's purposes, how much the evaluation should explain in terms of those purposes, the scale (national, regional, settlement) and the units of analysis (e.g. settlement type, type of landholder such as owner, lessee, migrant, women, youth, etc.).

In brief, the four categories are:

- (1.) Evaluations that measure the status of a situation only.
- (2.) Evaluations that measure status with some explanation, such as the identification of correlations between different factors.
- (3.) Evaluations that seek to explain and predict particular outcomes in order to guide some form of design and action to improve a situation.

¹ Worldwide Governance Indicators http://info.worldbank.org/ governance/wgi/index.aspx#home [2015.04.14]; Porter M., S. Stern and R.A. Loría (2013). The Social Progress Indicators 2013, Washington D.C.: The Social Imperative; Green M n.d. What the Social Progress Index can Reveal about your country. TED Talk. http://www.socialprogressimperative.org/about/the-imperative [2015.04.14]; Helliwell, J., R Layard and J. Sachs (2015). World Happiness Report 2015.

(4.) Evaluations of programmes and projects against predetermined criteria, and the impacts / outcomes of projects and programmes. These tend to use evaluations in categories 1 -3 to measure conformance with what was planned or forecast and performance with performance indicators.

How these categories apply to continuum of land rights scenarios is covered in detail in section 3.5.

1.3 Who is Interested in Evaluation of Continuum Scenarios?

The continuum of land rights is a global initiative, and an evaluation framework is needed to ensure that its application is both valid and robust. Land tenure security and related matters are important to international agencies; e.g. the World Bank, United Nations agencies, regional partnerships and unions, the Global Land Tool Network (GLTN) partner organizations and individual members, donors, and agencies that are developing and using the Sustainable Development Goals (SDGs). At the country level, interested parties may include politicians, national, regional and local government agencies, academics, regional and urban planning agencies, country based donors, land professionals, aboriginal and customary society organizations, non-government organizations and other civil society

organizations involved in planning, land administration and community planning and development work.

How to evaluate land tenure in continuum scenarios should interest all of the above. It should also interest people who are attempting to improve land tenure management approaches at the micro level. In addition to broad, wide-ranging evaluations, the framework allows for ongoing micro-level evaluations - down to a single field inspection report - which can catalyse immediate action to address potential problems.

The report first discusses the continuum of land rights and the notion of wicked problems. Two types of scenario for continuum evaluation based on Payne et al (2014) and Durand-Lasserve et al (2013, 2015) are generalized to provide the context relating to how continuum evaluations may be designed and implemented, and the different categories of evaluation that may be applied to different situations. These are supported in a wider context by referring to a number of studies in continuum of land rights scenarios. It then covers evaluation theory, what should be considered when conducting an evaluation, methodological and quality issues and a detailed discussion of the four categories mentioned in section 1.2 above. In section 4, it provides a framework for conducting land tenure and related evaluations in continuum scenarios.



THE CONTINUUM OF LAND RIGHTS

2 THE CONTINUUM OF LAND RIGHTS

This section covers the problem contexts in which a continuum of land rights exists, which require special attention as, in general, they are not well served by existing land evaluation frameworks and methodologies. It examines the concept of wicked and tame problems. It presents two generalized examples of continuum scenarios to guide the manner in which a continuum may be evaluated, and then discusses landuse planning and land administration as part of the broader environment in which continuum of land rights scenarios are evaluated. Drawing on these examples and the discussion on land use planning and administration, the section closes with a set of questions that may be relevant to evaluating land tenure on a continuum.

An important component of a land tenure improvement programme is the enabling conditions that should exist for the programme to yield the desired outcomes. Drawing on information systems theory, in particular the conditions that are critical success factors (CSFs) are important (Miller, 1985). In general, if the CSFs are not present, the intervention will not work and the desired benefits are unlikely to materialise. Further, any form of programme to improve tenure security may not only fail, but may have negative consequences that may be similar to the negative consequences of some land titling programmes where the CSFs were not in place when those programmes were implemented (Mitchell, 2005; Shipton, 2009). These are discussed in more detail in section 3.5. The question, then, is what should be done if the CSFs are not present? The concept of tame and wicked problems and how to address them is one way of viewing such a situation and developing strategies to evaluate and improve it.

2.1 Wicked Problems and Land Tenure

Many, but not all, situations which may be described in terms of a continuum of land rights scenario may be classed as wicked problem contexts. Wicked land-related problem situations are complex, continually changing, public policy contexts which have ethical and political dimensions and, in land contexts, they have strong emotional dimensions. In contrast to tame problem situations, where solutions based on clear objectives are possible and the critical success factors for these solutions exist or can be created, wicked problem contexts are resolved (as opposed to solved) over and over again as there is no optimum solution.

Wicked land tenure contexts may be characterised by competing ideological positions, ambiguous land interests, abuse of power, patronage, corruption and conflict related to struggles over power and how rules should be made and interpreted, and conflicts over who has the legitimate power to allocate land. Identifying the immediate problem(s) to be addressed is a major challenge. Local level politics is a major factor when deciding on goals to guide improvement strategies. Moreover, the ranking of the priority of those goals is likely to be strongly contested among stakeholders. Programmes to improve a situation are likely to examine where the maximum leverage can be obtained by making small improvements in one or more of a number of variables (e.g. improve local-level record keeping, improve accountability and publicity related to land records, increase field inspections, provide fresh water and sanitation, improve access to information), and then re-evaluating what constitutes the problem, establishing a new set of goals, and designing strategies to improve the situation continually as progress occurs in small steps (Rittel and Webber, 1973, 1984; Barry and Fourie, 2002). Improvement occurs in a climate of what J. K. Galbraith referred to as functional anarchy (Liberhahn, 2007).

There are also tame, or at least relatively tame, problem contexts which may be described in terms of a continuum scenario, and these too need to be evaluated. In some cases, these may be wicked problem contexts / continuum scenarios that are stabilizing, as per the urban continuum described in section 2.2.1. For example, Barry and Roux (2015) describe situations where people have ownership and paper documents which work well for the majority of landholders, but there are some minor problems in the tenure system. Even after a stable situation appears to have been reached, there may be pockets of uncertainty that need to be managed with more attention than might be paid in a middle class, individualized property rights regime.

2.2 Continuum of Land Rights Scenarios

The question arises is how recognizing, or at least strengthening, a basket of tenure types in a continuum of land rights scenario might be implemented and, importantly in the context of this report, how the scenario may be evaluated. Sections 2.2.1 and 2.2.2 describe two scenarios in which a situation may be explained and evaluated, and strategies designed to

improve them. Section 2.2.3 addresses the question of how land tenure evaluation fits in with land use planning and land administration effectiveness. It is important that land tenure improvement strategies and evaluations are in harmony with the broader land use planning and administration systems and are linked to any evaluations that may be occurring in those systems. One continuum scenario is adapted from a document published by USAID, labelled the Urban Tenure Continuum (Payne et al, 2014). The second is generalised from a description of land tenure transaction process flows in Mali, West Africa, where multiple institutions and agencies, customary, state and private land professionals, are involved in land transactions and administering land tenure (Durand-Lasserve et al, 2013, 2015). These two scenarios provide contexts for examining any particular scenario or situation and for determining the purposes of an evaluation, the questions to be addressed in the evaluation, and a suitable evaluation methodology, which are covered in more detail in sections 2.3 and 3.3.

2.2.1 The Urban Tenure Continuum

The urban tenure continuum portrayed in Figure 1 is used to describe land tenure challenges in urban areas in a document put out by USAID. Building on Payne *et al* (2014), the tenure problem context pertaining to the urban poor may be expressed in the following general terms:

- Cities attract people who hope to improve their economic situation.
- Urban populations are growing, which causes competition for land and housing, which in turn causes rising property prices and rental rates.
- The urban poor are forced to live in high-density slums in the inner city, on the periphery where access to livelihood opportunities and services is limited, or in a wide range of informal settlements.
- Governments are faced with lack of revenue, capacity, authority, ineffective land administration and land use planning, inaccurate property registries, competing agencies, cumbersome and complex building codes and corruption.
- Typically, new arrivals in a city seek cheap, shortterm accommodation in inner city slums which provide easier access to livelihood opportunities. Established migrants seek longer term, more secure and better housing. Rising prices, corruption,

- inability to provide services to match rising demand and inefficient regulatory systems means many will not be able to afford any form of secure housing.
- Land administration systems received common law and operational procedures and a custom of practice received from former colonial masters in many countries. The ways of thinking about land administration in many countries remains steeped in this colonial, bureaucratic, corporate culture. The bureaucratic culture, arguably, is not appropriate for managing complex land tenure issues. This is expanded upon in section 2.3.
- The effects of climate change put a large number of poor people at risk.
- Urban sprawl consumes valuable agricultural land and impacts on food security, environmental management and management of the urban-rural transition.
- Rather than creating tenure security and economic development, individual land titles often generate equity problems, as vulnerable segments of society have longstanding interests extinguished and they may be evicted and rendered landless through the titling process.
- Problems of urbanization are often seen as failures of governance, including land administration and urban planning.

Figure 1 sets out the framework for what needs to be improved and evaluated in such a scenario. Adapting Payne et al (2014), tenure forms can be classified into red, grey and green zones along a continuum within each zone. The tenure types in figure 1 provide a contextual illustration. Actual tenure types in each zone can be expected to vary from situation to situation. In the green zone, landholders have secure tenure and they perceive that they have secure tenure. The risk of eviction is low. In the red zone, people do not have secure tenure and strengthening tenure forms in this zone may not be desirable or possible from a community planning perspective.

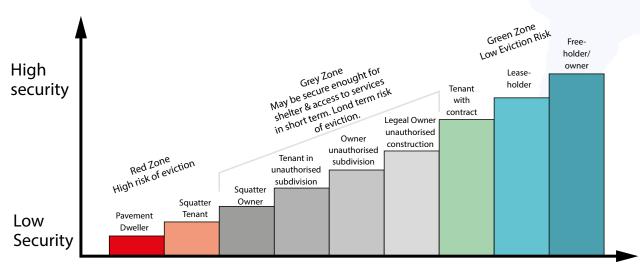


Figure 1: Continuum of Urban Tenure Types and Tenure Security Zones²

Urban Tenure Types

The grey zone is important as it may suit different people's needs at a particular time. Outlined in more detail in hypothesis 3 below, a person living in the city permanently, for example, would likely desire long-term tenure security. Long-term tenure security may be of lesser importance to a short-term visitor. The challenge is to improve the security of some tenure types and for some people in the grey zone, which in turn should improve the lives of the poor. Again, adapting Payne et al (2014), the following tenure-centred hypotheses serve as a premise for improving the lives of the poor. In turn, these hypotheses serve to guide the questions that may need to be asked in an evaluation of a continuum of land rights.

- (1.) **Hypothesis 1:** Improving tenure security improves the lives, or at least the opportunities, of the majority, including the poor, in a number of meaningful ways. Secure tenure is a necessary condition for improving access to:
 - Economic opportunity, including livelihood opportunities, access to credit and markets.
 - Public health in terms of access and environmental conditions where people live (some live on waste dumps or industrial sites).
 - Municipal services (access to water, sanitation and electricity).

- (2.) Hypothesis 2: The central goal from an evaluation perspective is tenure security and however that may be achieved, and not necessarily through a one size fits all approach. A range of tenure categories exist, exemplified in Figure 1, each of which may fit the needs, wants and demands of an individual at a particular time (Kotler and Keller 2012). For example, an individual who has multifaceted or seasonal livelihood opportunities may prefer lower tenure security in order to pursue those opportunities as they arise in various locations.
- (3.) Hypothesis 3: Unofficial (informal, *de facto*) tenure may be more secure than officially recognized (formal, de jure) tenure. So-called legal tenure security, backed up by documents, may in fact be lower than perceived or unofficial tenure security, when measured in terms of risk of eviction. A hierarchy of tenure types and associated levels of tenure security to guide policy, law and practice is not easily established. For example, lessee A, who has signed a lease and is a new arrival to a city, may be at higher risk of eviction by a powerful landlord than long standing "squatter" B, who has been paying

² Adapted from Payne, G., A. Piaskowy and L. Kuritz (2014). USAID: Issue Brief: Land Tenure in Urban Environments.

their bills regularly and is established in their local community. Social processes and local politics are stronger in enforcing B's claim to tenure than A's legal document.

- (4.) **Hypothesis 4:** The manner in which these problems should be addressed is context dependent. There is no generic strategy to address these challenges. Secure tenure and property rights, however, are a critical success factor if the situation is to be improved. In general, there are three strategic options to improving tenure security:
 - Improve the level of recognition of tenure form and status by authorities.
 - Improve protection from eviction or exclusion.
 - Improve community based rights, where collective action by a surrounding community acting in solidarity renders it very difficult to evict.
- (5.) **Hypothesis 5:** Numerous examples of simple approaches to improve tenure security along a continuum of land rights can be found using a combination of the three approaches described under Hypothesis 4. Workable strategies depend on the local context.

In synthesis, this example shows that the status of a number of different variables might be measured continually in a jurisdiction or a city. At the city-wide scale, exploring relationships (e.g. correlations, cross tabulations) between tenure type and a number of other measured variables indicates where a situation is improving (or not) as a whole, and points to areas where deeper examination should be done to develop strategies to improve a situation. In this scenario, these are category 1 and 2 evaluations. Category 3 evaluations would build on these as the part of the deeper examination to formulate strategies to improve a particular situation (see section 3.5).

2.2.2 Multiple Agent – Multiple Transaction Channel Options

This section describes an approach where "management by walking about" and continual observation, learning from those observations and incorporating those lessons into a change management framework may be a suitable strategy to improve a situation. In these situations, in harmony with arguments submitted by Payne *et al* (2014), tenure security may be improved incrementally because sweeping change and grand intervention strategies are unlikely to work. The following scenario is a generalized adaptation of Durand-Lasserve *et al*'s (2013, 2015) description of the different strategies that people may adopt in effecting land transactions in Mali, West Africa. The process flows and different structures are portrayed in Figure 2 below. There are numerous examples of similar systems in other regions (e.g. Barry and Bruyas, 2009; Barry, 2009; Barry and Danso, 2014)

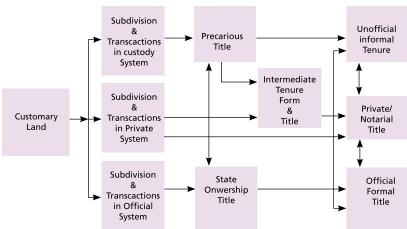
Drawing on Figure 2, numerous actors are involved in the land transaction process and a number of different strategies to effect a land transaction are available to buyers, sellers and to people inheriting land. Using the language of marketing, and assuming emotions are not a major influence in landholders decision making, people choose a transaction strategy and/or tenure securing strategy that will provide them with a tenure type and support system with the highest level of security at a social and monetary cost that they can afford and are willing to pay (Kotler and Keller 2012).3 Transaction costs are estimated in terms of affordability, patron-client and other power relationship costs, access to information costs, and a level of impedance estimated by their ability to interact with the official land administration system (Barry, 1999).

The ability to interact with official systems may be compromised by inefficiencies, corruption in land administration and forged documents. The functioning of the land market frequently renders vulnerable people landless. In peri-urban areas, interests may be extinguished when land is sold off, irrespective of the manner in which transactions occur.

Process flows that are part of the various options for effecting land transactions are shown in Figure 2 below. The scenario shows an evolution of how land under a customary tenure may transform into different long-term options in a peri-urban area.

³ Satisfaction is a person's feeling of pleasure or disappointment they derive from a product's perceived performance or outcome when compared to his or her expectation. A human need is a basic human requirement, such as food, shelter and security. A want is a specific satisfier of these deeper needs. A demand is a want for a specific product, along with the ability and willingness to pay (Kotler and Keller, 2012).

Figure 2: The Land Transaction Process Flow in Plural Administration Systems



As per Figure 2, a number of actors and agents are involved in land transactions.

- (1.) In Durand-Lasserve *et al* (2013, 2015), there are three channels through which a land transaction may occur.
- (2.) The customary channel where transactions tend to occur through customary leadership structures without involving state structures.
- (3.) The public channel, where transactions occur using the official processes and structures by registering titles or deeds.

The private channel, where developers sell off plots using notarial deeds through a form of private conveyancing.

Each rectangle in Figure 2 represents a possible change in one or more of: (1) the geometrical form of a land unit though subdivision or consolidation; (2) a change in the tenure form; and/or (3) a change in the hierarchy of evidence and the legal and social processes to support tenure. The arrows represent process flows as particular changes in tenure are effected. A range of paper documents which assign different levels of tenure security may exist in this system and people may switch between these channels.

Public Channel

The official system registers a title which may give legal effect to ownership or near ownership (e.g. a long-term lease).

Private Channel

The private system works through a form of private conveyancing, which creates a private notarial title. Landholders may choose to convert their private notarial deeds to an official, formal title at some stage. They may also choose to continue to document their land in the private system if they believe that this adequately addresses their demands.

