COMMUNAL LAND RESEARCH PROJECT

RFP/JHB/2015/003

ANNEXURE 6:

INTERNATIONAL AND LOCAL EXPERIENCE WITH LAND ADMINISTRATION

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1 Part A: Global challenges and trends in land administration

1.1 The Global challenges

It is estimated that 75% of the world's people-to-land relationships are not documented and are outside the formal recordable systems (Lemmen, C. *et al*, 2015). Security of tenure is a priority international development sector, which forces all of us to consider scalable and innovative approaches to land recordal. In South Africa nearly one third of South Africans live in communal areas. (see table 1)

Location/Category	No of people	% of SA Population
Communal areas	17 Million	32.8%
Farm workers and dwellers	2 Million	3.9%
Informal Settlements	3.3 Million	6.3%
Backyard shacks	1.9 Million	3.8%
Inner City Buildings	200 000	0.38%
Low Income Housing (RDP Houses) – no titles	5 Million	9.6%
Low Income Housing with titles	1.5 Million	3%
Total	30.72	59.7%

Table 1: South Africans outside the formal property registry system in 2011 (Cousins, 2015)

Even in cases where Land Information Management Systems (LIMS) are in place for these people outside formal recordable systems, in addition to the limited coverage, they are limited in terms of the range or types of tenures they are designed to capture. But the need for this is not always recognised and institutional changes are not so easy to implement.

1.2 Global Trends and developments

In response to the global challenge of documenting and recording land occupation and use rights, various international agencies have been going in different directions, all with a view to finding a solution to the bigger challenge of tenure insecurity, particularly in so far as it impacts on the poor.

- The United Nations (UN) Post-2015 Development Agenda led to the establishment of the UN Committee of Experts on global Geospatial Information Management which guides technology infrastructure development to support land applications. Among the key paradigm shifts in thinking in the global community is the realization that individual titling on its own will not deliver security of tenure to the majority of the people in the developing world (Zevenbergen, J. *et al* 2012).

- UN-Food and Agriculture Organisaiton (FAO) has developed the "Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests" (VGGTs). These guides recommend that states should ensure that publicly held rights are recorded together with tenure rights of indigenous peoples and the rights of the private sector in a single or at least linked land recordal system. The Voluntary Guidelines commit state to the following principles, to;
    - **RECOGNIZE AND RESPECT** all legitimate tenure rights and the people whohold them.
    - **SAFEGUARD** legitimate tenure rights against threats.
    - **PROMOTE AND FACILITATE** the enjoyment of legitimate tenure rights.

- **PROVIDE** access to justice when tenure rights are infringed upon.
- **PREVENT** tenure disputes, violent conflicts and opportunities for corruption (UN FAO 2012).

The Guidelines go beyond the states, to non-state actors (including business enterprises) committing them to a responsibility to respect human rights and legitimate tenure rights.

- The World Bank has initiated the Land Governance Assessment Framework (LGAF) which provides tools for monitoring land governance within the context of reforms. The World Bank has been cooperating on solutions to this global issue since 2009 and the fit-for-purpose approach to land administration has emerged as a game changer. It entails some of the following key elements;
  - **Flexibility** in spatial data approaches.
  - **Inclusivity** in terms of coverage of various tenures.
  - **Participatory** to ensure community support.
  - **Affordability** for the government.
  - **Reliability** in the sense providing authoritative information.
  - **Attainability** of the system within a set time frame.
  - **Upgradeability** regarding improvement over time.

- The Global Land Tenure Network (GLTN)[1], an initiative of UN-Habitat, developed the philosophy of the Continuum of Land Rights (see figure 1), which is gaining momentum as a dominant paradigm in international tenure discourse together with the VGGTs. The concept of the continuum[2] incorporates tenure rights that are documented as well as undocumented, formal as well as informal rights and works for individuals as well as groups, including pastoralists and residents of slums and other settlements, which may be legal or not legal[3]. In practical terms this translates to developing a range of adjudication, demarcation and surveying techniques. This also entails a range of data acquisition approaches which are cost effective and involve the people.

[1] The Global Land Tool Network (GLTN) is an alliance of global regional and national partners that develops and disseminates pro-poor and gender-sensitive land tools to contribute to improved land management and security of tenure (http://www.gltn.net)

[2] The metaphor is not without critiques, largely on account of the tendency to trace a one-way movement from 'informal' to 'formal' rights, which does not take into account the strength of local and customary systems.

[3] http://www.gltn.net/index.php/land-tools/gltn-land-tools/continuum-of-land-rights

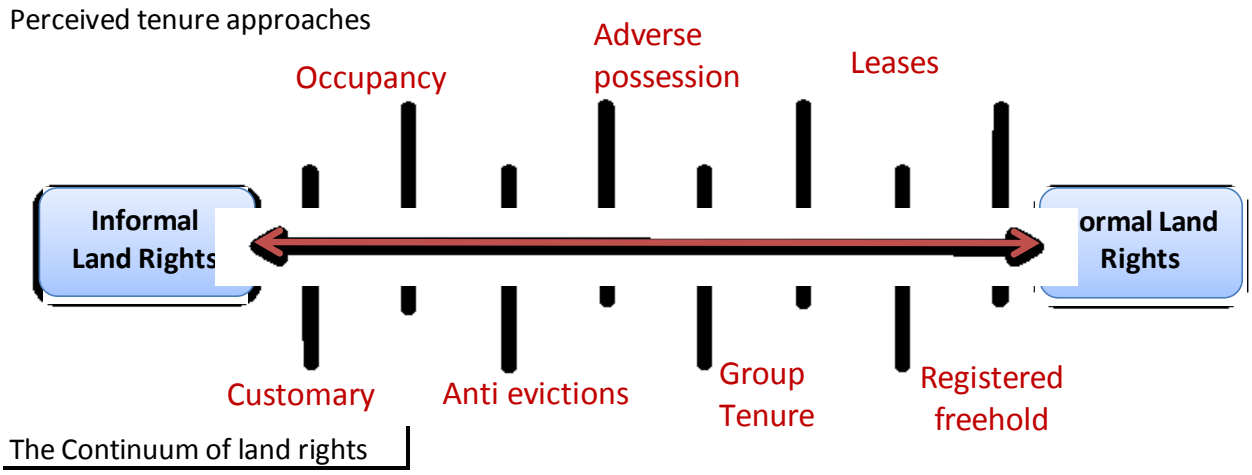

Figure 1: The continuum of land rights metaphor (adapted from Zevenbergen, J. et al 2012)

- With all of these developments, there is increasing tendency towards pro-poor approaches which entail recognition, protection and capturing social tenures of poor people including rural and customary rights which have been excluded from formal recordal systems. This shift comes with changes in approaches and techniques, including participatory adjudication methods and accommodation of less accurate data sets. At the heart of all the shifts are design approaches which are underpinned by principles of affordability, co-management and preventive justice (Zevenbergen, J et al 2012). As opposed to placing beacons, the use of high resolution imagery has been found to be effective in resolving landholding conflicts in Cambodia, Ethiopia, Kenya and Rwanda. The International Federation of Surveyors (FIG), in its approach advocates use of general boundaries as opposed to fixed boundaries that must be mathematically surveyed within centimetre precision, thus breaking away from the tradition of spatial precision. For those outside the profession, the concept of visual boundaries is better understood.

