

FIG Working Week, Sofia, Bulgaria 17 – 20 May 2015

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

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### CONTENT

What is the continuum of land rights?

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

Contrasting development and property theories,

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

Graphical communication of the continuum

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



## DEFINITIONS

### Metaphor

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

### Theory – a set of explanatory & predictive hypothesis and conditions

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

### World View – political and a view of science

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

### Graphics

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

## Continuum and Modernisation Theories

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

## Land Titles and the Bundle of Rights

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

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## ALTERNATIVE CONCEPTS

Legal pluralism, anthropological and ecological perspectives

Personhood perspectives – property is a sense of identity for some

Land as a web of interests

Land as a constellation of interests

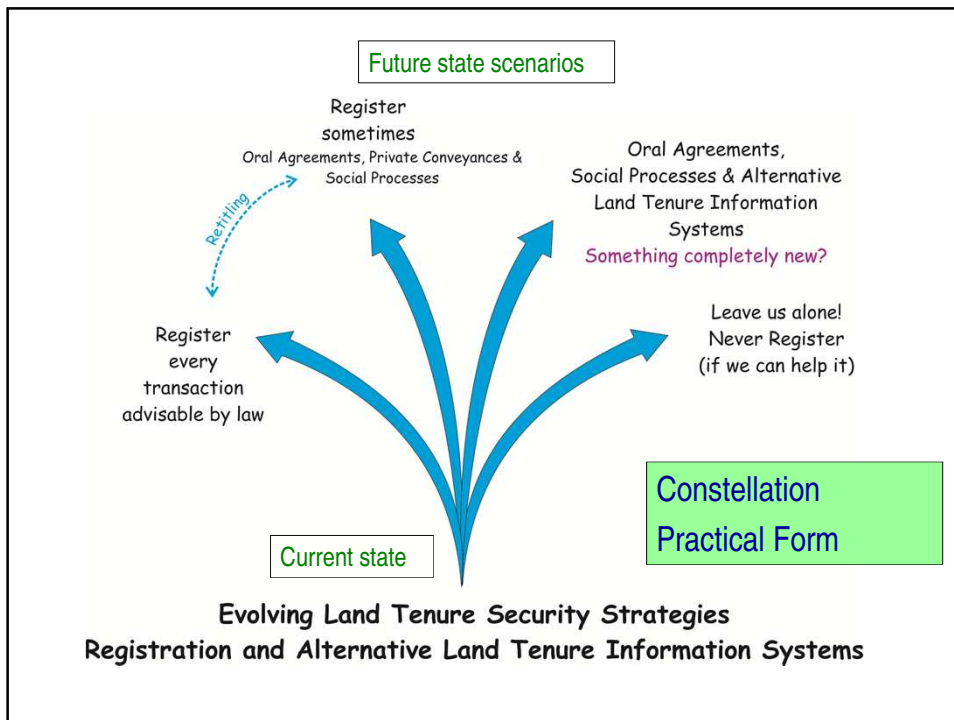
–Ideological layer

–Categorical layer – legal relationships, proprietary unit

–Actual, concrete layer – social matrix of relationships

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

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## Graphical Communication

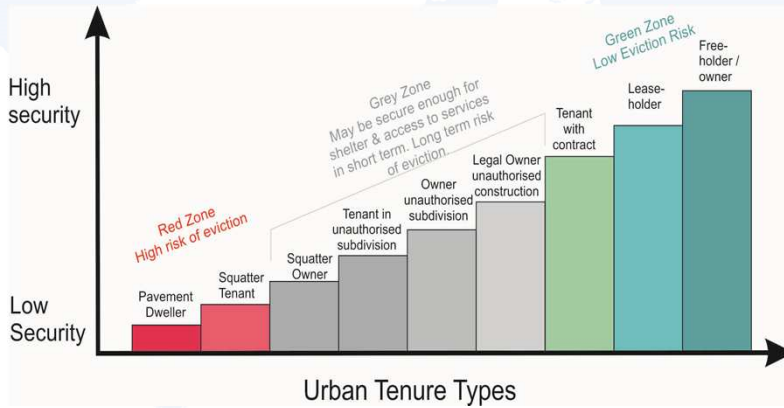
**Current graphic – a number of alterations to this representation and a number of problems associated with it.**

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

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## Purpose Oriented / Generalised –

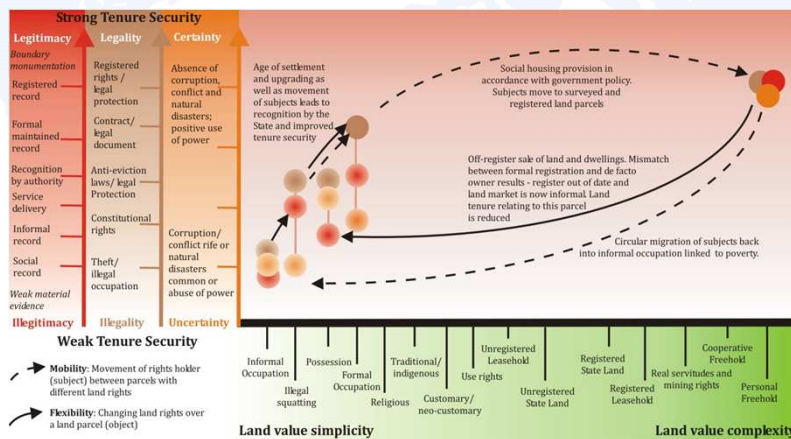
USAID – Payne et al 2014



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## Context Specific - South African State Housing

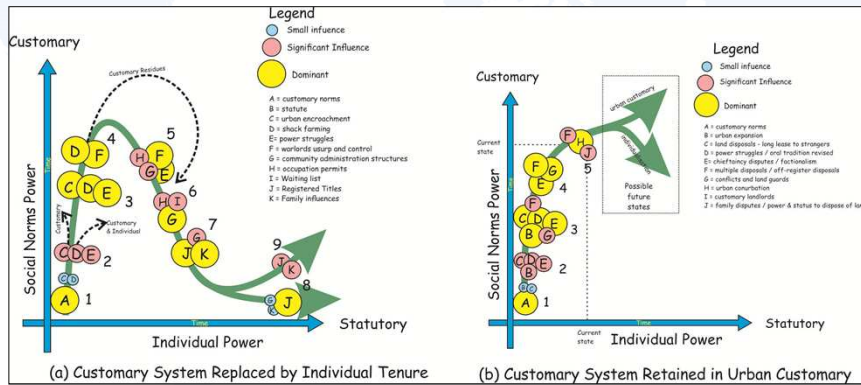
Whittal 2014: Complexity of Land Value & relationship to three other constructs



Rich Picture describing a complex situation or a Navigation Aid?

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



Extend Axes / Variables into simulation models using gaming engines?

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## CONCLUSIONS

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

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

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

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## CONCLUSIONS

### How do we deal with KISS & complexity?

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

If ≠ utopia ....Develop the vision and objectives

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

## CONCLUSIONS

### Graphical communication

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

## CONCLUSIONS

### Graphical communication & continuum

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