Customary Channel

In the customary channel, people may have tenure that is supported solely through the customary or family system; i.e. through social processes, patronage and retaining the necessary status in the relevant social networks. A person or group of people may obtain a document such as a precarious title which records their names. However, the title only represents a portion of the interests in the land units as it is likely that there remains a constellation of interests in this land unit represented by a social network (Barry, 2015), and many of the interests in this constellation are not recorded on the precarious title. Thus they retain the precarious title and the state considers their tenure to be unofficial and informal. The reality is that the paper document, the precarious title, along with a number of formal social processes and structures give effect to this tenure form.

Evolving Tenure Support Systems

Over time or generations, landholders in the customary channel may choose to register a title in the official formal system. The system is not necessarily a linear evolution to individual title. The process is cyclic and systemic. One small change may drive further change, with a number of possible end states. Landholders may choose to continue to rely on the social network alone for tenure security if this fits their needs. Further, over time, land held under formal title may revert to private title or even tenure upheld by social networks. Variations on the above scenarios and that in section 2.2.1 can be found in many developing world cities. Similar structures and processes can even be described in terms of the three-channel system at the micro-level in urban, informal settlements (e.g. Barry, 2006; Barry et al, 2007).

Durand-Lasserve et al's portrayal of the West African example as a system of channels and flows has parallels in process flow analysis in operations research, where the flow of materials and movement of people in production processes (or work flows in land administration) is continually analysed with a view to improving productivity and quality (Schroeder, 1986). A participatory, continual improvement approach has its roots in quality circles and the notion of kaisin, which includes continual redesign for improvement (Scriven, 1991) and in the concept of a Learning Organization (Senge, 2006). It also has roots in social systems thinking where analysts look to particular areas in the process flows and the structural factors in a situation where the maximum improvement that can be realized for the lowest costs (monetary and social) can be leveraged from a minor, incremental change (Checkland, 1999). Also of relevance is how to formulate strategy when very few of the variables can be controlled. Strategic planning tends to focus on what can be controlled, and how to deal with uncontrollable factors. Incremental improvement approaches are particularly appropriate when many factors cannot be controlled, and therefore any grand strategy is likely to fail. A vision of what a city or region should look like in future may be as far as practical strategic planning can go under the circumstances. How the vision is achieved is not clear and may rely on a multitude of changing factors and strategies.

An interpretive, incremental approach, where each process and its related outcomes is evaluated continually, is often best suited to such a wicked problem context

using small, category 3-type evaluations to drive the process. Transaction processes should be evaluated continually with a view to improving the situation. At the same time, a number of other process and structures that are related to tenure security have to be evaluated and improved to have lasting tenure security. Small improvements in tenure security can be achieved at the same time as small improvements in other related issues (e.g. sanitation, livelihood opportunities, access to dispute-resolution mechanisms, governance, access to information, quality of journalism), and so the overall situation improves incrementally. As noted above, it is a cyclic, not a linear process, as it is politically charged. Further, while such a situation might improve incrementally, it can also deteriorate and descend into conflict rapidly too.

Land Use Planning and Land Administration Effectiveness

Building on the above two examples, in the broader environment land evaluations of any kind occur in the context of the effectiveness of the land use planning and land administration systems. The quality of planning is of specific relevance in tenure security improvement, as existing plans provide a framework for setting goals, devising tenure improvement strategies and evaluating them. Planning and administration legislation also sets constraints on what can be achieved. For example, one possible constraint on using mixed, changing tenure forms associated with continuum scenarios is land use planning laws and zoning schemes which prohibit this. However, this is changing as policies advocating mixed tenure forms in the same location are actively promoted in current thinking on sustainable cities and sustainable development in general. Mixed tenure and mixed land use are part of the Smart Growth / Compact City and Transit Oriented Development planning school (Hodge and Gordon, 2014). A second consideration is if plans do not exist, they need to be determined, at least at the local level, as part of strategies to improve tenure in continuum scenarios. Unplanned settlements with inadequate provision for roads and engineering services are extremely difficult and expensive to service once buildings have been constructed.

There are a range of levels of land use planning and administration effectiveness. The levels can be major contributors to the degrees of "tameness" or "wickedness" in tenure problem contexts, which in

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turn influence the design of an evaluation methodology (see sections 3 and 4). At one end of the spectrum, at the right hand side of Figure 3, land use plans, policies, laws, institutional arrangements and communication channels between relevant agents and agencies are established and integrated with other community and land use planning initiatives. Key performance indicators are established as part of the planning process and easily measured, as are evaluations which measure if what has been developed conforms to what was planned (Hodge and Gordon, 2014). In general, these situations apply in developed nations and so evaluating land on a continuum of rights may not be relevant.

However, there are examples where urban and regional land use plans and land administration systems function well overall, but the influx of people into cities renders these plans ineffective in certain parts of a city, especially on the urban edge. In spite of enabling legislation and well considered land use plans, the administration authorities have limited control over aspects of the situation in those areas. In these coinciding wicked tame contexts, the continuum concept may be applied ad hoc as occupation permits, rent cards and licences are issued to existing city dwellers and new in-migrants in an attempt to maintain some sense of order and fairness in managing the situation. In these situations, the "first in time is first in right" approach often applies (Bentsi-Enchill, 1964; Ziff, 2006), where the first person to occupy land or claim a right has priority in getting their interests recognized officially.

Figure 3: The Land Use Planning & Land Administration Efficiency Continuum

Lack of
functional Land
Use/Community
Planning
Dysfunctional
Land Administration
Inefficient Cities

Integrated Land
Use/Community
Planning
Functional
Land Administration
Efficient Cities

In contrast, many continuum scenarios that may be viewed as wicked problem contexts are likely to be found to the left of Figure 3. Land use planning and land administration may be dysfunctional, and overall

land governance may be poor. Ad hoc, organic land use arrangements are made at the local level with little regard for regional requirements. If land use plans and laws to give effect to them exist they are ignored or planners are prevented from implementing them and they are overridden by de facto interests and plans (Barry and Bruyas, 2009; Barry, 2009; Barry and Danso, 2014). In these cases, among others, gender equity evaluations, land grabbing prevention measures, and land administration evaluations can contribute to improving equity and should identify what needs to be addressed. In some cases, continual microlevel evaluations at the settlement level, such as field inspection reports and rapid reactions based on them, may improve tenure security.

Bottom up, evolutionary planning and implementation is likely to be appropriate in wicked problem situations, and in some tame problem situations, where top down, land use planning is absent or dysfunctional. Improving tenure security is likely to be part of the system of incremental improvements in land administration, service delivery, broader community planning and urban and regional land use planning. It is in these situations that applying the concept of a continuum of land rights to policies, plans and strategies is likely have a significant impact. In contrast to management by objectives based on top-down planning and objective driven evaluation, where clear goals and the CSFs exist for strategies to address them and key performance indicators are measurable, management by walking about and continually collecting data and monitoring the situation is likely to be a key factor to improving a wicked problem situation (Barry and Rüther, 2005). In other words, visible land administration is necessary, where administration agents (e.g. officials, land professionals, volunteers, NGO workers, community representatives) conduct inspections in the field and interact with local residents on a regular basis (Barry and Roux, 2015). These inspections are evaluations in themselves, which should feed into a process of continual improvement.

Thus the focus on evaluating land in this report is on situations to the left of Figure 3. However, situations to the right of Figure 3, where there are pockets of uncertainty in the tenure situation and land administrators have limited control, should not be ignored.

2.3 Questions for Evaluating Land on a Continuum of Land Rights

The scenarios in section 2.2 raise a number of general questions which may guide the design of an evaluation of a continuum scenario:

- (1.) What should providing official recognition to a system of different tenure types along a continuum achieve? What should each tenure type achieve, for whom and for how long? Which tenure types should not be encouraged and why? What are the higher-level development and community planning objectives that need to be served when devising a system of mixed tenures in an area where some of them evolve into others as certain conditions are met or conditions in the local social and political, land use planning and administration environment change?
- (2.)What are the different development perspectives and the range of end states for tenure forms that lie behind these perspectives? How may the ideological emphasis shift as key role players change? For example, one cabinet minister in the land and/or housing portfolio might embrace the concept of a continuum of land rights with a view to supporting a range of tenure types without advocating an evolution to a particular tenure type. The next minister in that portfolio may embrace ownership as an end state. Among many other things, these ideological differences have significant impacts for the operations management function in propoor land administration.
- (3.) Evaluation purposes are seldom static and one should expect shifts in emphasis in purposes. What needs to be considered in a purpose statement and the continual review of an evaluation programme is how the purposes of that evaluation might change as it progresses. The evaluation process informs and is informed by current thinking. Mark et al. (2006) submit that there is a deep-seated link between evaluation and changing ideals and aspirations. What can be learned from the continual reviews of a situation, of the evaluation process itself, and how does this tie into change management?

- 4.) Where are the progressions from one tenure form to another along a continuum likely to lead? How many tenure forms might emerge and how many of these can be managed? What are the risks of tenure forms emerging that are undesirable from a sustainable cities / ruralurban transition / customary perspective, and what can be done about them?
- (5.) What are the unintended consequences of introducing parallel systems of land administration, law and policy to give effect to a continuum of land rights scenario? For example, what might occur if building regulations are relaxed for a particular tenure form and not others? It may not be possible to transform tenure type A to the more secure type B if the houses built under type A contravene the building regulations associated with type B4?
- (6.) How ready are the institutions to embrace a continuum of land rights scenario as an official approach to land tenure management, especially the organizational change and cross-institutional cooperation that might accompany it? A number of themes listed in section 3.3 address this issue.
- In the various institutions involved in land (7.)management, what changes are required in corporate culture, training, record keeping, communication with the public and communication and collaboration with other institutions involved in land administration? Conventional land registration and cadastral survey systems gives procedural effect to the real property law (Ziff, 2006), which, for good reason, implies a rigid bureaucratic culture and rigid operations management procedures in adhering to the rules. Mistakes and inconsistencies can be costly. Moreover, the law is very slow to change, and change to accommodate a continuum of land rights should not create contradictions and conflicts between different laws and regulations. Strategies to address wicked problems require flexibility and an ability to deal with problems on the fly. These contrasting corporate cultures and

⁴ State-subsidised housing projects in South Africa that have been developed using the Less Formal Townships Establishment Act are an example of the unintended consequences of relaxing certain regulations (author's field observations).

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associated operations management approaches may constitute a serious challenge for developing an integrated land administration system and addressing security of tenure in continuum of land rights scenarios.

- (8.) At what scale should measurements be made to evaluate a tenure type and how general / detailed should they be (e.g. macro versus micro)?
- (9.) How often should measurements be made?
- (10.) What category of evaluation (see sections 1.2 & 3.5) is required? Should an evaluation (1) merely indicate the conditions at a particular time, i.e. a category 1 or 2 status report, and if such an evaluation indicates that a situation needs to be improved then this is left to further detailed work; or (2) should the evaluation frame a detailed category 3 analysis in order to design strategies for design and action to improve the situation / rectify a problem?
- (11.) A likely scenario is that meaningful data will be difficult to acquire and may be incomplete or inaccurate in a continuum of land rights scenario. How should this be managed? What are the implications of biased, incomplete data or data that has been manipulated to advance a particular agenda? This is addressed in more detail in section 3.

Drawing on Payne *et al* (2014), the following are variables and relationships that might be measured when evaluating pro-poor land tenure, when measuring the impacts of strategies to improve tenure security, and in monitoring the effects of other urban development strategies on tenure security:

- (1.) Coordination of institutional issues and the coordination of different laws and policies in a more complex administrative environment.
- (2.) Actual tenure security in terms of risk of eviction.
- (3.) Perceived tenure security and what causes people to feel secure / insecure.
- (4.) Improved tenure security may lead to better access to public health and other services. Measuring

the ethnography of public health system usage and other public services may provide indicate of an impact of improving tenure security.

- (5.) Corruption and abuse of power.
- (6.) Operational efficiency and effectiveness of land use planning and land administration agencies.
- (7.) Revenue collection improved tenure security may or may not accompany improved land administration in a particular settlement.
- (8.) The impacts of improved tenure security for people living in grey area tenure types (Figure 1) and improved / not improved access to infrastructure, water and sanitation.
- (9.) The impacts of infrastructure development in improving or decreasing tenure security for the poor. Improved tenure security may be correlated with improved engineering services and utilities. Conversely, improving services can results in people being evicted. Instead of improving the lives of the poor, infrastructure development is a catalyst for gentrification / downward raiding.
- (10.) The effectiveness and longevity of strategies to improve short-term tenure security.
- (11.) The levels of knowledge of people who disseminate information and deal with the public (e.g. officials) about the different tenure options available and levels of knowledge of landholders. If landholders know and understand the system, they are more likely to make an informed choice about the tenure type that suits them. If they are given incorrect information, then this may lead to problems (Barry et al, 2012).

The above shows that evaluating land tenure and associated concepts in wicked problem contexts, and therefore continuum scenarios, may be extremely challenging. The following section addresses evaluation theory and it expands on the four categories of evaluation presented in section 1.2 above.

EVALUATION THEORY

3 EVALUATION THEORY

A framework for evaluating continuum of land rights scenarios in as rigorous a manner as circumstances allow is necessary. In general, a number of evaluations are performed without due consideration for the theoretical and ideological basis for those evaluations. understanding of evaluation theory, methodology used to generate an evaluation, and the development ideology of the people driving and conducting an evaluation is necessary to assess the quality of an evaluation, the biases and limitations of it and how it might be used. All social research has some bias; it is how we deal with biases and other limitations that matters. This section briefly covers the theoretical perspectives of evaluation as a discipline and it expands on the evaluation categories listed in section 1.2 and how evaluations in continuum scenarios might be applied in these categories. It then addresses some of the quality management issues that need to be considered when performing an evaluation and what is required for a rigorous evaluation in continuum scenarios.

3.1 What is Evaluation

Evaluation entails judgments of value, determinations of merit, worth or significance of the thing being evaluated against some standard of performance or worth, and an overall evaluation based on some form of synthesis and integration of results or sets of associated evaluations (Scriven, 1991). The focus on valuing, or the making of judgements, is what distinguishes evaluation-driven studies from many other types of research (Christie, 2012).

As opposed to scientific studies under laboratory conditions, evaluation is a form of real world enquiry. Real world enquiry focuses on solving problems rather than gaining knowledge for the sake of it, predicting effects rather than merely finding causes, looking for large-scale, robust effects, a concern for actionable factors, and strict time and cost constraints. Real world enquiry tends to be conducted by generalist researchers who use multiple methods. Much real world enquiry is considered dubious in some academic circles (Robson, 1993), as it is difficult for such a study to meet all the criteria embodied in what is generally considered scientific method. Thus, a good evaluation has to balance scientific rigour against the practicalities of acquiring data that produces meaningful results within a given set of time and cost constraints, as well as account for the politics of gaining access to certain data. In many continuum scenario evaluations, it may be especially difficult to acquire reliable data that fully represents the different stakeholders' ideological positions and which is untouched by stakeholder politics.

There are likely to be methodological limitations to a land evaluation, and managing how an evaluation should and should not be used may be as important as the evaluation itself. Communication is critical. A land evaluation that may have major impacts is likely to be scrutinised carefully. Strong criticism can be expected, especially by parties who may be adversely affected by it. The strident criticism of the WGI and the responses of the WGI developers to criticism are a good example of what may occur if an evaluation can have far reaching consequences. The WGI influence investment decisions and so rankings may be perceived to be important to countries hoping to attract investment (e.g. Kaufmann et al 2008, 2010; Sundaram and Chowdry, 2012). Thus the purposes, scope and limitations of an evaluation need to be clearly communicated, and the process does not end when the evaluation itself is completed. The users (e.g. managers, policy makers) and evaluators need to deal with feedback from users and people affected by the evaluation.

3.2 Approaches to Evaluation

Evaluation has developed as a discipline, a field of enquiry in its own right in recent years. There are two main schools of thought in conducting research and it is not always possible to reconcile these views. Thus, it is important to identify which school provides the main perspective in a particular land evaluation, and whether the purposes and world view behind that evaluation are appropriate for what a particular user wants to do with it. One school is grounded in a positivist / realist worldview and the other an interpretive / constructivist worldview. People in these two different schools might view a particular situation very differently, and draw very different conclusions and recommendations in studies of the same situation. To complicate matters, there are numerous ways of looking at the world within each of these schools; i.e. there are sub-schools. In some cases, people in different sub-schools might also have views of a situation which are irreconcilable!

For the positivist school, measurements should be made on observable, identifiable variables, and the observer is independent from what is being observed.