- Nowadays, automated land management systems are becoming more and more common in the developing countries. The benefit of automation is that it reduces many of the factors underpinning inappropriate land office staff behavior (inconsistencies resulting from human error) making it easier to detect and more traceable if it does occur. However some of the systems are not appropriate for developing countries. There is increasing acknowledgement of the need to capture oral tradition and oral history evidence in local land rights records, and, moreover, to do this using technology (Barry, 2009). This approach is largely driven by the understanding that many tenure systems are a blend that draw elements from Western and customary practices. The challenge is to capture this data in a manner that will make it credible in a court of law. GIS functionality for data acquisition and handling is gaining momentum.

- The following are some of the examples of digital platforms that can in varying degrees capture 'social' data that are available:
    - Social Tenure Domain Model (STDM) provides an open source software by GLTN
    - Talking Titler
    - FLOSSOLA (Solutions for Open Land Administration) supported by UN FAO.

- In support of technology that can measure land rights by means of social indicators, GLTN developed the Social Tenure Domain Model (STDM). The STDM into a prototype Land information management system that is based on an open source database with open GIS software.

  The STDM is a multi- partner initiative of UN HABITAT, the Global Land Tool Network, the World Bank, the International Federation of Surveyors (FIG) and ITC. Its development started in 2005 with the conceptual scheme and functional and technical design. A first prototype was presented at the FIG Congress in Sydney, Australia, April 2010. (Augustinus et al; p1, 2011)

- Talking Titler is a land tenure information software system, currently under development, that allows a great deal of flexibility in the way data relates to people, land and evidentiary media (titles, deeds, survey plans, descriptive documents, audio records of oral testimonies, videos, photographs, valuation records, etc.) can be stored and related. The system also supports the use of a mix of paper-based and digital documents[4]. Flexibility in the database design allows for bottom up, top down and open-ended evolutionary system design. The latter is critical when developing systems for uncertain situations.

  Both the STDM and the Talking Tilter include people-to-land relations where land is not strictly 'legally' occupied but occupation is nevertheless legitimate when measured up against the FAO's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGTs). See figure 2 .

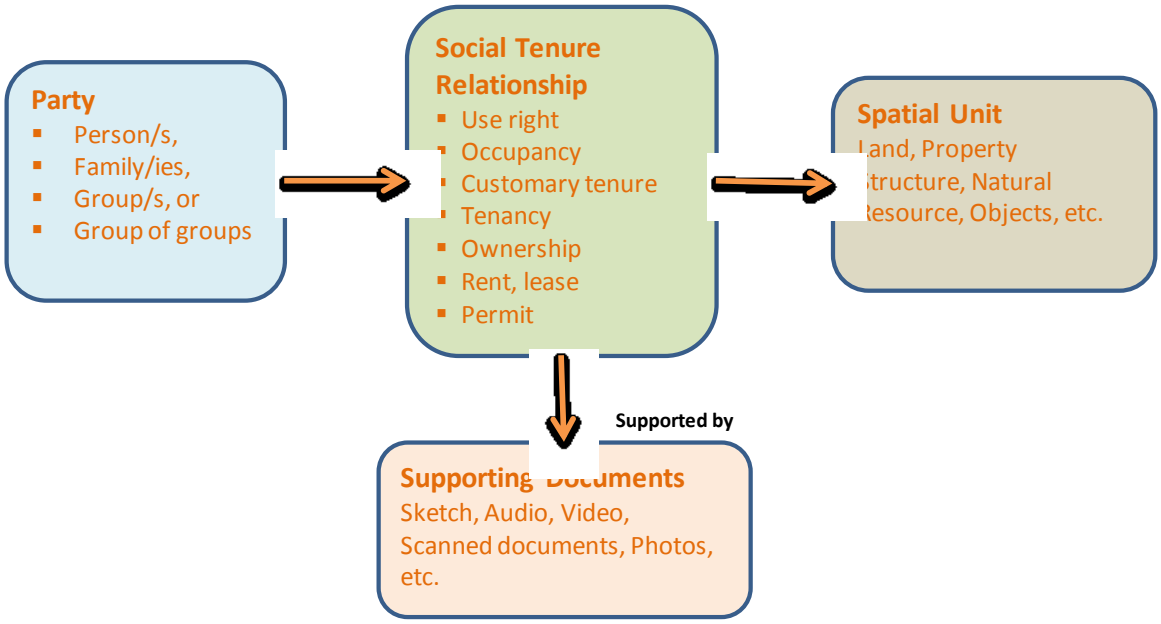

Figure 2: STDM and Talking Titler conceptual model

- UN FAO SOLA: The key underlying design consideration driving SOLA is affordability. The underlying data structures used by the SOLA software are also based on the Land Administration Domain Model (LADM), now published as ISO

[4] http://www.ucalgary.ca/mikebarry/TalkingTitler#whatis

19152 by the International Organization for Standardization (ISO), which also the foundation for STDM.

One of the key design elements that are recognized in the pro-poor design approaches used in almost all the above land recordal systems is that the land information system would have to be usable at the most localised level possible, i.e. at community level, to improve the accuracy of the records and their accessibility. Among other innovations, the design introduces a ('barefoot') land officer and a record keeper. Other key pro-poor design driving elements include affordability and delivering preventive[5] justice.

With the shift towards pro-poor land management systems there is also growing recognition of the need to improve participatory adjudication approaches to accommodate social land tenures, including complex layered rights, and be able to accommodate less accurate forms of data and maps. The new system need to be underpinned by a set of legally recognised adjudicatory principles and procedures, as well as legally recognised adjudicators who are empowered to weigh up new forms of evidence that differ from the evidence that is needed to determine the legitimacy of registered title or 'real rights' (Kingwill 2004). The big question is what is the set of socially accepted evidence that can be used to determine and legitimate local rights? The new set of legal adjudicatory guidelines or principles would establish what evidence is eligible, and in what order of preference; a concept that may be referred to as developing a 'library of evidence' or a 'hierarchy of evidence', and should be sufficiently flexible to accommodate varying contexts.

> *Participatory enumerations offer exciting potential for improving the land administration systems. They can generate accurate data about the* de facto *situation quickly. They can show who lives where, and for how long. They can lead to consensus among stakeholders on who has what rights to what land, where the boundaries lie, and so on. They are particularly useful in generating information that can increase land tenure security inside the community, and they can provide the basis for the government and other outside stakeholders to regularize the status of the informal settlement* [or communal area] *as a whole.(Kingwill, 2004)*

The framework in figure 3 below depicts a conventional conceptual analysis of how land information interacts with other systems, which should inform the design of a land information system. At the heart of the systems conceptualisation is that land administration is a cross-cutting decision making tool, which should support, not only tenure security but other systems such as social services, environment (including global warming responses and adaptation strategies), agriculture, forestry, revenue generation (taxation), the health care system, the development of infrastructure etc. The people-land recordal system is only a small but important part within a wider network of systems and sub-systems which should be supported by institutions and policy. Critical to this complex web of systems is the involvement of institutions of higher learning in supporting as well as drawing from the knowledge base. In addition to the land information system providing a source of information for research, universities also have a critical role in developing curricula to support personnel that are engaged in the system.

At the back the designer's mind should be question about how the system interfaces with other systems and sub-systems. Ideally, policy provides the vision and the higher level

[5] Preventive justice entails independent state representatives like courts, civil law notaries or other state offices (such as: civil registers, land registers, public registers) are entrusted with preventive justice. Each of these takes action in immediate exertion of public authority and within the framework of applicable rules of procedure. Local customary mechanisms can also be used for the same.

objectives of what a national land administration system seeks to achieve, the different policies (land tenure, health, housing, etc.) should be in harmony. Augustinus *et al* (2006, p671) argue,

> *"that it is advisable to move away from a technically focused approach which advocates a 'fix the land administration system' approach only. By using a systems approach, land administrators will be able to undertake better strategic action planning as history unfolds.... The salient feature of soft systems theory, for the purpose of analysing cadastral systems is that, firstly, it accommodates complex situations."*

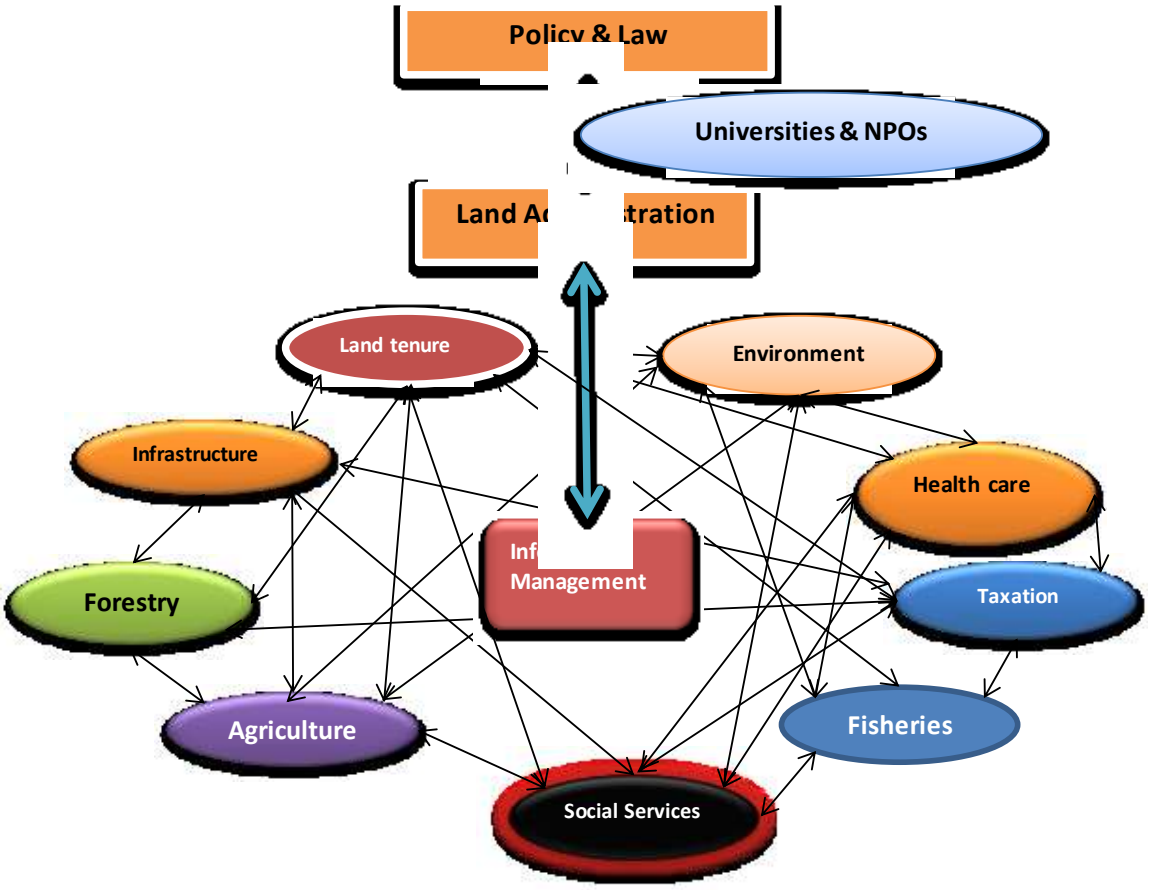

Figure 3: Land management system (adapted from Augustinus *et al* 2006)

Land administration systems not only support tenure security, but the information on the system makes land management at scale possible. Without land information, problems in urban and rural land management emerge (Augustinus *et al*, p1 2011).

Policy, legal, organizational, human capacity building (formal and non-formal training) all need to be considered in the design of such an unconventional system (Augustinus *et al* ;2006; p671). Getting the non-technical (institutional) issues right is far more complex than the technical issues. It should be noted that land setting up of a land administration system is more than a recordal system, but ishould be supported by institutions and overarching policy and legislation (see figure 4). Professionals and scientists with different backgrounds and disciplines need to co-operate in this development.