Positivism lays a strong emphasis on the scientific method paradigm of enquiry, which emulates methods of the physical sciences. It tends to draw on deductive logic when developing and testing knowledge, and the emphasis is on measuring what the observer considers to be facts. In opposition to this, the interpretive school holds that all meanings are social constructions. Phenomena are understood in the context within which they are examined and knowledge is developed inductively. In the interpretive school, context is important to understanding the complex relationships of the situation, and it is important to try to understand the nuances when assigning meanings to some types of data. Change is systemic and non-linear and not separable from its context. Certain findings in a study can be applied generally to similar situations and others are unique as they cannot be generalized from one context to another. They are details specific to the situation. For Guba and Lincoln (1989), an interpretive evaluation needs to accommodate value pluralism. The evaluation should accommodate different sets of norms, especially those outside of what works in the western world, and power relationships are an important factor. For example, gender equality may be laid down in law and policy. In practice, however, power structures in a local setting may dictate otherwise. Rather than measuring the proportion of titles which have both spouses names in it as per a positivist approach, an interpretive approach might seek to describe and explain how women's interests in land are being strengthened (or not) and explain and predict how the process of achieving gender equity might evolve. The details in the explanations are what inform strategies to improve the situation.

As a broad generalization, for the purposes of land evaluations the positivist view may apply to macroscale, broad brush evaluations, where the primary focus is on indications of the status of a situation or performance indicators. Measurements that produce a few indicators may explain a significant amount of a phenomenon, and they may be useful for general level predictions (Fishbein and Ajzen, 2010). They are not, however, useful for understanding the complexities of a situation. The WGI and the Global Land Tools Initiative (GLII) are examples of the positivist approach.

The interpretive view applies to complex, changing, situations where many of the variables and the numerous layers of relationships are not easily

understood. The evaluator may apply multiple methods and measurements, both qualitative and quantitative, to interpret a situation from a variety of perspectives to generate an in-depth understanding. Using these different perspectives, they may generate a number of different possible explanations of the situation. Knowledge is gained inductively, built up from the specific cases to make general statements. The interpretive perspective is particularly relevant to complex, ambiguous and contested problem contexts, and the approach is better suited to many wicked problem contexts and therefore continuum scenarios.

In reality, in many instances both positivist and interpretive approaches may be applied in a comprehensive programme of evaluating land on a continuum. In many cases, the lines between tame and wicked problem contexts may be blurred, and mixed methods of data collection (Cresswell, 2009) and multimethodology approaches (Mingers, 2006) might be considered.

3.3 Criteria for Choosing an Evaluation Methodology

An evaluation methodology should be chosen that best suits the purposes of that evaluation and the particular circumstances of a situation, and it should also be feasible. What can be achieved involves tradeoffs between the time available to do the evaluation, the costs and available funding, and the quality of the results, as well as dealing with insurmountable constraints such as the availability of important data. This section first examines the criteria for choosing, designing and assessing an evaluation methodology.

Adapted from Mark *et al* (2006), the following should inform the choice of evaluation category (see sections 1.2 and 3.5), the choice of methodology and the evaluation methods:

(1.) Purposes – what are the purposes of an evaluation and what are the most important questions that the evaluation can address? Different actors in the land area have appreciably different needs and therefore they have different purposes for an evaluation. The more focused the statement of purpose, the more likely the data collected actually measure what is supposed to be measured. In addition, the risks of the evaluation

being used for the wrong purposes are reduced. As part of risk management, it may be an idea to state explicitly how an evaluation should be used and, more importantly, how it should not be used.

(a.) Of relevance to this report, the following is an example of what may constitute an overarching, primary, purpose statement for a set of different evaluations. Each evaluation in the set should have a specific purpose statement that ties into the primary purpose statement:

The purpose of these evaluations is to describe and explain the different tenure types and the accompanying practices and relationships that actually exist in peri-urban areas in different parts of the jurisdiction. Over time these evaluations should explain and predict how these tenure types might evolve and provide an indication of the different transitory and long-lasting tenure types that should be recognized in law and in land tenure management practice.

- (2.)Audiences and users – who are the audiences and how are they likely to use the evaluation? Evaluations have many audiences, some with common interests and some with competing and vested interests, and the audiences have diverse ideological positions. Potential users, the part of the audience who are most likely to act on an evaluation in the form of critical debate or action to effect change in response to it, are most important. Thus a purpose statement should be accompanied by a description of both the known and potential users. For an evaluation in a continuum of land rights scenario, the audiences and users might include community leaders, governments, local governments, politicians, lawyers, officials, landowners, mineral rights holders, agricultural organizations, businessmen, journalists and civil society organizations.
- (3.) Ideology and paradigm biases what are the conceptual framework and the world view justifying an evaluation and the characteristics of that world view in designing and analysing an

evaluation? There are a number of dimensions to ideological and paradigm biases. The first dimension is the political, economic and social ideology of the people driving the evaluation and those who might use or oppose the findings. These also imply a particular development ideology. One development ideology might be that people should modernise and relate to land in ways which fit in with the global society. For example, they might advocate that land held in private ownership is best and that is the only model that should be pursued. On the other hand, there are development thinkers who believe that societies will evolve in diverse ways, that cities and rural areas should have mixed land uses and mixed tenures. Private, individual tenure is only one form of tenure that may suit particular societies and individuals, and tenure forms should accommodate a variety of ways in which people relate to land (Benda-Beckmann et al 2006; Barry, 2015). The ideological position might be expressed in a vision statement, which in turn would guide the purpose statement described under item 1 above. The following are examples of vision statements which demonstrate competing development ideologies on pro-poor land tenure management:

As a lasting solution, the jurisdiction strives to enable all of its citizens to own their own land. The jurisdiction will recognize different ways of holding land that best suit the needs of its citizens at a particular time.

- (4.) The second dimension relates to the evaluation methodology itself, and the different philosophical/ideological/conceptual approaches to research and views of evaluation that are briefly outlined in the Views of Evaluation in section 3.2; i.e. whether the evaluators favour positivist or interpretive approaches to conducting studies and which approach best suits the purposes of the evaluation.
- (5.) Evaluation practice what does evaluation practice within a particular evaluation tradition look like? Whose interests does it serve? What major questions does it answer? How are land tenure evaluations and evaluations of related matters performed in each of the four categories

- outlined in section 1.2, and how have evaluations been conducted during changing situations such as the two examples described in sections 2.3?
- (6.) Participant biases who conducts and who participates in an evaluation and what is the character of their participation? Who is excluded or refuses to participate, and what are the implications of their exclusion? This is covered in more detail in section 3.6.
- (7.) Critique what are the important critiques of the evaluation traditions that are being considered? What are the benefits and limitations? What are future areas for refinement and development? What are the expected criticisms given the dynamics of an evaluation outlined in item 3 above? How can one deal with these and how have others dealt with them?
- (8.)Power considerations – what are the forces influencing preferences among evaluation purposes and the philosophical/ideological/ conceptual basis of an evaluation? Altruistic orientations of an evaluation are to improve a situation, but in reality evaluations often serve for self-interest purposes. Who might use the process for the "wrong" reasons? Who might be threatened by the process? Who might actively seek to undermine the process? For example, a land tenure evaluation driven by a policy to improve the level of equity in customary societies where chiefs and elders control the allocation of land might be resisted by chiefs who stand to lose power and influence as a consequence of the evaluation. In a situation where a chieftaincy is contested, one of the factions may attempt to manipulate the process to increase the legitimacy of their claim (Barry and Danso, 2014).
- (9.) Leverage points where or what are the leverage points for an evaluation to make a contribution? How can an evaluation be used to leverage change? This is particularly relevant for continuum of land rights scenarios in situations where continual small and incremental change is envisaged. Incremental changes in one or more areas may improve tenure security and / or they may improve the creation of the enabling conditions for long-term tenure security.

- (10.) Value commitments what are the value commitments that emerge from an evaluation? Values are ideological, and they concern the relationships an evaluation should have with the world. Thus the manner in which a continuum of land rights evaluation is communicated is likely to be strongly correlated with the ideological position of the people driving the process. They may have a bias in favour of or against development strategies that apply the continuum of land rights. Generally an evaluation will have both leverage and value commitment dimensions.
- Examples when considering a set of different (11.)evaluation methods for a particular purpose, what do the existing examples of each evaluation approach look like? In general, what are the different methodologies that characterize evaluation practice across and within the four categories in section 1.2? Having decided on a category for an evaluation, what do examples of land evaluations within that category look like? What methods did evaluators use and why? What data could they acquire and not acquire, and why did they choose to acquire and analyse the data that they did use. How did the evaluators assess the quality of their evaluation? How well were these evaluations received? What were the major positive comments and what were the criticisms of it? How widely was it accepted and how widely was it contested? How did the evaluation perform in terms of its stated purposes? How was it used for purposes outside of those purposes and what were the consequences? How can an existing evaluation improve or falsify the evidence base for particular approaches to implementing a continuum of land rights regime?
- (12.) To date, there are examples of large-scale land evaluations, such as the Land Governance Assessment Framework (LGAF), but very few examples of studies that explicitly seek to evaluate continuum of land rights scenarios. Right now, attempts to evaluate a continuum of land rights regime should examine other related evaluation initiatives such as LGAF, SPI, GLII and WGI and draw on these for themes, for methods of data collection and analysis, and for the type

of questions to explore. They should also examine local-level data and reports such as municipal land use planning and informal settlement upgrade evaluation reports. In the local-level case, the reports and data often exist, but they have not been presented as an evaluation of a continuum of land rights scenario. Over time, examples of evaluating a continuum of land rights regime should emerge through dedicated continuum-oriented evaluations and perhaps through repackaging some of these local level case reports (Barry, 2002).

(13.) Contingency models — if one model or methodology is found to be unworkable once the evaluation process has started (e.g. if key persons refuse to participate or agencies do not provide the necessary data), what are the contingencies? There exists a vast array of evaluation methodologies. Which set are suited to the intended uses / purposes of the evaluation and how should they be ranked in the event that the first choice is found not to work? For example, if an initial design relies on data from district officers and other government agencies, and these data are not forthcoming, then it may be necessary to use workshops using the opinions of land experts.

The above are general criteria that should be considered in any evaluation. Given the political dimension to land, a purely rational approach to designing a land evaluation, is unlikely to work, especially in a continuum scenario. It is clear that any land evaluation is likely to be resisted and criticised from a number of perspectives. Consequently, risk assessment and management needs in terms of the above criteria.

3.4 Attributes of a Land Tenure Evaluation

The following are some of the attributes of a good land tenure evaluation.

3.4.1 Accommodate different ideological perspectives and paradigm biases

A good evaluation should accommodate and reveal the different ideological perspectives and paradigm biases within each audience, and in an evaluation itself. Ideally, a framework should foster evaluations that are both

theoretically and methodologically rigorous that can allow them to be tested independently and compared with other studies. It should be possible to compare an evaluation with existing bodies of knowledge, which in the context of this report is the continuum of land rights (e.g. UN-Habitat/ GLTN 2012; Royston and du Plessis, 2014; Barry 2015), and it should inform those existing bodies of knowledge.

3.4.2 Relevance to policy makers, practitioners and funders

An evaluation should resonate with the thinking of policy makers, practitioners and funders. It should also consider the ways in which funding arrangements are made for land interventions, and evolve with them (Doebele, 1994). In the context of a continuum of land rights, it should also be done with some form of action to improve a situation in mind, even if the evaluation itself does not suggest what these improvements might be or how they might be made. This is covered in more detail in the discussion on categories of land evaluation in section 3.5.

3.4.3 Useful and easy to use

The results of an evaluation should be both useful and easy to use. The purposes, scope and limitations of the evaluation should be clear and easy to interpret for the user. It should be clear how people can use it, how they should not use it, and what are the possible grey areas in applying it. Adapting Davis (1989), if it is not easy to use, people are unlikely to find it useful, and consequently they will not use it. Audiences want simple, easily digestible messages. That said, evaluations of continuum of land rights scenarios might be difficult to make easy to use and there is a caution against developing simple recipes to "fix" a situation due to the complexity of many continuum situations and the many factors that cannot be controlled in planning strategies to improve a situation.

3.4.4 Accommodate different measurement methods and measurement types

An evaluation methodology should accommodate different measurement methods and types; i.e. qualitative, quantitative, proxies, concrete data and statements of perceptions/attitudes/intentions. It should also identify the different strengths and weaknesses of a particular measurement method in a particular situation. An evaluation of a continuum scenario, for example, may use official statistics, opinions of officials,

measurements of perceptions of tenure security using door-to-door surveys in a community, and focus groups involving groups of land experts and groups of community members.

3.4.5 Clear connections between concepts

The interconnections between different concepts that are part of an evaluation should be clear, as should how they apply in the country, jurisdiction, community or project that is subject to monitoring and evaluation. Building on section 3.4.3, it is important to communicate the results in a clear simple way, but not to oversimplify them to the extent that important relationships are omitted. For example, an evaluation might indicate that the land administration system is inefficient, and as a consequence people in impoverished peri-urban settlements do not have documents to defend their title and are being evicted by powerful local factions. Therefore if the land administration operations management system is improved, this should lead to improved tenure security for these people. However, tenure insecurity may be caused by a number of factors such as local politics, the cultural fit of particular tenure types to landholders needs, access to livelihood opportunities, and so on. Improving land administration efficiency on its own may have little or no effect on the problem at hand. Instead, applying incremental improvements to a number of variables and continually evaluating the situation may produce a better result. Thus the multiple factors that cause insecure tenure and the relationships between these factors need to be identified and explained in simple terms. However, the relationships between them and how they influence one another need to be analysed continually as what influences what may change continually.

3.4.6 Feasible and affordable

Data collection should be feasible in terms of the social and financial costs and benefits of the evaluation. Landrelated data may be very difficult to acquire, especially in continuum of land rights scenarios as many of these are in "data poor" areas and jurisdictions. It may also require cooperation from people who have to do extra work to supply the data, or people who control relevant data sets who may seek to undermine the process if it is likely to reflect negatively on them. The latter scenario is a strong possibility in situations where land governance is poor, especially where there is pervasive corruption.

Thus when designing the data collection process, what should be considered in terms of time, costs and quality of an evaluation include:

- (a.) the data that might be available and the patent and hidden costs associated with acquiring it, cleaning it, and rearranging it in a suitable format for analysis,
- (b.) the risks in trying to acquire particular data sets with the available funding,
- (c.) the risks of accessing important data sets that are related to the politics of the evaluation people who own the data might resist the evaluation directly; more likely they might engage in passive obstruction, such as not turning up to meetings, providing incomplete or dirty data, or supplying data in formats that are difficult to work with,
- (d.) the funding available in the event of cost overruns or in the event that contingency plans have to be adopted,
- (e.) the funding available for repeat evaluations and the risks associated with it,
- (f.) the people who may be prepared to attend workshops and those who are not prepared to do so and the implications for the validity of the data, such as biases, if key persons do not participate,
- (g.) if time series analysis is a component of an evaluation, the willingness of experts and other key persons to participate in repeat workshops and interviews, especially if they are not paid for their time at professional rates, and
- (h.) the risks and other implications of compromising quality for cost and time considerations in an evaluation, as outlined in more detail in section 3.4.7.

3.4.7 Scope, limitations, biases and risk management

Risk management includes an assessment and communication of the scope of what is covered in the studies that generate an evaluation, the scope of how the evaluation might be applied, and the limitations in the studies and known biases in the data. It is important to communicate the purposes of the evaluation, who are the intended users and other audiences, and how the evaluation should be used.

The normal list of biases and limitations in any study apply (e.g. observer bias, study designer bias, sample biases, omissions of important data sets, incomplete or erroneous data). Expanding on the discussion above, what is distinctive to continuum of land rights evaluations is how to deal with the politics of an evaluation and the lack of hard data that is easily accessible and usable. A land tenure and administration evaluation often assesses, explicitly or implicitly, government performance and the performance of different individuals, such as officials, customary leaders and community leaders, and people and organizations who fund politicians' election campaigns. Building on item 3.4.6 above, given that land is considered one of the most corrupt sectors (Transparency International, 2011), in some situations certain individuals and organizations may decline to participate, provide false data, omit certain data items to provide a false picture, or attempt to disrupt the process. What are the possible consequences of their actions and how might they be mitigated as part of the risk management process?

3.5 Categories of Land Tenure Evaluation

Expanding on section 1.2, drawing on a number of discussions with land experts on their experiences of land evaluations, participation in land evaluation workshops, and the literature on evaluation theory and theory development, especially Gregor's (2006) types of theory, the following four categories provide a broad framework for land tenure evaluations.

3.5.1 Category 1: Evaluations that measure status only

Category 1 evaluations are diagnostic studies, as opposed to predictive studies. They explore the "what is" question only. An indicator or set of indicators shows that a particular status exists. It does not seek

to explain, predict or offer recommendations for design and action. Causal relationships among phenomena are not described, and no attempt is made at prediction. For example, the WGI measure the quality of governance in a country without analysing and attempting to explain why that measure is what it is. At the country level, indicators are likely to be based on measures of particular variables in highly generalized or aggregated form, and at a grand scale for country level indicators. They can be used to compare situations in different countries, jurisdictions or regions. Related examples of these types of evaluations include the Worldwide Governance Indicators (WGI), the Social Progress Indicators (SPI), and the Global Land Indicators (under development) and evaluations that generate indicators for the SDGs.