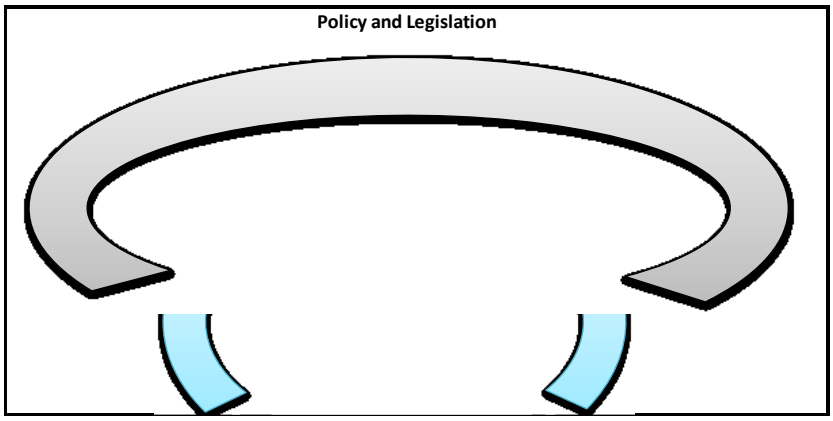

Figure 4: Multi-layered approach

1.3 Design paradoxes

The various technical models that have been designed to capture these unconventional approaches to tenure have different strengths and weaknesses. Here we will consider some of these aspects in relation to two models, the STDM and Talking Titler. Both are advocated for situations where conventional registration is deemed to be unsuitable. The dilemma related to that is that 'wicked problem' contexts are not well served by standardized design models.[6]

The STDM has a simple form, which is its major strong point, as simplicity facilitates the ability to apply it at scale. However simplicity may not capture the complexity of a all situations. the STDM is more grounded in a top-down way of thinking about problems. A top-down system is ideal for problem contexts which are stable, particularly when one is considering goals on a wider scale. This leads to a critical strategic paradox which is whether one goes for a standardized system or an evolutionary data system.

Barry (2013) presents the Talking Titler evolutionary design approach and some of the software design and testing procedures in developing a flexible, evolving, land tenure information system (LTIS) in uncertain situations. The conceptual evolutionary model – starts with an initial operational system which gradually evolves over time. This model works well when users are not sure about the end goal initially (user needs). The key design philosophy underpinning the Talking Titler is flexibility, which means that the system may evolve in multiple directions in uncertain situations. As opposed to the STDM, ease of use is not a primary design considerations. Bottom up evolutionary systems present a dilemma in that the local systems could evolve in different directions. One would require some

[6] Richard Buchanaan citing Rittel (1972) in Wiccked Problems in Design thinking, identified 10 characteristics of a wicked problem (1. Wicked problems have no definitive formulation, but every formulation of a wicked problem corresponds to the formulation of a solution. 2. Wicked problems have no stopping rules. 3. Solutions to wicked problems cannot be true or false, only good or bad. 4. In solving wicked problems there is no exhaustive list of admissible operations. 5. For every wicked problem there is more than one possible explanation. 6. Every wicked problem is a symptom of another, "higher level" problem. 7. No formulation of a wicked problem has a definitive test. 8. Solving a wicked problem is a "one shot" operation, with no room for trial and error. 9. Every wicked problem is unique. 10. The wicked problem solver has no right to be wrong, they are fully responsible for their actions.

mechanism for harmonisation of the local systems that have diverged, in cases where one desires some uniformity (see figure 5).

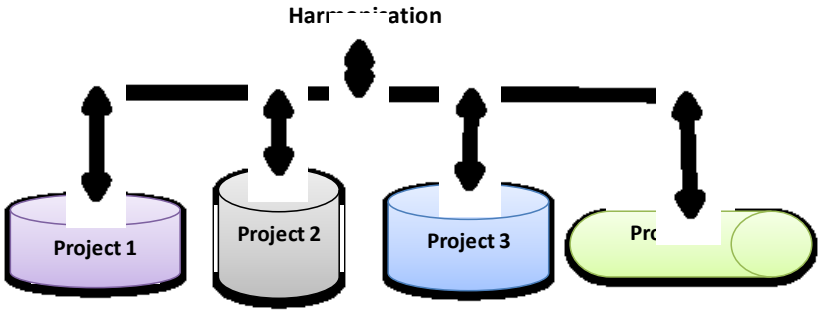

Figure 5: Schema for harmonization

As outlined by others (Barry 2009b), the simpler the Land Tenure Informal System (LTIS), the more likely it will be easy to use and the more likely the system will actually be used. Conversely the simpler the system, the less likely it will provide an adequate model of complex tenure situations or address wicked problem situations, and, in a worst case scenario, it may exacerbate an already troubled situation. The more flexible the system, the more relationships and the greater the level of complexity can be modelled, and the more likely it will be mirror the relevant aspects of local social networks accurately. But, the more flexible and complex the LTIS the less likely it will be to use, and the less likely it will actually be used. It is a conundrum that has kept information system designers occupied for a long time, and it should keep LTIS designers similarly occupied.

In making strategic choices countries also need to consider the relations they want between formal and informal land recordal systems.

> *One of the more innovative developments in the region has been the decision to create local level registries in Namibia and Zambia, independent of but connected to the formal deeds registry. This has allowed simpler, more appropriate and less costly forms of land administration to develop, catering to the needs of the urban poor.* (Benschop, 2005)

In making this strategic decision as to whether to go for more flexible systems like Talking Titler or for systems like STDM that are simple and standard in their form, it is also important to consider path dependencies associated with current situation[7].

1.4 Benefits of Land Recordal Systems

Why land recordal?

[7] Path dependence is the idea that decisions we are faced with depend on past knowledge trajectory and decisions made, and are thus limited by the current competence base. In other words, history matters for current decision-making situations and has a strong influence on strategic planning. Competences that have been built in the past define the option range for today's moves. New business opportunities, in particular those based on technological progress, emerge gradually as a consequence of competencies acquired prior to new discoveries and over time. From http://lexicon.ft.com/Term?term=path-dependence

- *It provides stepping stone or base information when* land development applications are being considered, e.g. infrastructure development, mining rights, township development, etc. There is urgent need to protect the customary and off-record rights against third-party rights of private investors, central and local government, etc.
- It provides a decision making tool in new investment 'deals' on communal land which often involve leases or concessions on communal land to which people already have rights. In the absence of recordal these deals potentially threaten the land rights and livelihoods of households. Recorded rights clarify who is eligible to make what decisions and who is not. It clarifies what rights are entailed or are subject of the transaction. In the absence of such records third parties simply trample over rights.
- It provides evidence/proof of land rights including of the transaction/s, of the parties involved, of the land involved, of the acceptance by the community (Zevenbergen, J *et al* 2012).
- An appropriate land administration normally marks the start of land-related conflict resolution and subsequent sustainable land use planning and natural resource management (Lemen, C. *et al*, 2015).
- UN FAO has initiated and developed the 'VGGTs", which recommends that states, where possible, should ensure that publicly-held land tenure rights are recorded, together with tenure rights of indigenous peoples and rights of the private sector in a single, or at least linked, land record system.
- It provides information to the world, including the state. Provides a geometrical index, which facilitates linking the land documents to the ground. An index linked to the names of the parties, which will facilitate ease of access to information. The creation of rank/priorities between different recorded documents.
- Provides information base for easier operations for (local) government for services and to organize other land management activities.
- Enhances the level of status of rights in the eyes of the state, thereby enhancing security.