The WGI, for example, are targeted at investors, advocacy groups, scholars, policymakers and aid donors. Their primary purpose is as a macro-level tool aimed at indicating status for comparative analysis between countries, as the indicators are too aggregated and generalised to be suitable for specific governance reforms in countries. However, the disaggregated data and indicators and in-country data may serve as inputs into more detailed analyses for other evaluation purposes (WGI) (Kaufmann *et al*, 2010).

The debate surrounding the WGI is instructive for category 1 continuum of land rights evaluations, albeit it is beyond the scope of this report to deal with this in depth. The WGI are highly influential as they inform international investment decisions in terms of the choice of country in which to invest and thus they have attracted a great deal of attention, and so the critique is worth examining when contemplating a continuum scenario evaluation. In short, critics question the validity of the indicators, the validity of the data used to generate these indicators, biases in the data, the validity of the constructs (are valid inferences made on the observations and do the data measure what they are claimed to measure?) and how the WGI are used in practice (Arndt and Osman, 2006; Thomas, 2010; Sundaram and Chowdry, 2012). The developers of the WGI reject these criticisms and note that they cannot control how the WGI are used (Kaufmann et al, 1999; Kaufmann et al, 2008; Kaufmann et al, 2010). Arndt and Osman (2006) provide a useful input as to how these indicators are interpreted and often applied inappropriately. In general, the plethora of different indicators being generated nowadays and country rankings are simplified and many are used inappropriately, especially as they are reported in the press. This was a motivator for developing the four categories of evaluation in this report. Each category defines how an evaluation should be interpreted and used, and defining the category of evaluation as part of its documentation may mitigate inappropriate use.

In a continuum scenario, a category 1 evaluation may, for example, form part of the figures on informal settlements in a city's or a land ministry's annual report. The figures in the report might identify the magnitude of problem to be addressed, the resources being allocated to that problem, and perhaps counts of households who had their tenure changed from type A to type B. If it is a category 1 evaluation, the annual report does not explain the figures. However, as with the WGI, the figures in the annual report may draw on reports, surveys and evaluations that may provide deeper levels of analysis which can be examined if necessary.

3.5.2 Category 2: Evaluations that measure status and offer some explanation, but no prediction

Category 2 evaluations are also diagnostic studies. Such an evaluation may address the "what is" question and explore the "why" question superficially. Evaluations in this category are likely an extension of category 1. They incorporate a modicum of explanation of the relationships that underlie the numbers and theoretical statements, but in general they do not delve into the structures and processes that are causal to those relationships.

A category 2 evaluation should not offer predictions, especially predictions that may lead to action to improve a situation. For example, a study might show that there is a strong correlation between tenure type A and a certain level of agricultural production, while there is a strong correlation between tenure type D and a lower level of agricultural production. Using a category 2 evaluation, it is not appropriate to predict that if land held under tenure type D is changed to tenure type A then agricultural production will increase, and then implement a programme to effect this tenure transformation. The evaluation measurement and analysis methodologies are not designed to do this, and the correlations may be mere coincidence. The study

indicates that particular relationships exist, but the validity of these relationships is not tested, and it does not explain why they exist and how the situation may be improved. The correlations may be due to chance rather than a cause-effect relationship between the two variables. However, a category 2 type evaluation may be used to provide further support to a hypothesis which has been developed from detailed in-depth studies that land held under category A provides a certain level of agricultural production under specific conditions.

The Land Governance Assessment Framework (LGAF) might be considered a category 2 evaluation. The implementation manual states explicitly that it is a diagnostic tool (Deininger et al, 2012), and therefore should not be used for purposes other than that. The theoretical premise underlying LGAF is similar to WGI, but the LGAF processes are far more detailed and explanatory than WGI. However, on their own the results are not a prescription for design and action, as they are not comprehensive. They point to where more work needs to be done. The discussion of the purposes and limitations of LGAF in the Implementation Manual (Deininger et al, 2012), the categories of assessment, the methodology and lessons from country assessments are worth reading as part of the preparation for evaluating a continuum of land rights scenario.

In a continuum of land rights scenario, measuring tenure transformation impacts in the Urban Continuum scenarios described in hypothesis 1 in section 2.2.1 illustrates a category 2 (or category 3) evaluation. An evaluation may or may not support hypothesis 1 by correlating tenure type A with one or more of access to credit, public health variables, access to municipal services and access to education. To recap, hypothesis 1 in section 2.2.1 states:

Hypothesis 1: Improving tenure security improves the lives, or at least the opportunities, of the poor in a number of meaningful ways. Secure tenure is a necessary condition for improving access to: (1) livelihood opportunities, access to credit and markets; (2) public health as people live under better environmental conditions (e.g. they do not live on waste dumps or industrial sites if they have secure tenure); and (3) access to municipal services such as water, sanitation and electricity. Building on the example of a city's annual report in section 3.5.1, surveys of the variables outlined in (1), (2) and (3) in hypothesis 1 measured against tenure type may show correlations between particular tenure types and improved access to livelihood opportunities, public health and municipal services. However, without an indepth analysis of all the variables acting together that may create these improved conditions, it is inappropriate to use these surveys as the basis for design and action. Recommendations flowing from such an evaluation should show where further work is necessary to explain the details of the different relationships, not how to improve the situation.

3.5.3 Category 3: Evaluations that explain and predict

As the name suggests, these are predictive as opposed to diagnostic studies. They address the "what is, how, why, when, and what will be" questions. Such an evaluation offers explanations of the relationships in the situation being evaluated. It also offers predictions of what might occur in the situation being evaluated if particular strategies are implemented (or not implemented). These may then lead to some form of design and action to improve the situation. For example, a survey of experts might ask them what causes the levels of corruption in the land sector and what is likely to occur if changes are made to some of the underlying causes. As part of a category 3 evaluation, the responses should be both explanatory and predictive. The theory underlying them expressed in a form that might be relevant to land tenure management is as follows.

Under a certain set of conditions, if a certain policy and accompanying strategy or set of strategies are implemented, then we can predict that a particular set of benefits (or detriments) may result.

Category 3 evaluations are more likely in a continuum of land rights scenario, may take a number of forms and be conducted at both a micro and at a broader, macro or regional level. Three examples are used to illustrate why detailed category 3 evaluations are necessary and how they may be applied in continuum scenarios at the micro level and at a broader level using the examples covered in section 2.2. The case of situations where

inadequate evaluations may have been conducted before initiating design and action is presented first, using the example of land titling programmes, followed by a discussion on two continuum scenarios.

Example 1: Problematic Land Titling Projects

Problematic land titling projects have frequently been based on overly simplistic predictive theory and inadequate evaluation of the enabling conditions before initiating action (Mitchell, 2005; Peters, 2004, 2006; Shipton, 2009). In essence, they have not been based on proper category 3 evaluations. The same problems can occur in actions to improve continuum scenarios if they are not based on an evaluation of sufficient rigour. As an example, given a set of conditions such as (a) landholders like individual tenure, (b) they consider land titles to be the only way of securing tenure, securing land transactions, and managing their estate so that their heirs may inherit the land according to their wishes, (c) the system of administering titles is efficient, people trust it and they know and understand its benefits and the consequences of registering or not registering transactions, and (d) landholders have the economic opportunities to afford to pay off a mortgage and pay for the costs of administering titles, then if land is titled, we might predict that tenure security will improve, and a number of social and economic benefits should follow. An evaluation might examine if all the critical success factors (CSFs) forming part of conditions a – d above, have been identified and fulfilled. If the CSFs are present then there is a probability that if the land is titled then the predicted benefits will materialise. Unfortunately, many titling projects have proceeded without sufficient evaluation of the enabling conditions and the CSFs. If a number of conditions are not present and they cannot be created under the prevailing circumstances, the titling programme fails to produce the desired outcomes. Rather, they may have undesired consequences, such as extinguishing a number of interests and rendering people landless. In general, if an evaluation shows that the enabling conditions for a theory to hold are not in place, then the theory does not apply to the situation. Design and action based on that theory is irresponsible.

Alternative theories need to be considered and evaluated, and then strategies can be formulated to implement designs based on them (Barry *et al*, 2012). The continuum of land rights is a metaphor that serves

as an aid to developing these alternative theories and strategies. It evolved, in part, as a response to the inadequacy of titling as a simple development "solution".

That said, implementing land tenure security improvement programmes in continuum of land rights scenarios are subject to the same cautions as land titling programmes that have not produced the desired results. Applying conventional theory (Reynolds, 1971), land tenure security based on a set of officially or formally recognised tenure types (e.g. types A, B, C, D) will only materialise if the enabling conditions exist for those tenure types to function.

In many continuum scenarios, the enabling conditions do not exist or they are not easily identified as they are wicked problem contexts. Enabling conditions have to be created as part of a system of processes to improve tenure security and a number of other things, such as land administration effectiveness. What should be done first is not clear. In general, there is no simple order for improving the relevant variables that will improve tenure security and a number of related benefits of improved tenure security such as those outlined in the urban continuum example covered in section 2.2. In theoretical terms, what is a condition and what is a hypothesis that is only valid if those conditions are present is fuzzy. Addressing a number of variables simultaneously in small increments is one approach that may bring about overall improvement in tenure security and a number of other social elements.

Example 2: Micro- and broader-level evaluations to simultaneously drive incremental improvement in tenure security and the conditions that are necessary to sustain it.

Drawing on Barry (1999), consider a scenario of informal settlement upgrading involving the transformation from tenure type A (illegal squatting) to type B (occupation permit). The occupation permit might be the first step in acquiring a more secure form of officially recognised tenure. The process may be incremental and evaluations of processes and structures might occur throughout the process. The process of strengthening the claim to be granted the occupation permit may involve a number of processes. The land administration authority may set a condition that a person being granted type B tenure should be based on fairness. They may further stipulate

that the primary criteria for establishing fairness is first in time is first in right – those who have lived in the settlement the longest have priority. A series of processes will slowly strengthen the claim of a person living under tenure type A to be recognised under type B. For example, a set of written statements or oral recordings of people in the settlement stating that Jane Doe has lived there for three years is the first step to Jane Doe being granted the permit. The second step is a quieting period for people to object to names on a list of people who are to be granted type B tenure and for people who might have their interests extinguished by this process to come forward. A snapshot adjudication of people living in the shacks may miss the comprehensive picture of the constellation of interests in that shack, especially if there is circular migration between the informal settlement and a rural area and/or to and from movement between settlements within the city of people with interests in the shack. Thus a number of surveys and monitoring visits may be required to provide an accurate picture. These are part of evaluations to verify and correct the list of names of people who will have tenure type B conferred on them.

There should also be structures and processes to resolve the conflicts that may emerge as change occurs. These should be monitored to evaluate by how much the conflicts may delay the process. As part of risk management, it can be expected that the process of issuing occupation permits may be stalled because people who are excluded from the tenureupgrading process may attempt to disrupt it in order to be included in it. The disruptions may include violence, especially by people attempting to jump the queue for occupation permits and possible future benefits associated with them. Thus the actual flows and projected flows of people in and out of the settlement should be evaluated. Dealing with inheritance cases during the transformation period adds to the challenge, especially if orphans stand to inherit the shack along with the expectation of having the tenure associated with that shack transformed. Orphans are vulnerable and at risk of having their interests grabbed by family members. There may also be conflict over leadership and coalitions may form around who should have the power to allocate land and have the local level power over who should be permitted to change their tenure type from A to B. There may then be checks on whether all necessary fees have been paid up, and population register checks if Jane Doe is really an "entrepreneur"

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who is using the upgrading process to develop a portfolio of rental properties.

Finally, Jane Doe is issued an occupation permit of tenure type B. Throughout this transformation process, ideally there should be evaluations that may be tied to continual improvement in managing the process, such as record keeping, establishing and enforcing rules of procedure, field inspection reports, conflict management, institutional change, fraud in the population register, and such like.

Evaluations should continually measure these different processes to explain how well the process is working (or not) and continually revise predictions of different possible future scenarios. Assuming that the process of transforming from tenure type A to type B will proceed in a linear, orderly fashion over time is naïve. It is a wicked problem context. Among many other things, the record system may have to be adapted as the process unfolds, regulations may have to be changed, and setting systems to enforce rules may have to be changed as the process infolds (Barry, 2006). All of these variables have to be evaluated continually, and problems addressed continually, to move the process forward. Evaluations may take a numbers of forms in these scenarios. They may range from little more than a site inspection report which may then initiate immediate corrective action, to a comprehensive report for the settlement.

Similar varieties of evaluation may be needed to slowly improve the multiple agent scenario described in section 2.2.2. Instead of evaluations pertaining to a single settlement, they apply to multiple settlements, organizations and institutions. Slowly, and incrementally the situation should improve if the conditions allow this. The situation may also worsen if certain enabling conditions are removed, such as commitment to continual improvement at the political level.

Example 3: Evaluations to measure and explain the impact of improving tenure security in continuum scenarios

At the broader level, building on the discussion on the urban continuum example in section 3.5.2 above, an evaluation may show relationships between particular tenure types and improved access to livelihood opportunities, public health and municipal services (Payne *et al*, 2014). However, in contrast to a category

2 evaluation, a category 3 evaluation analyses and explains the relationships between different variables acting together, and it should analyse these in terms of a number of different perspectives as per the discussion in sections 3.2 and 3.4. The evaluation should also predict different future states and provide recommendations for action. Revisiting the discussion on interpretive methodologies, these should be based on multiple methods and measurements, and interpretations of a situation from a variety of perspectives.

In synthesis, category 3 evaluations are the most likely type to be applied in complex continuum of land rights scenarios as part of strategies to improve a situation. As the legacy of titling projects that have failed to generate the expected impacts reveals, failure to account for the complexity of a situation, specifically failure to examine if the conditions that are necessary for a major change in tenure type to be sustainable are present or if they can be created under the prevailing conditions, is poor practice. What are often required are policies, plans and strategies that address a number of variables incrementally and ongoing category 3 evaluations at various scales that should support the plans and strategies yielding the desired outcomes and impacts in the long term. It requires far more managerial effort, information gathering and micro-level management than in stable, tame problem contexts.

3.5.4 Category 4: Evaluations of programmes and projects

Category 4 evaluations apply a set of category 1, 2 and 3 evaluations to programmes and projects. This has been covered in part in the examples in the discussion on category 3 evaluations above. There is a wealth of literature on project management and how to evaluate projects, and a generalised framework for evaluating large-scale development programmes and projects which are driven by a top-down, objective-driven approach is included in Appendix B, which builds on World Bank Internal Evaluation Group documents. Appendix B provides one resource that can be drawn upon in designing themes and processes for evaluating a continuum scenario. However, its focus is objectiveoriented project planning and evaluation, rather than wicked problem situations. Aspects of Appendix B can be adapted to evaluating a particular continuum scenario. As a situation stabilises and objective-oriented planning and evaluation becomes better suited to the problem context, so an increasing component of project and programme evaluation approaches, such as those in Appendix B, becomes suitable. The following are the type of category 4 evaluations that are relevant to continuum scenarios.

Programme and Project Planning Studies

Programme and project planning studies may require a number of category 1 and 2 diagnostic studies (e.g. population growth and migration pattern estimates) and category 3 explanation and prediction studies (e.g. employment opportunity forecasts, transportation plans) to provide the empirical basis for planning programmes and projects. For the purposes of this discussion, a programme tends to be a broad, ongoing set of activities, such as an informal settlement upgrading programme or a tenure upgrading programme in a city, region or jurisdiction. Projects are specific, such as a tenure upgrading project in a particular informal settlement as per example 2 in section 3.5.3 above. For the purposes of this section, a project is defined as having a project plan and a schedule of activities with a defined beginning and end. A programme may be a going concern. It does not necessarily have an end date.

Evaluations vary in scale from the micro level to the national. In a continuum scenario, a single field inspection report that generates an immediate response to correct or improve a situation is a form of evaluation.

Pilot tenure upgrading projects may precede a programme design, and the evaluations of a series of pilots may inform programme design. A programme may involve a number of projects on an ongoing basis. In the context of the continuum, there might be a programme to continually improve the multiple agent scenario described in section 2.2.2 involving a number of small or micro-level projects over a long time frame. Ideally, a tenure upgrading programme should guide project activities in continuum of land rights scenarios. However, it is conceivable that a number of ad hoc projects to upgrade tenure may occur in situations where land use planning and land administration are dysfunctional. These ad hoc projects may lead to an integrated tenure-upgrading programme over time, and the lessons learned from these projects and the desirable and undesirable impacts of them are likely to serve as inputs into the programme design.

Revisiting wicked problems, these are not solved but resolved over and over again. Thus multiple projects and programmes over a period of time and over a range of institutions and issues may address a particular continuum scenario. A particular settlement may be subject to a number of different projects or subprojects. For example, an upgrading project may be aborted at a particular stage due to internal conflict or social unrest. When the time is right, a second project may start from scratch or build on what was achieved in the first project. The evaluations of the first project should inform the ones that follow.