A pro poor system could also:

- Acts as a proxy in participation in democratization.
- Provides the foundation for capital formation.
- Increases predictability and efficiency by reducing *ad hoc* land related activities by the state.
- Decreases some of the conflict over land by increasing predictability. The land records themselves would contribute to better local dispute resolution in general.
- Creates a better environment for large investments that take a long time to recoup.

Additional requirements

- How well the system is embedded legally, either with a law or a high level policy document, or at least not being prohibited by existing legislation;
- The way disputes are resolved, including how the courts will interpret disputes;
- The attitude of the society as a whole, particularly the community in which the system is located.
- The legitimacy of the pro-poor system in the eyes of different actors (public and semi-public agencies and private sector actors).

The risk of first registration.

Recordal of rights provides an opportunity for the powerful and informed people to manipulate the system for their own gain (or for the gains of their relatives and friends) if not done appropriately because these people know how the system operates. There is global

recognition of a risk of non-registration of subsequent transactions, which calls for innovative policy incentives to support sustainability.

1.5 Conclusion

The GLTN acknowledges the difficulty of developing pro-poor land recordal and administration systems. Reforming land policies and land administration systems involves many issues. It concerns numerous government agencies and multiple stakeholders (Augustinus et al 2007). When done correctly they warn, it could take a long time: at least 10–15 years. Complexity being considered, there is no doubt that there is no shortage of ideas within the global community to address the challenges of land tenure insecurity in the developing world. There is overwhelming evidence that there is no shortage of tools that can be used to achieve these goals of securing different rights. If the challenge is not bankruptcy of ideas and tools, the only other place to look for answers is political will within and among the developing countries.

The following points provide a very good summary of what has been learnt from international experience in the design of a pro-poor land administration system[8].

1. *The recordation system should be affordable for the state and its citizens particularly the poor to enable the country to scale up the system. It also needs to be transparent, accessible and equitable to ensure delivery to the poor.*
2. *The system has to deal with complex, layered rights. Next to formal tenures, it needs to take care of customary and informal systems, as well as secondary rights.*
3. *The system should build on social tenures rather than strict paper trails. It is important that the system is simple, quick and inexpensive and avoids costly experts and fees.*
4. *The land recordation system should be physically close to the people to improve record accuracy, to ensure ease of access and to improve land management and planning. Complete data should not be a priority at the first stage of the design. Less accurate forms of boundary and rights data would be sufficient and non-conventional boundary markers should be allowed.*
5. *A spatial index map should be introduced early to identify on the ground the land described in the document. A simple geometrical index can be created. Maps may already be available.*
6. *The pro-poor land records' office should not be a totally independent entity, but ideally should be embedded in the larger public administration structure.*
7. *The system has to deliver preventive justice by having land records that contain objective information that clarifies the rights and contractual relations, and limits the need to go court.*
8. *The system should build on co-management of pro-poor land records, including identifying witnesses, creating evidence, building the currency and legitimacy of land records. Strong checks and balances are needed to protect vulnerable groups.*

[8] http://www.stdm.gltn.net/docs/Designing-a-Land-Records-System-for-The-Poor.pdf : an extract from the publication "Designing a Land Records System for the Poor" UN Habitat – GLTN – 2012 p18

2 Part B: A Local Case Study of recording local land rights: Sterkspruit and other initiatives

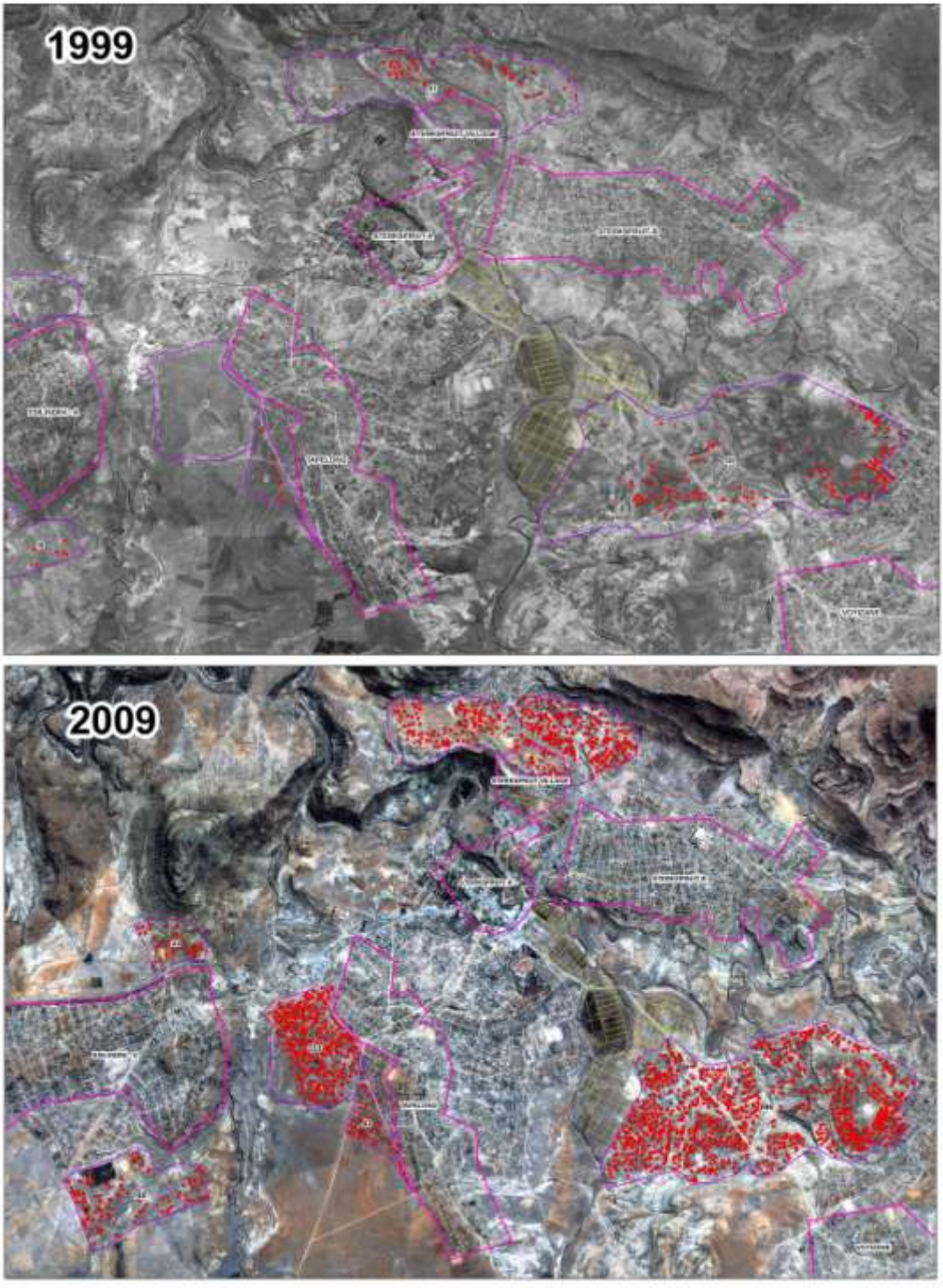

figure 6: Population variation in Sterkspruit between 1999 and 2009 (areas in red indicate new developments)