A caution with the ad hoc approach is even if the land-use planning and land administration systems are dysfunctional, at a minimum there should be some form of vision of what the natural and built environment should look like, and some tentative planning goals and objectives to accompany it. How that is to be achieved may not be clear. The immediate focus may be on improving tenure security, but the long-term focus should be on a vision of a sustainable natural and built environment. Project and programme planning, and evaluations that inform the process, may include a number of variables such as desirable tenure types, rules for assigning these types, livelihood opportunities, sanitation, environmental water, concerns, transportation planning, laws and regulations, administration structures and processes, options for long-term tenure types and built environment forms and such like.

At some stage, evaluations of continuum scenarios in wicked problem contexts will have to harmonise with land use / community planning initiatives. For one, funding arrangements and accounting for how funds are spent are likely to dictate this. conventional rational, comprehensive, approach to land use planning, the planning stage would set the vision, goals and objectives for a project/programme. A programme would establish the overarching vision, goals and objectives for projects that fall within that programme, and the goals are ranked in terms of importance. There are major limitations to the rational comprehensive model, even in tame problem contexts, especially power differentials in the planning process (Hodge and Gordon, 2014). Adaptations of this rational model include acknowledging the power structures, the planner's own perspective as an agent in the process, and the need to create coalitions to drive the

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programme as a political action. A different adaptation of the rational approach is the participatory planning approach, which develops plans in conjunction with a community to develop new knowledge and a vision and goals together. Both of these adaptations of the rational model apply in most urban and regional planning contexts, and the participatory approach is likely to be especially important in planning programmes and projects to improve tenure security in continuum scenarios.

In participatory approaches in continuum scenarios, an important component to evaluate is the levels of power that different participants have in the process and how this might impact on the project or programme objectives. If rules are agreed on, it is important to know if they are legitimate and if they can be enforced. In some cases citizens complain that they are consulted in bad faith or merely informed, as officials and policy makers have already made the decision. At the other end of the scale, participatory planning can be extremely frustrating in situations where participants have a great deal of power, consensus and commitment to action cannot be attained due to conflicts between different factions, and there is little hope of enforcing the rules (Barry, 2010).

Thus, even in wicked continuum scenario programme and project planning contexts, some concept of land use planning requirements should be present. At a minimum there should be some vision of a desired future state of the natural and built environment. Projects and programmes to improve tenure security and related factors should slowly build towards that state.

Programme Progress Evaluations

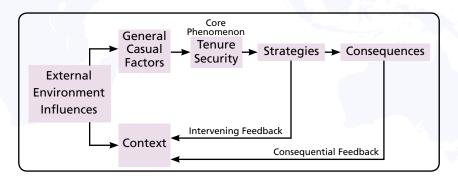
These evaluations may include category 1 and some category 2 evaluations. For example, as per the discussion under category 1 in section 3.5.1 above, a

municipality may report on its various programmes and the various projects underway in each programme in its annual report. The report may also report on the impacts of a tenure upgrading programme, such as improved livelihood opportunities, increased municipal services to people living under tenure types A, B and C, and so forth. They report on the impacts, perhaps in terms of some form of broad logical framework.

Project Progress Evaluations

These evaluations measure project progress against predetermined performance targets (e.g. the number of land occupation certificates issued) and conformance with what the project set out to do. These tend to be oversight and compliance measurements, such as how well a project is performing against a schedule or how what had been delivered conforms to what was planned. It may also measure outcomes and impacts as a project progresses, and this is important in a continuum scenario. For example if the project transformed the tenure type from A to B, and at the end of it people revert to type A, or B evolves into C, then the project has not led to the most basic of the outcomes envisaged, and new plans and strategies need to be formulated. Measurements may focus on activities that should occur according to a project schedule or a land tenure development plan, and on the intended and actual outcomes of the programme or project. In continuum scenarios, evaluation should also focus on what is occurring as an impact of a project in progress. For example, if a site has been cleared of shacks and the occupants moved to new houses, what are the chances of the site being invaded by a new set of people in the hope of jumping the housing list (Barry, 2006)? Thus, the discussion in micro-level evaluation and rapid response to crises discussed as part of example 2 in section 3.5.3 above may be important in a number of continuum scenario projects.

Figure 4: Process Model for Evaluating Continuum Scenarios



The general system for project and programme evaluations is exemplified in Figure 3 (Barry et al, 2012). Consider a project involving strategies to improve tenure security, such as transforming tenure type A to type B. Tenure security is influenced by and influences a set of causal factors that emerge in the local context (e.g. health, education, livelihood opportunities, migration patterns, local politics). Both tenure security and its related system of forces are influenced by external environment factors and the local context. Changes in the external environment and the local context that are unrelated to the project or programme need to be monitored in the event that they change the causal factors. While the strategies are in process, they influence the local context in the form of intervening feedback, which may impact on tenure security and/ or the project. For example, people excluded from the process may disrupt it. This might require minor amendments to deal with the situation or the project may even be halted. Once the tenure has been transformed, the consequences of it have an impact on the local context and possibly the broader environment through consequential feedback.

The frequency with which evaluations and adjustments have to occur will probably be related to the level of uncertainty at a particular time. For example, improving the scenario described in section 2.2.2 will probably be evaluated continually, with continual project and programme adjustments. Rather than thinking in terms of a road map to navigate a project, think of a nautical chart. The desired destination is known, as are the major obstacles and hazards. However, continual evaluation of currents, winds, waves, tides and the threat of storms necessitate continual adjustments in navigation strategy.

Post Project Evaluation

Building on example 3 in section 3.5.3, post-project evaluations involve assessing the outcomes against the goals and objectives, performance evaluations, and whether what was implemented conforms to what was planned. These may be project or pilot project specific evaluations or broader impact assessments of a programme.

In stable situations, funded programmes and projects may rely on measurements to show the impacts of particular actions in accordance with a logical framework / dependence model. Given funding models and the manner in which projects and programmes are motivated, programme metrics may be predisposed to objective oriented, results based / impact assessment models. This may be a problem in continuum scenarios, as projects have to be revised continually or a programme may comprise a series of micro projects, each of which are evaluated before the next micro project starts. However, general impacts and trends should be measurable.

3.6 Evaluation Methodology Quality Assessment

Once the purposes of an evaluation have been established, the evaluator considers the different methodology options. This involves an examination of the different methods available and then choosing methods for establishing what questions are to be raised, what data are to be gathered, how the data are to be gathered, how they going to be analysed, how the results are to be communicated and how the results

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should be used. To do this effectively, the following need to be articulated at the outset:

- (1.) the purposes and goals of the evaluation,
- (2.) the ranking of different goals if some form of design and action is contemplated,
- (3.) how strategies that address one goal may impact other goals (e.g. positive, negative, no impact),
- (4.) the category of evaluation as per section 3.5, and
- (5.) the scope and limitations of the evaluation and how this impacts its purposes.

Once the above has been done, the strengths and weaknesses of different methods available to do the evaluation can be assessed. This process may lead to a revision of items 1 -5 above.

We cannot evaluate everything. Ideally an evaluation should be based on a study that passes the tests of scientific rigour in any research process. This is a particular challenge in the land sector given the political nature of matters related to access to land, its use and development, and this is particularly relevant in continuum scenarios.

Different levels of rigour are required according to the nature and purpose of an evaluation, and practical considerations of what data can be collected and analysed. Evaluations that are to inform policy, law and land administration structures and processes should be rigorous and subject to a rigorous examination themselves. Unlike many business strategy decisions where a strategy can be stopped if it does not work and another one implemented in its place, aspects of policy, law and administrative decisions that relate to land tenure are seldom reversible. For a variety of ethical and political reasons, once people occupy land, or they have official recognition of their tenancy or rights to use land, they are there to stay.

We should not lose sight of the fact that evaluation is a real world enquiry rather than naturalistic enquiry. We accept certain limitations in the rigour of real world enquiry that we might not in scientific enquiry in the natural sciences. Management decisions tend to be based on incomplete information. For example, one cannot wait for the results of a rigorous study and the deliberations on it followed by the recommendations for action and then the actual action if there are

immediate problems that require attention. The following should be considered when designing an evaluation methodology:

3.6.1 Data Acquisition Challenges

There are a number of data acquisition challenges and these should be budgeted for in terms of time, money and contingency planning.

- (1.) A functional problem is it is often difficult to aggregate data because, for example, the data may not be available in the formats desired, and if it is available, it may require a great deal of cleaning and reformatting. Land registry data, for example, may not cover a jurisdiction, it may be paper based, and different jurisdictions in a country may use different data formats. The time and costs of cleaning, transforming and reformatting data are often under budgeted.
- (2.) The difficulties in getting senior and middle managers and others to participate may be difficult. There may be reluctance by officials in senior and middle management positions to participate in an evaluation if it may have negative consequences for them personally or for people in their social network. This is particularly relevant in situations where corruption is wellestablished.
- (3.) There are challenges in securing the necessary inter- and intra-agency cooperation to provide the data on time and in the correct format because of the politics of data ownership between these agencies and possible power struggles between managers.
- (4.) There is the disruption of day to day operations challenge. If numerous requests for data and questionnaires emanate from "head office" for different purposes, there may be data collection fatigue and a push back from managers who have to collect, prepare and supply the data. Preparing data and documents for any form of evaluation can be a time consuming task, which adds to middle managers workload, disrupts their day to day operations, may require additional staff to complete the operation, and may negatively impact their personal performance evaluations as managers. There is also the scenario where a

person collecting data may report to two bosses, their immediate supervisor and a person tasked with collecting data for an evaluation. The immediate supervisor responsible for day to day operation may be inclined to push aside activities that they see as interrupting their work flows.

Thus, ideally, a land evaluation should have political commitment at a number of levels that is backed up by the power to intervene if necessary, plus a realistic time and resources budget. If these conditions are not present, or the risks of them being present are high, then other data acquisition methods should be considered, such as focus groups, expert opinions, crowd sourcing, archival document searches and newspaper archive searches, among others.

Budgets should also be allocated for contingencies. Situations where land evaluations may make the biggest impact are likely to be the most troublesome and complex. They are also the studies which may require major amendments to evaluation programmes.

3.6.2 Quality Assessment Criteria

The following quality criteria apply to any real world land evaluations. They are a sample of the many criteria used to evaluate a study.

How an evaluation should be evaluated is itself a point of debate. The positivist and interpretive schools place different emphasis on what to evaluate and how to do it. Society and managers like indicators with quantitative scores that can be used to score the level of performance or conformance. However, there are numerous situations where scores can be misleading. Thus, it is important to examine them in terms of other quality criteria and to communicate what the appropriate use for such a score is. Qualitative measurements, on the other hand, are far more difficult to evaluate but are possibly of far greater value when it comes to developing strategies to remedy a situation as they provide the description and explanation of detail and context that are lacking in quantitative scores.

The first quality indicator for both qualitative and quantitative measurements is triangulation.

Triangulation or Converging Lines of Enquiry

Triangulation is a quality test that applies to all studies, be they conducted from a positivist or interpretive perspective, quantitative, qualitative or mixed methods. A particular result or finding can only be considered significant if a number of studies using different methods yield similar results. There are numerous forms of triangulation, three of which are relevant to land evaluation.

Data triangulation indicates if different data sources yield results that converge. For example, do door-todoor interviews in the field indicate perceptions of land registration or certificates that are similar to the perceptions of politicians and officials, and do these measurements of perceptions agree (i.e. triangulate) with statistics from the registry and municipal valuation records? That is, do the different forms of qualitative and quantitative data provide the same results? If not, then what should be done with so-called outliers or sets of distinct clusters or patterns? One way is to extend the study to different settings and examine the findings against different theoretical propositions (Lee, 1989). The other, especially in a continuum scenario evaluation, is to examine if the lack of triangulation represents different agendas and world views, and then to devise plans to deal with competing goals and objectives.

Investigator triangulation tests if different evaluators arrive at similar conclusions and, if not, what is the basis of minority dissenting opinions (Lee, 1989)? For example, one evaluator may have preconceived ideas that land titles are a panacea for development while another may oppose this view. Their personal biases may yield very different results. Ideally, these differences should be reconciled, or if they cannot be reconciled they should be explained.

Methodological triangulation draws on the thinking that multiple methodologies, using qualitative, quantitative and historical methods should enhance the validity and robustness of a study. Findings from one method will hopefully validate the findings of another method, providing both studies are set up with sufficient rigour. A shoddy study cannot be confirmed by another study (Razum and Gerhardus, 1999). For example, statistical analysis in an economic study of a development

project which included a form of tenure upgrading might indicate that the tenure upgrade did not lead to increased agricultural productivity. An interpretive social anthropological study of the same group of people might indicate that the tenure "upgrade" was not a cultural fit, people ignored it and did not engage in the agricultural activities associated with it. Thus, the findings in the two studies triangulate. The findings in a third study might show that the tenure upgrade was a direct cause of increased agricultural productivity. This finding does not triangulate with the findings of the first two studies. The lack of triangulation needs to be explained. The lack of triangulation may be due to ideological biases, sampling limitations, data quality issues and other validity criteria discussed below.

3.6.3 Validity, Reliability and Credibility Criteria

There are a number of metrics that fall within the validity, reliability and credibility criteria. One relates to the people who conduct the study and is known as the *universality* metric. Any competent person should be able to carry out the study and it should not depend on a particular group or individual. Comparable results should be achieved by another person under identical circumstances and the study should be set up so that another investigator may repeat and independently verify the results (Leedy and Ormrod, 2010).

One component of validity is that that the measurements should actually measure or record what they purport to measure (Leedy and Ormrod, 2010). We measure certain variables to infer performance of a concept or construct that is abstract and not measurable (Morgeson and Hofmann, 1999; Bacharach, 1989). For example, we cannot measure tenure security directly. Tenure security is a construct; it is abstract. A count of the proportion of land parcels registered is a measurable variable that may indicate a level of tenure security. It does not, however, constitute tenure security.

A second validity test is the plausibility and value of the evaluation. Is the measurement itself an accurate estimate or are there major systematic errors or blunders in the measurement, and if it is accurate will it provide reasonable levels of precision if that measurement is repeated at a different time and perhaps in a different context? A third measure of validity is an assessment of the adequacy of the process which generated the evaluation. Has enough work been done to arrive at the findings? If not, what further work is required, or what can be done with these findings if it is not possible to do further work? For example, as noted earlier, the findings of an LGAF evaluation are diagnostic. On their own, they are inadequate for informing detailed strategies to improve land tenure security in a jurisdiction.

Fourth, we judge the empirical grounding of the evaluation (Corbin and Strauss, 1990). Validity and reliability can be broken down into a number of interrelated sub-themes, and the manner in which reliability can be measured does depend on the methodology and methods used in a study, e.g. quantitative, qualitative or mixed methods.

In synthesis, the following are some questions that relate to land evaluation validity:

- Are the instruments (e.g. questionnaires) or the (1.)deductions from an interpretive qualitative study measuring what they are supposed to measure? Do the measures correctly represent the construct? Did the researchers actually measure something that relates directly to the issue being evaluated, or are did they measure something else (Morgeson and Hofmann, 1999; Bacharach, 1989)? In causal or explanatory studies, are the data giving valid results or are the analyses dealing with spurious relationships? Have all rival explanations been properly considered, and does the evidence triangulate well (Yin, 2009)? For example, how valid are the conclusions if you measure the number of titles registered and conclude that this led to economic growth without identifying that other event(s) may perhaps have caused economic growth?
- (2.) Is the sample measured adequate to be representative of the trait being measured (e.g. perceptions of usefulness of paper documents in securing tenure)? Is the sample large enough and broad enough to represent the different sectors of society?
- (3.) Are quantitative measures accurate and reliable, e.g. are the errors normally distributed and, if

so, what are the confidence intervals and other reliability measures for the different variables and parameters?

(4.)Are the study's findings generalizable beyond the immediate units of analysis, and to what extent can they be generalised? For example, in one jurisdiction good governance may be found to be causal to economic development. In the causal process model, good land governance is the antecedent and economic development the consequent. In another jurisdiction, economic development may be one of the factors that lead citizens to demand good land governance. The antecedent-consequent positions are swopped around. Economic performance leads to citizens demanding improved governance. In a third jurisdiction, the situation may be too complex to identify a relationship between the quality of governance and economic development with any reasonable reliability.

Falsifiability

For Karl Popper, falsifiability was the essence of a valid study. The research process should be set up in such a way that analysis of observations can produce a negative result. The genuine test of explanations and predictions should be falsifiable. Confirming evidence is not genuine unless the study has been set up in such a way that another researcher can show the results to be false (Popper, 2002; Lee 1989). The greater the numbers of situations in which hypotheses have been exposed to falsification and survived the test, the greater the credibility of the theoretical model. An example is the theory that private ownership supported by tiling is frequently advocated as the optimum tenure form for development. Numerous empirical studies show this to be false, particularly when one or more of the critical success factors, the conditions for that theory to hold, are absent.

A caution is that an evaluation should stand up to tests which might show the evaluation to be false, providing an obsession with falsification does not blind people to deficiencies in a study because the context of the theory and the manner in which it is evaluated has been defined too narrowly (Ghoshal, 2005).

Quality Assessment Guidelines

In summary, the following are some general guidelines for assessing an evaluation, which need to be adapted for evaluations of continuum of land rights scenarios. These should be applied in conjunction with a reading of section 4 and the appendices:

- (1.) How and why were the core categories / concepts / constructs selected?
- (2.) Use multiple sources of evidence, establish a chain of evidence, have key informants review the report. Is this the best body of information for the purpose of the evaluation?
- (3.) Evaluate the person(s) conducting and managing the study. How authoritative are they on the subject matter? How deep is their understanding of this situation? Were they actually in the field for a prolonged period or have they drawn conclusions from secondary sources, perhaps with only fleeting visits to the people and places that are the subject of the evaluation?
- (4.) What were some of the statements of relationships made during the analysis and on what grounds were they formulated and validated?
- (5.) Were there instances when statements and relationships did not explain what was happening in the data (negative cases)? How were these discrepancies accounted for? Were statements of relationships modified? See the discussion on triangulation above.
- (6.) Are the concepts systematically related? There must be systematic development of concepts and linkages to those concepts. For example, a study may recommend that improving land governance should improve overall governance in the public sector. Is this based on an incisive analysis of the data in the study itself and which shows that the data actually indicate this, or was the recommendation drawn from a list of "good ideas" about best practice which have never actually been tested empirically? (Robson, 1993; Corbin and Strauss, 1990, 2008; Yin 2009; Cresswell, 2009).

03

EVALUATION THEORY

In summary, the statement of the purpose of an evaluation and how it should be used is of major importance and, equally important, is a statement indicating how it should not be used. Components of the above can be adapted to evaluating the quality of an evaluation of a continuum scenario and the implications of a particular level of quality. The purpose, category of evaluation, and desirable attributes of an evaluation should guide the methodology. Ideally, there should also be a statement of the ideological or theoretical orientation of the evaluators and the biases that they impart, a statement indicating the scope and limitations of the study, and a statement of the accuracy and precision of the measurements used to

develop it. Of major importance is that the purposes of an evaluation should be communicated along with the results of the evaluation. There might also be a statement indicating what the risks of acting on that evaluation are, and what else may need to be done before acting on a set of findings. There are some special challenges in evaluating land tenure and related variables in many continuum of land rights scenarios due to their complexity. However, evaluation is possible providing the situation is approached with an understanding of change management principles and the evaluation design is suited to the level of complexity and uncertainty at a particular time.

Synthesising much of the material above, the following framework can be used for designing, implementing, evaluating and integrating different forms of land evaluation in continuum scenarios. The manner in which a specific evaluation is set up depends on its purposes and the other criteria, which were covered in section 3, especially the level of complexity and conflict in a situation and the accuracy to which predictions can be made based on each evaluation. Evaluation categories 1 to 3 are described as one structure in table 1 below. Category 4, which pertains to projects and programmes, was covered in section 3.5, and it

is covered briefly in this section, and Appendix A and B further inform these types of evaluation. Appendix A provides a set of themes and sample evaluation questions and metrics which can be drawn upon for any land evaluation. Appendix B is a structure for objective-oriented project and programme evaluation, which is adapted primarily from World Bank Internal Evaluation Group documents. Parts of it can be adapted for evaluating continuum scenarios and different parts can be drawn on as the continuum scenario changes; i.e. the more stable the situation becomes the greater the portion of Appendix B that can be drawn on for evaluating the situation.

Table 1 Continuum of Land Rights Evaluation Framework

	Category 1	Category 2	Category 3
Theoretical Form	Status: Description and Analysis	Status & Basic Explanation	Explanation and Prediction
Characteristics of the Evaluation	Indicates what is. No causal relationships identified. Does not address the how, why, when and where questions.	Indicates what is, and how it is. Indicates that relationships exist but not whether these are valid or not. Does not fully address the why question. Might address when and where questions. Correlations might be identified without explanation or test of validity. No prediction. No testable propositions emerge from these evaluations, but they may add empirical support to existing theories.	Addresses what is, how, why, when, where and what will be questions. Provides explanations & predictions. Has both testable propositions and causal explanations.
Land Evaluation Categories	Category 1. May form part of category 2, 3 and 4 evaluations, e.g. estimates of key performance indicators.	Category 2. May form part of category 3 and 4 evaluations.	Category 3, 4. Suited to projects and programmes where strategies are based on evaluations. Suited to day to day inspection reports that may be part of incremental, inductive strategies of continual improvement in complex, wicked problem contexts.

Typical Classes of Purposes	Diagnostic. Performance and accountability, generalised impact analysis, conformance with plans, oversight and compliance. E.g. number of households moved from tenure type A to B. E.g. impact of tenure transformation is X number households with tenure type B have water borne sanitation.	Diagnostic. Performance measurement and measurements of accountability, social justice, generalised impact analysis, policy, programme or project effectiveness or efficiency. E.g. Impact of tenure transformation is X number households with tenure type B have access to health services. (No explanation of validity of relationship)	Explanation and prediction, possibly leading to action. Knowledge development – systematic studies and day to day reporting. Policy, programme or project effectiveness or efficiency, assign responsibilities for successes and failures, and correction, redesign recommendations. E.g. land certificates failed and will continue to fail because (1) people did not see them as useful; (b) they valued social processes above paper documents and will continue to do so. Day to day reporting: Houses assigned to community A have been invaded by people from community B in order to jump the queue. Rapid action is required to prevent violence between the two
Quality Assessment	Ideally as rigorous as possible for a real world study.	Ideally as rigorous as possible for a real world study.	groups. A level of rigour that is practical for the purposes of the study. In many continuum scenarios, ongoing feedback and stakeholder / public participation may provide continual critique. Significant biases exist in much of the data. In some instances the challenge is not to remove the biases but to recognise them and act accordingly.

Examples of Entities and Institutions Evaluated and Uses of Evaluations	Government / policy / land administration systems / customary authorities / community based groups, programme impacts and outcomes. Programme reports, annual municipal reports, report to ministries and parliament.	Government & private land agencies, justice system, insurance programmes, customary land authorities' compliance and performance. Government / policy / land administration systems, policy, law and regulatory framework. Land use frameworks, land use plans, development plans. Programme reports, annual municipal reports, report to ministries and parliament.	Land tenure forms, land tenure administration, land use planning and land administration, organizational development, change management strategies, policy, law and regulations. Ongoing, continual micro-scale field inspection reports to large-scale project and programme evaluation.
Issues to Conside	er for all Categories of Eva	aluation	
Users			ional agencies, officials, lawmakers, NGOs,
	community groups, policy think tanks, academics, donor agencies, journalists, etc.		
Wider Audience	Who might use the evaluation for information purposes, to defend policies and practice, and to spur others to action? E.g. presidents, cabinet ministers, officials, journalists, general public, etc. Who might use the evaluation for purposes other than those intended and what are the implications?		
Principles, Values and Mission statements are articulated	Principles (e.g. moral codes, mission and vision statements) guiding the system should be articulated, and some form of strategic plan to guide the process exists, even in wicked problem contexts. See Appendix A.		
Specific Purposes and Applications of Evaluation:	Define the purposes of the evaluation explicitly: What should the evaluation results be used for; what higher level mission and goals does it serve and what is its explicit purpose? What action, if any, should follow the evaluation? Specify the category of evaluation and what it should be used for. What are the grey areas in the evaluation results where the results may apply in part and what are the possible consequences (risks / benefits) of acting on the evaluation in a particular grey area? What should the evaluation not be used for (red flag zone)?		
Time Frame	For how long is this evaluation likely to be valid / perceived to be valid by users? How frequently should it be repeated, how likely is it to be repeated, and what form of comparative analyses (e.g. time series) are likely to occur?		
Examples of Similar Evaluations	What other similar evaluations exist? What are the critiques of them and what are the lessons / implications for this evaluation? What do these similar evaluations suggest can be used from existing work / evaluations and where can these be found? What can be learned from the wide-scale international evaluation initiatives (e.g. the land matrix, LGAF country-level evaluations) that might inform this evaluation? Are there existing data sets and reports that can be used in this evaluation (e.g. consultants' reports for municipalities)? How have other evaluation systems evolved when applied to complex changing situations?		

Future Purposes	How might the evaluation evolve? How might its purposes evolve? For example, may a purpose in the grey zone above evolve into a primary purpose? What are the options to manage this? E.g. should this require minor redesign of the evaluation methodology and communication procedures, major redesign, or abandonment of the evaluation	
Tenure Types to be evaluated	altogether and a fresh start? List the different tenure types that are to be evaluated and define them in detail. List the tenure types that are desirable and can be administered and sustained (see example in section2.2.1). List the tenure types that should not be given official recognition and indicate why. Combine / cluster tenure types for evaluation. In category 1 and 2 evaluations, it may not be possible to assign measurements to a specific tenure type or the measurements may need to be aggregated to reduce the effects of "noise". To get a meaningful evaluation, consider grouping tenure types e.g. Group 1 = (tenure types A, B &C).	
Problem Context Description	Group 1 = (tenure types A, B &C). How simple or complex is the situation being improved and evaluated? How plural is the problem context (Jackson, 2003)? In plural contexts, negotiated solutions are possib among people who have different positions and agendas? How plural might it become? Can an improvement programme improve general levels of equity? Conversely, can an improvement program stimulate conflict and competition, and cause the problem context to change from plural to coercive. How coercive is the problem context (Jackson, 2003)? Are the differences in power being abused? Are power differentials such that negotiated solutions are not possible? How coercive might it become? What are the levels of conflict and how might they evolve as tenure transformation occurs? Can the situation be transformed into a plural problem context, and how can this be done? Design the evaluation methodology according to power levels and levels of complexity and evolve the methodology to suit the situations as power and complexity dynamics change.	

Tentative Assumptions, Propositions and Hypotheses and Conditions to guide the evaluation The following is the ideal case when hypothesis building is appropriate to the evaluation:

As per example 1 in section 3.5.3:

State the Assumptions:

A1

A2

An

State the Hypotheses / Predictions:

H1 Given conditions C1, C2... Cn, if X occurs then Y follows (with probability P if feasible to estimate this)

H2

Н3

State the conditions under which the above hypotheses / predictions might materialise:

C1

C2

Cn

State which conditions might be critical success factors and which ones are important but not critical.

Questions that form part of continual interrogation of the process

What is likely to happen if one or more of these conditions are not present? E.g. is it a critical success factor for a particular strategy to succeed?

What if one of the underlying assumptions is found to be incorrect or needs to be amended? What should be done if important new information about the conditions and/or assumptions emerges?

Applicability in Wicked Continuum Scenarios

Discussed in sections 3.5.3 and 3.5.4, there many continuum scenarios where a rigid distinction between conditions and hypotheses is unclear. In wicked problem contexts, conditions and hypotheses have to be addressed simultaneously and processes tend to be cyclic, not linear. Ultimately, there are a number of desirable or at least manageable stable states to which a system should evolve. There must be some sense of vision or destination. It should be possible to describe and explain the situation in terms of sets of generalised hypothesis statements such as the one above once a situation starts to stabilise. Initially, managers may seek to merely cope with an uncertain situation while they are a form of survival mode in terms of how much they can control. Over time, they should be able to move to goal-oriented management if the problem context becomes more and more controllable.

The overarching goals during complex times will be to create the set of conditions for hypotheses to become valid, for example:

Hi: If people have secure tenure, they are more likely to access education, health services, and a more sociable neighbourhood.

The challenge is to work on a number of variables to create the conditions for the above hypothesis to hold. The order in which the above are achieved is fuzzy. For example, people may first access education while neighbourhood relations improve and then get secure tenure and then get better access to health services.

Empirical Support for the	There are a number of ways to evaluate hypotheses above. If appropriate the following serves as an example:		
Hypothesis and	example.		
conditions	Empirical support for hypothesis Hi and each of its accompanying conditions may be classified as: Compelling; Persuasive; Speculative;		
	A myth that has been perpetuated from questionable data.		
	Reasons / Explanation: for classification of support for the hypothesis should be argued and properly substantiated by evidence for the evaluation.		
Systems	If appropriate:		
and Logical			
Framework Evaluations	Use rich pictures, systems diagrams (e.g. Figure 3), process flow diagrams, logical framework models and other communication and diagnostic tools to understand the different relationships, constraints, power structures and likely or actual impacts, and changes on them of interventions.		
Data Collection Design	What data are ideal for this evaluation and in practical terms which data can be collected? Specifically:		
	What data should be collected as part of the evaluation? E.g. questionnaire surveys, door-to-door interviews, pilot studies, case studies, expert opinions, focus groups, civil society input, archive searches, newspaper archives, annual reports, policy documents, legislation, municipal council minutes, municipal property administration files, consultants' reports, valuation records, crowd sourcing, dedicated feedback sections on web sites. What relevant data sets exist, and which ones can be obtained? What new data can be acquired through changing trends in technology? For example Google Earth has traffic flow patterns in some cities, measurements can be made on Google maps, cell phone companies might have relevant data (e.g. traffic flows, people flows) that we do not know about. What are the social and financial costs and benefits of different data collections strategies? What are the costs of acquiring the data and preparing it for analysis? What are the contributions of a particular data set versus costs of acquiring data, cleaning data, harmonizing it with other data sets, and possibly preparing it for aggregation with other sets? How will the evaluation quality be impacted if a particular data set is omitted? What are the risks of a data set being denied at the last minute (e.g. through change in leadership in the organization that owns the data) or particular agents providing erroneous data, incomplete data or data in formats that are difficult to work with? What biases and other validity issues will result if only people with one ideological position are prepared to participate in expert working groups. For example, what if officials do not turn up to workshops, perhaps because they fear criticism or they have to agree with decisions that will land them in trouble with their supervisors? What contingencies exist if critical data cannot be collected? What budget exists, what is likely to occur in the event of cost overruns, what is the likelihood of extending the project, what budgetary contingen		

Data Quality	Relevant parts of the following should be considered depending on the category of evaluation.
	How does the data collection process meet general quality requirements? How complete are the data? How rigorous is the process and what are the impacts of high or low levels of rigour on the defined purposes of the evaluation, and on the users and other audiences? Do they address the material covered in sections 2.3, 3.3, 3.4, 3.5 and 3.6? Can quantitative measures be defended in the same manner as say the WGI are defended? If not, how can the use of indicators and scores be managed? Do the results from different data sets triangulate? If not, then what is to be done if particular data sets disagree or different clusters emerge from the data? Is the process falsifiable? If not, how can the validity of the results be justified to audience members who might be fixated with the falsification principle? Are the data reliable and valid? Can the measurements and estimates based on them be assessed for accuracy and precision? Are the data a valid representation of the constructs / themes / concepts being considered, and do particular parts of the data sets provide reliable indications of the relationships between them? How suitable are the data for time series analysis, if applicable? How suitable are the data as a calibration set for extended / larger scale studies? How suitable are the data for aggregation into generalised indicators? In inductive methodologies and case studies, what data items describe and explain the local context
	only, and what parts can be generalised to wider contexts?
Data analysis	What are the different options to analyse the data sets? E.g. qualitative, quantitative, interpretive (inductive) methods where hypotheses are developed from the data, or deductive methods where hypotheses and their conditions are developed beforehand, tested and then accepted as is, revised, or found to be false? What are the different causal process systems? How valid are the models? Under what conditions does occurrence of A cause B and vice versa? Under what conditions does the occurrence of B cause C instead of A. E.g. if A = improved tenure security; B = improved infrastructure; C = diminished tenure security, what are the antecedent-consequent relationships between them, if any? What causal – process systems emerge and change over time in incremental improvement systems? What explanations and predictions emerge in category 3 evaluations? How can they be substantiated?
Costs and	What are the social and financial costs and benefits of each method under consideration?
benefits	How accurate and reliable are these estimates of costs and benefits?
Risk analysis:	What are the strengths, weaknesses, opportunities and threats (SWOT) of each evaluation method under consideration? How should an evaluation be used, and how should it not be used? How effectively has this been communicated? What contingencies exist if particular strategies are found to be ineffective? What are the funding risks? What are the political risks? What are the key person risks? I.e. if a person who is key to the process leaves, what then? What strategies are in place to analyse and defend the validity of the evaluation? Audience and user risks: how are users and other audiences likely to use the evaluation? What are the possible scenarios given the common, competing and vested interests, and different ideological positions? Who might use the purpose for self-serving purposes, what might be the consequences of their actions, and what are the options to mitigate this risk? Agreements / Partnership arrangements to move tenure transformation forward. Do all parties have the legitimacy and backing to make an agreement? Who is responsible for monitoring and enforcing the agreement; i.e. who is the ultimate owner of the problem? Is monitoring and enforcement possible? If not, what then? What are the risks of the agreement being hijacked by particular groups? How are challenges to the agreement and challenges to the legitimacy of participants going to be managed? How well are the operations management processes designed to handle technology change? Can transforming tenure increase tenure security but also the risk of eviction / loss of land interests for the vulnerable? If the latter, how is this to be addressed? If records are kept at the local level, is there a risk of them being destroyed; e.g. through fire, flood or social unrest? How are records to be kept accurate and up to date?