2.1 Introduction and brief history

The District of Herschel is situated on the South Western border of Lesotho, situated between the Free State, Eastern Cape and Lesotho. Sterkspruit town is approximately 25 Km from the Telle Bridge border gate. Herschel district is ancestral home to San hunter-gatherers who were displaced by the modern African population from the 1930s onwards, as refugees of *Mfecane* and the frontier wars. It is from this period that successive groups of Thembu, Sotho and Mfengu originally settled in the area. The first "whites" to settle in the area arrived around the 1840s with the establishment of a Wesleyan Methodist Missionary Church called Witterbergen, under the jurisdiction of the Cape Colony. Some quitrent titles date back to this period. More land was later added to the Witterbergen Native Reserve (for occupation by "aboriginals" only) during the 1850s and in 1870 it was designated a magisterial district. (Walker C.; p4; 1988)

Herschel was among the areas specifically reserved for African ownership in terms of the Land Act of 1913. Like other Native Reserves, the district became a source of cheap migrant labor for mines, farms and industries. With the promulgation of the Bantu Authorities Act of 1951, five tribal authorities were established in Herschel. These were, Amahlubi, Mayemane, Batlokoa, Basotho, and Amavundle. During this period the pre-existing chieftaincy system was transformed and grafted into the apartheid state machinery. The tribal boundaries that were drawn were in actual fact superimposed over an already heterogeneous people.

From the early 1960s, the district experienced a great deal of strife and hardship, starting with Betterment planning which was implemented in the early 1960s. Betterment planning, better known as "*itrust*" to the local people, is one of the most deeply resented programmes which is still well remembered by the people of Herschel and the relocatees. It was in actual fact a programme that imposed a particular form of land use. In the process of implementing this government imposed programme, some individual families were moved from fertile lands to marginal lands and vice versa, or some lost a larger plots for a smaller ones, but it did not result in loss of land at a macro level. The converse of this is that some who would otherwise not have had access to land, given the population explosion, did manage to get some access to land in the process. This programme was the first major resettlement programme that affected the people of Herschel. Long term residents of the area claim that the process was followed by devastating cycles of livestock deaths, paralleled by a massive population growth on a limited land base. Besides the enforced consolidation of residential villages for those who had land, Betterment implied tighter land use controls. "The broader problems of overpopulation, insufficient land and lack of investment in local agriculture were left untouched." (Walker C.;p7; 1988)

Herschel had by the 1960s become a home to a mixed population of Xhosa and Sotho speakers, who are estimated to have totaled about 77 000 by 1970 (Walker C.; p1;1988). One of the important critical milestones in the history of the area after Betterment, was the dumping of a number of farm evictees around mid-1960s. The resultant population explosion did not augur very well for the fragile environment which was already showing increasing signs of severe erosion.

"Herschel magisterial district was first originally designated as part of the Ciskei homeland. However, in a chessboard move often employed in Bantustan politics, it was transferred to the Transkei in 1975 in exchange for land between East London and Queenstown" (Cobett W. & Nakedi B; p78; 1988) The removal of the Herschel people to Ntabethemba and its subsequent incorporation into an "independent" Transkei was part of the broader apartheid scheme of things.

2.2 Land Tenure

The predominant form of land tenure in the Herschel is 'communal tenure', characterized by the Permission to Occupy (PTO) or largely based on proclamation R188 of 1969, and is found predominantly in the former homeland portions of Senqu Local Municipality, in the five chieftaincy areas. On an increasing scale, this permission-based form of tenure has been associated with lack of administrative support, overcrowding and forced overlapping of land rights, and breakdown of land administration in communal areas.

Prior to 1996, the Department of Justice and the Department of Agriculture played a crucial part in the administration of the PTO system of the area. The Department of Justice was responsible for issuing of PTOs (Permission to Occupy) while the Department of Agriculture was more in the realm of land use planning and land use management. The PTOs were issued by the Department of Justice in terms of Section 29(i) and (ii) of *Transkei Act No. 4 of 1968*. Land or site applications were filed through the tribal or chieftaincy system to the Department of Agriculture. Once application procedures had been followed, the Department of Agriculture was responsible for making planning considerations in respect of the sites to be allocated, including the spatial layout and demarcation thereof. When a village had run out of land for allocation of additional residential sites, the department made an application for extension of kraal sites from the local magistrate. The Department of Justice no longer plays any role in land administration since 1996.

Another form of tenure which characterizes some parts of Herschel district is small patches of quit-rent tenure, which dates back to the British Colonial history. It is found in small pockets of cases in Bensonvale, Witterbergen, Ndofela and Sterkspruit. It is inherently a form of levy or land tax imposed on freehold or leased land by a higher landowning authority, usually government or its assigns.

2.3 Current Critical Challenges

The town of Sterkspruit and its surrounds, has grown at a fast pace in the past 3 to 4 decades (see figure 6). Sterkspruit is both an economic as well as administrative centre for many peoples of the five chieftaincies, and to some of the closer areas of Lesotho. The town has grown to capacity with no further available land to accommodate new growth opportunities. There is simply insufficient available land for the growing government services, the growing commercial and retail and residential land to accommodate the influx of people. Put simply, the town is choking due to the lack of availability land.

Partly due to exponential growth that Sterkspruit has experienced which is resulting from natural population growth combined with urban migration from surrounding rural areas, the villages immediately around Sterkspruit have also grown exponentially, because they provided accommodation for the fast growing population (See Fig. 1). The growth of the settlements around Sterkspruit has increased pressure for higher levels of services. Villages which have been impacted most by the growth are Tapoeleng, Tienbank, Masekeleng, New Rest and Mokhesi and Silindini, which are all in close proximity to Sterkspruit Central Business District (CBD). These areas have practically been fast turning into dense urban extensions of Sterkspruit town, with some businesses taking up space on communal land.

The growth of settlements had been paralleled by a general breakdown in land administration, with land invasions becoming the order of the day. Some of the contextual issues related to the unmanaged growth were;

- The fast growth of settlements combined with the land invasions have destroyed agriculture in the areas closer to town.
- The Department of Rural Development and Land Reform (DRDLR) as the *de jure* owner of the land has not been able to intervene in the collapse of land administration.
- The municipality which has the mandate for spatial planning had its hands tied because it did not own the land and had no *locus standi* to stamp out unlawful occupation of land. It is also noteworthy, to mention that some of the land invasions were not only limited to communal land, but impacted on the municipal commonage as well.
- The Provincial Department of Agriculture and Land Administration continued to allocate sites and issue out PTOs, right through to around 2011, regardless of municipal planning considerations.

2.4 The Government Strategy

In response to the implosion of land administration in the area, a three pronged strategy was adopted by the municipality with a view to deal with its land problems.

- The first part of the strategy is the upgrading of quitrent allotments which are adjacent to town to individual ownership. The upgrade of quitrent is expected to open up a land market, which will inevitably provide some space.
- A second part of the strategy is the planning and formalisation of the informal rural settlements in close proximity of town. The municipality has identified a number of settlements that are around Sterkspruit for formalisation/settlement upgrade. The targeted settlements are Tapoeleng, Masekeleng, New Rest, Mokhesi, Bensonvale, Jozana's Hoek/Magwiji and Esilindini. It was envisaged that, the upgrading of these settlements could open up space and create some opportunities for the growth of town. There was an expectation that the resultant freehold tenure system would enhance the security of tenure and also create a land market that would in turn result in the realignment of the space around town.
- The third part of the strategy is for the municipality to embark on a land acquisition project within the surrounds of Sterkspruit town, for land to accommodate sewage works and solid waste disposal.

2.5 Settlement Planning and Upgrade

The development of the Sterkspruit Settlement Plan was a project of Senqu Local Municipality, funded by the Neighbourhoo Development Planning Grant (NDPG) of the Department of Treasury in 2009. The NDPG provided technical support to Municipalities to facilitate and support partnerships with government and private sector stakeholders to develop and implement sustainable nodal development, within the context of a township development plan. The key focus of the current phase of the project is to formalize land tenure for the settlement that is physically attached to Sterkspruit town, providing individual land holders with freehold title. The planning precinct included the administrative Farm 82 in the Administrative Division of Sstekrspruit/Herchel. The villages that constituted the planning precinct are Tapoeleng, Tienbank, Mokhesi, New Rest and Ethafeni. The land recordal process was conceived as part of bigger land tenure upgrading project which was targeting some of the settlements surrounding the town of Sterkspruit. The Sterkspruit land rights recordal process had dual purposes, firstly it constituted part of a land rights inquiry and secondly, it was to be used at a later stage as part of the sales administration process. The land rights inquiry component had the purpose of recording all rights that prevailed and to understand their nature and content. The sales administration process would be the

process that was to kick in during the formalization process to transfer land to households and to issue them with freehold title deeds.

The villages which were subject of the land tenure upgrading process had been previously surveyed with each residential allotment allocated a unique identifying number. The planning area or precint was subdivided into spatial configurations (or clusters) of households that were grouped together, based on proximity, for the purposes of enhancing the public participation process.

2.6 The Sterkspruit Case Study

2.6.1 Project Set Up

Before the process of gathering data could begin, a base office had to be located from which to operate the land rights enquiry and data capture. For the smooth running of the project, there was a need for a central place which would be used as the point of convergence for the employees and the communities whose rights were to be recorded. The office was also envisaged to be the location where physical documents and electronic data would be stored. The location of the office in a spot that is central and accessible to the communities was critical. Accordingly, the Senqu Local Municipality was able to supply the service provider[9] with a suitable office in a good location.

The office was set up and equipped with a computer, measuring wheel, copier/scanner and printer (contents belonged to the service provider). The office was also set up as a general source of information for community members.

Initially two data capturers were contracted in by the service provider. Their responsibility was to capture and store all data collected and to manage the electronic and hard copy records.
Mapping of the planning precinct was produced with each household allotment showing a polygon with a unique identification number. A full set of maps of the area was placed on the office walls showing all surveyed sites on A0 size plans. Additional smaller sized, easy to carry, plans were produced for use by enumerators outside the office.

The second stage involved designing a questionnaire for collection of data. The questionnaire was presented to a Project Steering Committee (PSC). The PSC did not have representation from the traditional council, which presented difficulties later on in the project. The Traditional Council was not involved in the Project Steering Committee because they disapproved of the intention to upgrade to freehold. Traditional leadership structures were opposed to the initiative because they saw the bigger project of formalization as taking away their powers.

An open advertisement was put out through word of mouth for the recruitment of enumerators. They had to submit applications and CVs. An important consideration when considering the applications was the accessibility of the enumeration areas to where enumerators lived. The final team of enumerators was selected and appointed and contracts prepared. Remuneration of enumerators was to be based on a fixed sum per completed questionnaire on its approval. For this reason the process was enumerator driven because there was some resistance from the Traditional Council. It was 'enumerator driven' in the sense that the onus for the process to move forward largely fell on the enumerators, who had to convince community members to participate.

[9] The service provider was Umhlaba Consulting Group whho were contracted by Senqu Local Municipality as the team responsible for leading the planning process.

The next stage involved training the enumerators. Training was designed firstly targeting the data enumerators focusing on map reading skills, secrecy regarding personal information, interpersonal skills, completing the questionnaire, compiling family trees, filling, etc. The next stage involved designing workflow processes. The design of the workflow processes were designed to provide up to date status information in respect of each questionnaire. These were designed with the involvement of both enumerators, and data capturers, to ensure that households were not enumerated twice. Part of the training involved an 'in field test' run of real enumeration of the first 10 households under guidance and supervision. It is only after completing 10 questionnaires successfully, under supervision, that the enumerators were officially employed. A few of them failed and many of them passed.

The next block of training focused on the internal office systems i.e. receiving of data, quality control of data, storage of data, capturing of data. This involved both the enumerators and the data capturers, to ensure that everyone understood the system in its entirety. All staff had were sworn to secrecy before being singed in.

Staff who were contracted were provided identity cards which had a logo of the Municipality and the Department of Treasury which the enumerators carried with them to use as part of their introduction and when their credentials were in question. In the event of a community member being in doubt there was a number available to enquire.