Change and Risk Management Considerations The following may be considered as descriptive statements in an evaluation. There are numerous texts on change control and change management that should be consulted when managing and evaluating complex, changing situations:

What are the implications of recommendations, actions and unforeseen events that flow from a tenure transformation process and accompanying evaluations for administration overload, staffing, skills levels, training, job description changes, budgets, technology and other equipment requirements, office space, record keeping, data security, equipment security, and organizational readiness for change? How many additional staff are required to do continual field inspections in continuum scenarios or what changes need to be made to job descriptions of existing staff who do this work (e.g. can building inspectors' job descriptions be changed)?

Are there coalitions within and between land administration organizations and community groups to guide the process (Kotter, 1996; Hodge and Gordon, 2014). See the discussion on planning as a political action in section 3.5. How is this incorporated into an evaluation?

What are the levels of commitment and the sense of urgency in effecting necessary change among key role players and especially agents in the guiding coalition (Kotter, 1996)? How does one win support for change at the different levels and different contexts and deal with people who oppose change? How should support for change be measured as part of the evaluation process? What strategies are in place in the event of a change in political leadership in the various institutions and community groups?

What structures and processes are in place to manage competing agendas and competing values (Whittal, 2008)?

How is change that is associated with tenure transformation communicated to people to whom it is important? Who do people affected by change / likely to be affected by change contact? How do people affected by change know who to call?

What levels of participation occur in decision making and what levels are possible in a given project? How can this be evaluated — e.g. using Arnstein's ladder of participation (Hodge and Gordon, 2014)?

Feedback in a cyclic process; how often does feedback occur through formal and informal processes, e.g. reports and meetings, and how responsive is the system (see section 3.5)? Motivation – how are short-term successes acknowledged, celebrated and communicated (Kotter, 1996; Dolny, 2001; Whittal, 2008)? How are short-term wins incorporated into an evaluation? What changes in corporate culture are required to address incremental improvement? For example, traditional land administration organizations tend to have bureaucratic culture. What culture best fits the new tenure regimes? Should organizational culture fit be part of an evaluation? Should different institutions manage fluid changing tenure scenarios?

How do proposed and actual changes in improving a continuum scenario fit the existing law and regulations? What needs to be changed and can be changed; the law or the way the changes are occurring?

What are the scenarios for people who are not benefitting from the tenure transformation process? How might people who have been excluded from benefitting react? Might they disrupt the process? How can this be managed?

Can improvement in tenure security be a catalyst for leadership and power conflicts? How stable and robust is the guiding coalition?

What are the scenarios for problems that have been "fixed"? For example, with land that has been cleared of squatters and people moved to houses on new sites, what is the possibility of the original site being invaded again?

How is resistance to change managed? Resistance may be behavioural or emotional (Beckhard and Harris, 1987; Kotter, 1996; Dolny, 2001)?

How are structures and relationships, and different interactions changing over time? What are the implications of these changes? What are the webs of relationships that are pertinent? What are the constellations of interests in the land (Barry, 2015) and what other relationships are important in transforming land tenure in accordance with agreed values, principles, goals and objectives? What are the boundaries of the problem being investigated and are they too broad or too narrow for the purposes of an evaluation? Are an insufficient number of things or too many things being examined in a changing situation? Boundaries related to stakeholder groups, institutional and organizational structures, laws, geographical boundaries, jurisdiction boundaries, social networks, channels and routines in communications, and use of resources.

Conclusions How effectively does the evaluation meet its stated purposes? How reliable are the conclusions drawn from the study? How confidently can they be applied in practice? What action might flow from this evaluation? What are the leverage points for major or incremental improvements? Which of the conclusions can be generalised to other situations and which ones should be considered context dependent? What needs to be done to improve the general applicability of a finding? E.g. if we measure the impacts of tenure type A on economic performance and tenure Type B on economic performance, we may find components of A and of B that are common and can be generalised, and components that are distinct. What lessons can be learned from the evaluation exercise that can be applied to future versions of this evaluation and to similar evaluations elsewhere? What new knowledge has emerged from this evaluation in the current context? What are the challenges for the future that we did not know existed that are suggested by this evaluation? What have we learned that can inform future evaluations? Strategies that The following are a sample of particular strategies what may flow from evaluations, in particular explanation and prediction studies: may flow from the evaluation Strategies that impact on policy Strategies that require changes to law and regulations Strategies that require changes to land use frameworks, land-use plans and other community plans Strategies that may impact on recognized tenure formats Strategies that may impact on tenure administration and land administration in general Analysis of consequences of change e.g. if building regulations are relaxed, what are the possible desired outcomes / unintended consequences? Strategies to harmonise existing laws, policies, plans, organization structures and institutions if strategies are implemented? Micro-level strategies to make incremental changes one or more factors that should improve land tenure security and / or the land tenure administration system. Communication Communication of results, feedback, criticism and managing both positive and negative publicity may and Feedback be important. Communicate explicitly how an evaluation should be used and, more importantly, how mechanisms it should not be used. Structures and processes should be in place to communicate the results and deal with feedback.

5 CONCLUSIONS

Initiatives to evaluate land are gaining momentum. This report fills a gap in that it provides the theoretical basis for evaluating land tenure transformation structures and processes, and an understanding of continuum of land rights scenarios. Strategies to improve policy, law, planning land administration and land tenure security from the macro to the micro level should be based on evaluations that fall within the appropriate evaluation category and are suited to the level of uncertainty, complexity and conflict in the situation. Moreover, a study should be conducted with a level of rigour that is appropriate to the possible consequences of that evaluation and which circumstances allow. Ideally, the evidence should be based on facts, numerical scores and descriptive evaluative statements, which should meet a number of validity tests and other quality requirements.

The problem is that many continuum of land rights scenarios do not meet the "ideal" test, because they occur in wicked problem contexts. Cyclical, continual improvement occurs in a climate of functional anarchy. Multiple actors who have a multitude of competing objectives may be stakeholders, the situation is highly politicised, and cause and effect relationships are not easily identifiable. In contrast to the top-down, objective-oriented strategic planning and design approaches where indicators and checklists are often the primary components of an evaluation, an evolutionary, incremental, interpretive approach is often appropriate in continuum scenarios. In these cases, structures and processes should be evaluated continually, using category 3 evaluations, perhaps driven by descriptive, explanatory and predictive statements among many other evaluative items, and strategies should be adjusted accordingly.

Continuum of land rights scenarios do not exist in a vacuum, however, and need to be situated in the broader context of sustainable development. Land tenure security evaluations and evaluations of factors that impact and are impacted by tenure security are needed. For example, a city or region may report figures on changes in land tenure types, and changes in access to health, education, sanitation, transportation, employment levels, small business growth and so forth. It may perhaps also report on correlations between the changes in these figures, to provide a picture of its overall performance in poverty alleviation. These

figures are likely derived from category 1 and category 2 evaluations. They are diagnostic studies which report on impacts of programmes and projects. Category 1 and 2 evaluations also provide figures for analysing a situation as part of the strategic planning process. They may also form part of ongoing project management evaluations. Thus they may be a starting point for planning and they evaluate the impacts of activities to improve a situation, without fully explaining the figures or the relationships between different figures.

Good strategies are based on theories which explain the situation and offer predictions with a reasonable level of accuracy, and these theories should be based on or confirmed by category 3 type evaluations. These are based on deeper, more detailed studies than categories 1 and 2. Category 3 evaluations are most likely to inform the actual strategies to improve tenure security in continuum scenarios. Category 4 evaluations measure whether programmes and projects perform according to predetermined criteria and if they conform to what was planned and they are part of the project management process. They tend to rely mainly on category 3 type evaluations, but they also draw on category 1 and 2 studies.

To conclude, land evaluation is a complex topic, interwoven with numerous other themes. The motivation for this report was how to evaluate land tenure forms that may exist on a continuum of land rights. Land tenure evaluation is tied to the economy, politics, community / land use planning and regional planning, rural development, agriculture, housing, the natural and built environment, transportation, poverty reduction, equity, land administration effectiveness and efficiency, and law and policy. The framework based on four evaluation categories should contribute to better evaluation, planning and integration of land tenure concepts in complex situations. It should also lead to evaluations being used for the purposes for which they were intended and thus improve the chances of policies, programmes and projects generating the desired outcomes. In many continuum scenarios, grand theories and large-scale programmes and projects are unlikely to generate the desired outcomes and they might well do damage. Improving tenure security in continuum scenarios is analogous to navigating poverty alleviation interventions using a nautical chart as opposed to a road map. The destination, the vision, is known, and there is a general knowledge of the major forces impacting the process. However, continual evaluations of factors that cannot be controlled have to be made and adjustments made to strategies in order to reach the final destination.

RFFFRFNCFS

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APPENDIX A: THEMES THAT MAY STRUCTURE A LAND EVALUATION

The following table includes a sample of themes, statements that provide contexts to these themes and samples of evaluative statements that might give effect to a particular theme. It draws on the World Development Indicators (WDI),⁵ discussions with experts, participation in workshops, and field work in a number of research projects. An evaluation might draw on these themes, but an evaluation designer should also examine a range of other themes in the literature that may inform the evaluation. Themes should be devised according to context and the scope and limitations defined as part of the purposes of an evaluation. There are a host of examples of different themes and sub-themes that may be drawn from, among others, GLII, LGAF, VGGT, WGI, the Social Progress Index, the Land Matrix and various donor and aid agency publications. The evaluative questions depend on the purpose of the evaluation, the audiences and the problem context at the time an evaluation is performed. As noted, many continuum scenarios occur in wicked problem contexts. In spite of validity concerns over "soft" research, descriptive, explanatory and predictive statements may be more useful at these times than estimates based on numbers, and the numbers may be unreliable.

Sample of Themes to Organize Data Collection and Analysis

Theme & Sub Themes	Evaluative Statements Examples	Examples Measurement and Analysis Methodologies / Indicators
Access to economic opportunity	Improved security of tenure type has led to improved access to economic opportunities.	Per capita income in areas under tenure type A has changed by X% since year Y.
		Open ended interviews indicate that people under tenure type A perceive that they have more livelihood opportunities since tenure security changed from type B.

⁵ World Development Indicators http://data.worldbank.org/indicator [2014.12.22]

APPENDIX

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Transportation and access to economic opportunity and government services	Improved security of tenure type A has led to better public transport to settlements of tenure type A. Public transport in settlements of tenure type A has been tailored to carry produce as well as people, improving access to markets. Public transport in settlements of tenure type A has led to better access to health and other services. Transportation planning encourages walkability and bicycle access. Privatization / informal private transport is characterized by violence, and powerful transport groups controlling the tenure system. Providing tenure of type A in Zone 1 is unsustainable as the real costs of transporting people to places of economic opportunity is higher than their potential earnings.	Describe new routes to areas of tenure type A that are a direct measurable consequence of change in tenure type. Or Describe new routes to areas of tenure type A observed since change in tenure type, but explanation of correlation is lacking. Or Describe when formal recognition of tenure type A in transportation plans occurs.
Information and Communication Technology	Broad band wireless communication has enabled people in remote areas to take and service orders for agricultural produce.	Improved access to markets has increased incomes in settlement A by X% since local wireless transmitter set up to process orders and deliveries.
EQUITY		
Principles and values statements	Principles and values guiding the tenure transformation process are stated explicitly or known as part of general culture.	Examples may expand on the following: sustainability, equity, gender affirmation, empowerment, economic opportunity, cost effectiveness, technology standards, international standards, capacity, communication, staffing.
Access to land	Accessing land is possible Land is affordable Housing is affordable	X number of people who had tenure type B or had income level 2 have accessed land / housing under tenure type A.

Security of tenure	People perceive the risk of eviction is low.	X% of people in settlement 1 perceive that they have secure tenure
	Official documents are perceived to be valuable as a means of securing tenure	since tenure type A was formalized, an increase/decrease of Y%.
	Official structures are considered legitimate.	X% of people in settlement 1 indicated they would rely on a paper
	Social structures are in place that make people feel secure in the event of a threat.	document as evidence in the event of a challenge to their occupation. Y% indicated the document was of
	Powerful actors and agencies make people feel secure / insecure about their tenure.	minor importance.
		X% of people in settlement 1 indicated that they would use institutions A, B or C in the event of a problem with their tenancy.
		X% of people in settlement 1 indicated that they would rely on family structures in the event of a problem with their tenancy.
Gender	Women's tenure security improved / decreased as a consequence of formal recognition of tenure type A.	No of titles with both partners' names on them or family law and enforcement of it protects partners' land rights.
		Percentage of women and men with secure <u>rights</u> to land and immovable property.
		Reduction / increase in number of family law disputes related to land.
Vulnerable groups	Local communities have / perceive that they have secure rights / interests in land, immovable property, access to traditional livelihoods (e.g. agriculture) and natural resources.	See gender for examples.
	Reduction in youth rendered landless as a consequence of peri-urban customary land sales.	
	Risk of elderly / children / extended family members being evicted during transformation from tenure type A to tenure type B.	

Indigenous / aboriginal groups	Actual and perceived security of land interests, movable property interests, access to natural resources and traditional livelihood opportunities measured against (1) perceived and actual behaviour of outsiders, and (2) perceived and actual behaviour of people within the customary unit.	in depth investigation in each local
GOVERNANCE		
Social Protection	People trust / do not trust the police. People trust / do not trust the judiciary. People trust / do not trust officials. People trust / do not trust the customary elders. People are organised to defend their land. The following community-based structures are emerging in response to tenure transformation / activities that may be related to tenure transformation (e.g. installation of municipal services) Structures that emerged to defend land are now grabbing land, because (possibly activities a, b and c).	Officials The courts Customary leadership structures, etc. The implications of different levels of trust in each agent and agency are as follows X number of community based organizations exist. This represents a change in Y organization since year Z. Role and behaviour of institutions can be described as Police / newspapers / municipal documents reported the following
Corruption	What are the levels of corruption, where and how does it occur, and how does corruption impact the targeted tenure forms?	

Freedom of Information and Quality of Published Information	Journalists are free to report on local land matters. Are there non-state television and radio stations and do they report on land issues? How much emphasis is there on land issues in the daily press? How comprehensive, accurate and balanced is the reporting? What alternative opportunities for disseminating information exist if the press is not free or not an effective communicator of land issues?	Journalists likely / not likely to be at physical risk if they report on land issues? X number of articles on settlements of tenure type A have appeared in the press during the reporting period. Accuracy of reporting is considered: excellent / good / inaccurate / unreasonably biased.
Population registry harmony with land tenure personal information	How accurate and complete is the population register? Can national personal identity documents be used to reduce incidents of fraud in land transactions and poverty upliftment /housing programmes?	Population registry statistics or descriptive statements.
Fiduciary Obligations of agents and agencies	Are customary authorities held accountable for their fiduciary obligation to their stakeholders? Is there transparency in land transactions, such as a public meeting before land is alienated from a customary group, 1 and are there external audits of the accounts relating to these sales? Is there a written, audio or video recording of the transaction process proceedings?	Descriptive statements.
Coercive Problem Contexts	To what extent are gangs, land guards and militia, and the accompanying threat of violence to people who resist them, a reality in land issues? Are regional and urban planning officials and local building inspectors at risk of assault or other forms of resistance if they visit the field and attempt to implement or enforce planning schemes and regulations?	Descriptive statements

Land Conflicts	What are the types of land conflicts (if any) and what are the causes.	Explanatory statements using local knowledge.
	Are there possible solutions, or might they be categorised as intractable?	
	What are the predominant strategies that people use to defend their tenure?	
	How important do landholders consider documents and boundary monuments/ beacons as artefacts to defend their tenure?	
Conflict Resolution	Are there different conflict resolution forums	Descriptive statements.
	available that suit the different needs and income levels of society? How reliable are many of these institutions?	Descriptions and counts of land-related conflicts.
	How good is communication and harmonization of cases between these institutions? Can the same case be heard in different forums simultaneously? Can portions	Descriptions and counts of the conflicts over the same piece of land appearing in different forums.
	of the same piece of land be the subject of cases in more than one forum at the same time?	Descriptions and counts of incidents of forum shopping.
	Can decisions be made binding or are there opportunities for forum shopping?	
	Conflict of interest and fiduciary obligations. Are the people involved in deciding conflicts and enforcing a forum's judgment or settlement part of the same family as one or more of the contestants or might they be part of families as one or more of the contestants that have long-standing feuds.	
	How will transforming to tenure type A reduce / increase the level of conflict?	
SOCIAL DEVELOPMENT		
Population trends	What are population growth forecasts and how are they likely to affect pressure on the land in the targeted situations and tenure systems?	Figures from census and other reports.
Migration Patterns	What are current population migration patterns, what do migration forecasts indicate, and how is migration impacting and likely to impact the targeted situations and tenure systems?	Figures from reports Expert opinions

Livelihood Transformation	Do people affected by tenure transformation have the skills to change their livelihoods? Are there education and training opportunities for them to attain the required levels of skills and knowledge?	Expert opinions: If it is inevitable that some people will lose their land, what are the social consequences of people losing land? For example, are subsistence farmers who lose land able to exist as subsistence traders? If so, are there laws and/or practices that forbid informal trading which may be enforced in future? Will they lose all rights to shelter? Are landless illiterate people likely to flock to cities and increase informal settlement populations? Are landless, illiterate youth likely to resort to crime and extortion related to property development (e.g. digging fees) as customary lands are developed and urbanized?
Tenure Transformation	How do tenure types A, B and C evolve? How might they evolve in future? What are the causal factors that bring about these transformations? How robust and stable are tenure forms A, B and C? What are the tensions within a land holding household or group about the current tenure form and other forms that some members may desire? Tensions may exist in a household over individual versus family control over land.	Explanatory and predictive statements from existing reports and field work.
Education	Improved security of tenure type A has led to more children from settlements in tenure type A attending school up to grade X.	Percentage of children reaching grade X and live under tenure type A
Health	Strengthening tenure security (of type A) leads to improved access to health facilities. ²	Clinics accept people who have documents associated with tenure type A.

Sanitation	Strengthening tenure security (of type A) stimulates action on improving sanitation.	Area of tenure type A has had X number of sewerage connections.
	Conversely	
	Improving sanitation increases threat of eviction of poor. ³	Area of tenure type A has had Y number of people evicted since sewerage connections installed.
Infrastructure	Increase / decrease in budget for supply of water, sewerage and roads to areas that have recognition of tenure type A.	Budgets for infrastructure increased / decreased by X% or Y\$ since change to tenure type A in zone 1.
Municipal Services	Increase / decrease in refuse collection and street cleaning in areas under tenure type A.	Refuse collection and street cleaning in zone 1 observed to have increased / decreased by X times per month since change to tenure type A.
HOUSING		
Level of housing investment	Tenure type A, B and C encourage investment in the house as funds become available.	Increase of X number of building plans submitted since tenure type change.
		Field inspections indicate X number of extensions to houses during reporting period.
Access to credit and housing investment	Tenure type A, B and C encourage investment in the house through access to credit.	Financial institutions indicate an increase of X% in loan applications / approvals in zone 1 since change to tenure type A
LAND MARKETS AND E	CONOMIC DEVELOPMENT	
Economy & Growth	Economic Rates of Return (ERR)	ERR and NPV are project or programme specific.
	Net Present Value (generally of a programme or project)	Employment levels increased / decreased by Y% since change to
	Employment levels	tenure type A.
	Change in purpley of small business.	Number of small businesses registered or observed in field inspections increased / decreased by
	Change in number of small businesses since tenure type A introduced	Y% since change to tenure type A.
Agriculture & Rural Development	Agricultural production under tenure type A compares favourably with outputs with land under tenure types B, C and D.	Productivity increased by Y% since change to tenure type A

LAND ADMINISTRATION	N	
Administration performance	Government and/or private administration structures are in place to administer the targeted tenure types and there is the capacity, resources and management commitment to do so? Officials have the necessary education and training to provide accurate advice on different tenure forms, different title conditions and encumbrances associated with tenure types A, B and C.	Descriptive statements and possibly counts of these variables.
	Citizens can access officials.	
	Visible administration occurs in settlements experiencing change	
	Tenure and housing consumer education occurs at the settlement level	
	How long are the process flows to document the targeted tenure types? How can they be improved?	
	How good are the filing systems or computerised databases? Are maps for administration operations (e.g. valuation rolls, cadastral maps) kept up to date? Is land administration information complete?	
	Is there the political will and operational level commitment to improve administration efficiencies?	
Municipal revenues	Recognizing tenure types A, B and C has led to an increase in municipal revenues through the following mechanisms: (a) (b)	Municipal revenue collection has changed by X% since change to tenure type A, B and C in Zone 1.

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Readiness for Complex Change / Efficacy of new laws to support mixed tenures

Institutional arrangements, skills, organizational culture and management commitment in place to administer new laws relating to mixed tenures.

Administration is ready for consequences of mixed tenures

Officials who deal with the public are able to communicate different types of rights, restrictions and responsibilities applicable to different tenure types and those that apply to specific projects (e.g. title conditions / encumbrances may change from housing project to housing project).

Evidence is being collected at local level prior to major change occurring in tenure form?

Mixed tenure form part of long-term vision and zoning arrangements (e.g. Smart Growth, Sustainable Cities and Transport Oriented Development). Descriptive statements. This should be done in conjunction with Table 1 and reference to standard texts on change management.

LAW AND POLICY

Continuum law arrangements

Interchangeable tenure types accommodated in law.

Precedence of laws, plans and policies are established in cases of conflict or overlap.

Laws and regulations in place the support the targeted tenure types.

Publications and civic engagement reveal harmony or inconsistencies between laws that are critical to improving a continuum scenario.

Laws are applied effectively? See Administration effectiveness

Case studies of relaxation of particular laws to effect a continuum scenario reveal that these relaxations encourage sustainable development and evolving tenure security or can block the evolution and impede sustainable development.

Absence of Continuum Scenario enabling Laws	If laws do not exist or policy frowns on continuum approaches, do municipalities apply the tenure concept on an ad hoc basis as a means of coping when overwhelmed by in-migration? E.g. are rent cards, occupation permits and such like issued to get people on a database to promote fairness in how people are accommodated and to reduce land invasion as a strategy to jump the queue?	Describe if situation exists. Indicate implications of not having an enabling regulatory environment.
Transaction Management	Procedural law retains checks that a vendor is entitled to sell and a vendee is entitled to buy or heir entitled to inherit through all tenure types ("you may not sell what you don't have")? Accompanying record systems and social processes guard against multiple sales of the same property. Police are able to deal with transaction conflicts and frauds in many different tenure types, and not only registered tenure forms.	Descriptive statements.
Aboriginal Tenure	The law recognizes the <i>sui generis</i> , the unique, nature of each different case. Aboriginal title is recognized?	Specialized area which requires local expert input. Are the laws of evidence and interpretation of evidence in judicial structures suited to legal pluralism and <i>sui generis</i> (unique) tenure situations? ⁴ Are different forms of evidence, e.g. oral tradition, on an equal footing with documentary evidence? ⁵ Can the police handle criminal cases (e.g. land fraud) where the evidence is based on oral tradition and history, or do they turn away cases where the conflict or fraud cannot be decided on documentary evidence alone? Will the police likely to be able to handle non-documentary evidence in future?

COMMUNITY PLANNING / URBAN AND REGIONAL PLANNING		
Urban – rural transition	Urban – rural continuum is managed effectively	Urban sprawl is contained, agricultural land is preserved, poor people are located in places where economic survival and social development is achievable.
	Land use frameworks exist / do not exist	If no land-use framework or dysfunctional, continuum strategies are observed to improve the achievement of these frameworks or deter them?
		Prepare a set of scenarios for what the built environment, rural environment and/or urban – rural transition in the areas where the situations and tenure types A, B and C exist. How relevant are these tenure types likely to be in 20 years under each scenario?
Customary Authority Planning	In the absence of effective government led planning, do customary authorities have a vision of the landscape and are there local-level planning committees in the customary authority?	Descriptive statements. How effectively is local-level planning administered and enforced?
	What are the implications for land tenure evolution?	
New Urbanism, mixed housing and tenures	Tenure types A, B & C incorporated into city development plans	Mixed tenures are possible or existing zoning prohibits this?
		Existing zoning is flexible and easily changed to accommodate continuum scenarios and incremental improvement, or rigid and inflexible?
Transit Oriented Development	Transportation plans include poverty alleviation designs and strategies	Livelihood strategies considered in transportation planning; e.g. possible to transport produce and livestock on public transport.
	Transportation design incorporates mixed tenures close to stations and bus routes	Stations and bus routes have planning systems to make them economic hubs.

ENERGY, MINING AND MINERALS		
Structure of laws and institutions	Energy, mining and mineral legislation can be harmonized with tenure improvement strategies in continuum scenarios and institutional interactions allow for effective communication and strategy development.	Specialized area requiring local expert input.
ENVIRONMENT		
Sensitive Area Protection	Sensitive areas are protected	Measurements and observations conducted in consultation with local experts.
Greenspaces	Greenspaces are created in accordance with good planning principles	Measurements and observations conducted in consultation with local experts.
Climate Change / Disaster Management	Tenure is not recognized and occupation discouraged in high-risk zones, e.g. areas subject to flooding.	Measurements and observations conducted in consultation with local experts.
PROGRAMME / INTERVENTION EFFECTIVENESS		
See section 4 and appendix B to this report		

... continued

APPENDIX B: GUIDELINES FOR EVALUATING OBJECTIVE DRIVEN PROGRAMMES AND PROJECTS

The following serve as a guide to evaluating objective-driven land programmes and projects. Unless cited specifically, much of the material is adapted from manuals and reports that are internal to a number of international agencies and from discussions with land professionals working in the area. The primary, publicly accessible resources are the World Bank (2006, 2014) Implementation and Completion Report Guidelines, and these form the backbone of these guidelines. Documents published by agencies, such as the EU, OECD and UNDP may also be informative.

Programme and Project Evaluation Purposes

There are a number of purposes of these types of evaluations. These include:

- (1.)To monitor and measure the performance and results of the operations in a programme. For example, based on quantitative measures and qualitative measures of key performance indicators, the overall programme or project performance components and of programme or project may be rated as highly satisfactory, satisfactory, moderately satisfactory, moderately unsatisfactory, unsatisfactory, or highly unsatisfactory (World Bank, 2006). Where conformance with a plan, policy or standard is evaluated, ratings categories may be a variation on full compliance, substantial compliance, minimal compliance or non-compliance.
- (2.) To monitor how the implementation of a programme conforms to a predetermined plan or framework and the consequences of nonconformance. For example, formalizing squatterrights on land designated for a school site may improve tenure security for the beneficiaries but the impacts of recognizing those rights on education planning and a number of land-use plans and development plans may need to be evaluated.
- (3.) To capture the experience from operation design and implementation in order to improve future programme and project design, to improve the

- selection of projects (e.g. to identify if critical success factors are present in other projects), and to improve the level of development impact of future projects.
- (4.) Measure accountability and transparency at the operations level, at government level, and individual stakeholders (World Bank, 2006).
- (5.) To identify and measure factors that may put pressure on governments to improve tenure security, access to land and to improve land administration.
- (6.) In programme and project progress reviews, to identify key challenges that have to be addressed if a programme or project is to meet the satisfactory rating criteria or particular performance targets, to redesign components of the project if necessary, and revise project development objectives and key performance indicators to levels that are practically achievable.

2. Programme and Project Evaluation Components and Processes

The following may be part of a programme or project evaluation.

Evaluation Policies and Procedures

Policies, rules and procedures should be in place regarding (World Bank, 2006):

- (7.) Assignment of different responsibilities and actions, and the responsibility for oversight of the evaluation process itself. This includes quality management, completeness, transparency, confidentiality and privacy concerns, and the manner in which different stakeholders can respond to the evaluation.
- (8.) Establishing what and who are to be evaluated, why they are to be evaluated, and how they are to be evaluated.
- (9.) Documenting the themes and processes to be evaluated, how they are to be measured.
- (10.) Establishing the procedures for the evaluation and how these may be changed.
- (11.) Defining the scope of the evaluators' brief. For example, is the evaluator's task to evaluate only or to provide advice at the same time? Unwanted advice in situations where the evaluator's role

is purely evaluation may create unnecessary tensions. On the other hand, where providing advice is part of the evaluator's brief, they may commend a project or programme team for things that are done well, make suggestions and recommendations, and set conditions to be fulfilled if the project or programme is to continue.

- (12.) Identifying feedback mechanisms from evaluators and other stakeholders.
- (13.) Identifying learning points from the process.
- (14.) Reporting procedures and documents, and exception procedures and reports.
- (15.) The style, structure and length of documents.
- (16.) The timing of different evaluations and the associated reports in the project lifecycle.
- (17.) The quality assurance procedures, such as the procedural checks to be conducted on particular documents that are to be released.
- (18.) The timing of the release of information / documents, who should release it, and to whom different documents may be released.
- (19.) Generalised and detailed reports and indicators.
- (20.) The results framework(s) to be used.
- (21.) The ratings of performance / conformance indicators.
- (22.) Rating scales of risk indicators (e.g. low, moderate, high, not evaluable).
- (23.) The perspective, the world view, pertaining to the manner in which outcomes are to be evaluated, e.g. objectives and outcomes-oriented evaluations, process oriented evaluations.
- (24.) How overall ratings are to be justified or substantiated.
- (25.) The primary and secondary development outcomes and impacts (e.g. gender, social progress) and secondary or unintended / unexpected outcomes.
- (26.) Procedures for responding to criticism and challenges to the evaluations.

Project / Programme Indicator Types and Measurements

The following are a sample of the types of indicators and measurements (World Bank, 2006).

(1.) Baseline indicators, quantitative and qualitative measures, indicating what should have been

- achieved in terms of project / programme plans as the project / programme proceeds.
- (2.) Original target indicators.
- (3.) Revised target indicators.
- (4.) Actual values achieved.
- (5.) Outcome measurement and risk to programme / development outcomes. These include technical, financial, economic, social, political and environmental risks.
- (6.) Project / programme restructuring.
- (7.) Critical success factor measurements.
- (8.) Commitment assessments, e.g. political commitment, commitment by people who are expected to benefit from a programme or project.
- (9.) Design effectiveness and efficiency measurements.
- (10.) Safeguard and fiduciary compliance.
- (11.) Post completion / next phase.

Actions as a Consequence of Evaluations

Impacts of achieved versus planned performance (e.g. penalties, costs). These include go – no go decisions (programme or project continuance or cancellation) and variations on these two decision types (e.g. conditional continuation).

- (1.) Impacts of variation / exception orders. What are the potential impacts on the project / programme as a whole if a project variation is agreed to?
- (2.) Estimates of final costs generally revised continually as a project proceeds.
- (3.) Estimates of final completion time and completion time for each component.
- (4.) Restructuring and explanation of the type of restructuring / corrective action and the causes of the problems.
- (5.) Themes for Programme and Project valuation
- (6.) In addition to the list of themes in Appendix A, the following are a number of themes that may be specific to a programme or project evaluation. These are drawn primarily from the World Bank (2006, 2014) evaluation documents.

... continued

Strategic

- (1.) Technical, financial and economic components
- (2.) Structural, financial and macro-economic
- (3.) Poverty, gender and social development
- (4.) Environmental Aspects
- (5.) Policy and Institutional
- (6.) Implementation Arrangements
- (7.) Monitoring and Evaluation Arrangements
- (8.) Risk Assessment

Project Objectives

- (1.) Realistic and achievable.
- (2.) Focused on goals for which the particular project can be considered accountable, and not dependent on other factors outside the scope of operations.
- (3.) Lesson learned from previous projects.
- (4.) Funding arrangements are enabling.

Government Performance and Implementing Agencies

- (1.) Commitment to programme goals and development objectives.
- (2.) Enabling environment
- (3.) Beneficiary / stakeholder / public participation
- (4.) Readiness for implementation and follow up
- (5.) Readiness for change
- (6.) Capacity to resolve implementation problems
- (7.) Monitoring and evaluation effectiveness
- (8.) Fiduciary aspects
- (9.) Relationships with other stakeholders such as other government departments, donors
- (10.) Commitment to programme follow up

Implementation Factors

- (1.) Factors which cannot be controlled
- (2.) Factors that can be controlled
- (3.) Management performance
- (4.) Implementation efficiency measured against complexity
- (5.) Preparation adequacy
- (6.) Risk identification and mitigation
- (7.) Unforeseen factors and delays or changes in project design

APPENDIX C: LIST OF PEOPLE INTERVIEWED

My thanks go to the following people who were interviewed in the early stages of this work:

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UN-Habitat
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ABOUT THIS PUBLICATION

This report develops a framework for evaluating continuum of land rights scenarios. Building on existing evaluation initiatives that focus on land tenure and the associated administrative systems, the report addresses an important gap by providing a framework for evaluating land rights scenarios along the continuum of land rights according to the purposes of a particular evaluation.

The continuum of land rights is gaining traction to guide official recognition of various different tenure types. The continuum offers an alternative approach to the dominant focus on titling of individually held private property as the ultimate form of tenure security, or the end goal of land tenure reforms. A tenure type that best suits both the cultural and economic needs of local communities and the needs of land administration authorities at a particular time is advocated. The continuum approach is increasingly being followed by land actors in initiatives aimed at securing tenure security for all.

The framework is structured so that continuum scenario evaluations may be harmonised with other land tenure evaluations. When applied in a particular jurisdiction, the purposes of the evaluation, such as a need to measure the status of a situation, the need to explain that situation, or the need to design and implement improvements to that situation should first be determined, and an appropriate evaluation methodology and set of methods should be selected. At the same time an assessment should be made of how the evaluation would fit into a larger set of evaluations for land administration and community planning in that jurisdiction.

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