2.6.2 Data collection and capture roll out

Initially the service provider took responsibility for checking quality of data captured, but over time this responsibility was taken up by a few selected super-performing enumerators who had excelled in their work and were then allocated responsibilities of supervised each other's files. The service provider took a stratified sample for quality control. Incentive systems were put in place to ensure that enumerators placed maximum emphasis on accuracy of the data. There were cases where the human factor crept in, such as where minor errors relating to capturing ID numbers or cellphone numbers incorrectly. The Access system was also set up to help identify errors.

- Personal details of household heads: Names, surname, ID number and gender. The details of other members of the household were not captured.
- Land details: The unique number allocated to the allotment. It was not possible to link this to a plan, using Access, because the GIS system was not on site. The system design failed to consider these issues beforehand.

Some the evidence that was collected included: Family trees; copies of IDs; copies of marriage certificates; affidavits in cases of customary marriages; affidavits in cases of informal land sales; copies of death certificates in case of deceased persons. The questionnaire included other information household income, and access to basic services such as access to water, etc. While the ultimate goal was originally to identify who the rightfull owners of the land are, the design of the enumeration instrument ended up with the following categories of information;:

- Administrative information relates to the process of extraction, processing and validation of information. This includes data such as date of collection of information, who conducted the interview, who was the responded, who was the witness, etc.
- Personal details of land rights holders provide personal information about land rights holders. This may include categories such as names, surnames, identity document numbers, gender, marital status, etc.
- Basic information about the land, which could involve unique numbers or codes, location of the land, coordinates, size, etc.

- The library of evidence is in relation to administration, personal details and the land. Evidence could among other things include copies of birth certificates, ID documents, marriage certificates, death certificates, affidavits to support sales, photographs, voice recordings of meetings, etc.
- Other development information: This category may include information which is related to development and or access to services, etc. This category of information may be collected because an institution requires that information for decision making purposes.

While effort was put to collecting water services infrastructure, this data was never used by the municipality for which it was intended.

Each enumerator was allocated a specified catchment area, to avoid different enumerators visiting the same households. The catchments were demarcated using physical features such as roads, streams, empty spaces etc. The enumerators had a target number of questionaires to complete which corresponded with the catchments. On a daily, weekly and monthly basis, the Access Database was used to track the stage of each questionnaire in progress. Each completed questionnaire was checked for correctness of data by a supervisor (excellent performers). The completed questionnaires would be placed in a file in the office with a note of what outstanding supporting documents were still needed. Respondents or community members had the option of coming to the office personally to submit supporting documents for scanning or could hand those to the enumerators. In the majority of cases the supporting documents were given to the enumerators because the enumerators were often generally known and acceptable to the community members. The completed questionnaires were captured onto the Access database and supporting documents were copied and kept in files.

2.6.3 Adjudication by default

The land administration office soon became a hive of community activity, with community members streaming in to either submit supporting documents, to check records, or to even report disputes over rights, boundaries etc. Except for collection of land records, the land rights holders were not told of any additional services that the office was intended to provide, but for some reason, the office was inundated with complaints of different sorts requiring mediation or adjudication services. The various reports submitted to the office were in the following broad categories;

- Internal household disputes: While succession contestations were not many, most of the internal household disputes involved women who had gotten married and left the household, and for one reason or another had to have access to the household premises. On coming back they would be coming back to different circumstances of one or more male siblings who would not welcome them back.
- Boundary disputes between neighbors did arise, and in many instances these came about because someone shifted boundaries in a manner which inhibited access of another household. The local procedure for dealing with these disputes was to present the complaint to the local tribal committee. One party would often feel that the manner in which the tribal committee dealt with the matter was unfair or with prejudice. In those circumstances it would generally be impossible to bring the tribal committee in for some mediation as they did not ant to be involved in the project (as explained above), but the service provider would try to explain the rights of the complainant.
- Disputes between some community members and institutions were not uncommon. One specific example is that of community members who unknowingly invaded land that was part of a local hospital.

- The incidences of disputes were only recorded for the purposes of facilitating the discussions and no records of the actual discussions to recolve the dispute were kept in the office. The records of statements and mediation meetings would have been useful to keep as a record, which did not happen.

The services provider invariably had to collect additional information, over and above the information on the questionnaire and the files, for the purposes of intervening in disputes (adjudication). In the case of internal household disputes, photos of the buildings were taken and interviews were conducted and recorded with various household members. The service provider tried to be impartial in all cases. Those who were unhappy with the counsel from the adjudication process were given the option of appealing to the provincial chief director of the Department of Rural Development and Land Reform. The service provider presented himself as a mediator, also offering to offer own interpretation of the law.

An additional benefit of the process was that a number of land disputes were also resolved by the office using records in the office. In cases of disputes, the office made use of the information to clarify issues with a view to mediate between parties in dispute. Many disputes within and between families were resolved. The service provider, despite not having any official standing, used only the information available as well his understanding of the law in intervening. Those that involved the traditional leadership represented a particular challenge, in that the Traditional structures refused to collaborate.

2.6.4 Enumeration progress

Enumerators hit the ground running with the number of questionnaires completed growing steadily, but soon hit a ceiling after which progresss started slowing down. Part of the reason for the slow-down of the initiative is that initially the project involved intense and concentrated activity, but later began to slow down. The process was severely slowed down by the huge migrant contingent of people who were predominantly outside of Sterkspruit for reasons of employment. This meant that in a lot of these households one or both of the household heads were not available, because they were out of town. It was not uncommon to find households which were either totally vacant of being rented out. The files for those were opened and the missing data was to be completed when the migrant was home. Cellphone communication was critical in coordinating those. Migrant workers even sent some of their details by post in some cases.

As at 16 July 2012 a total of 3 826 households had registered their rights with the land rights inquirer. Rightly or wrongly, all persons that had registered in the local land office are those that supported the tenure upgrading process and also wanted what they called “title deeds” or *itayitile*. There is a very small fraction, largely aligned with the local traditional leader, who have not registered their rights. There is a local demand for a “family title”, which is not provided for in South African legislation, but could be accommodated by registering additional family members in the title conditions.

The Settlement Planning and Upgrade initiative was originally planned to be completed within a period of one year, but for various reasons it took longer. It actually took longer to include migrant workers in the enumeration because some of them came for very short periods and often over weekends or holidays. Some of the core group membersmembers of the Traditional Council continued to mobilise members of the community not to cooperate with the planning process[10].

[10] The concept of “core group” is used to refer to a small group within the traditional council, who opposed the tenure upgrading and settlement planning process because of a perception that it was threatening the very existence and legitimacy of the traditional council

Because the project had taken much longer than originally planned, the service provider was unable to keep the office running, without sharing some of the costs with the project owner. This had major implications for keeping records updated. A decision was consequently taken that the office should revert back to the municipality and the office administrators taken on by the municipality.
Irrespective of the original land tenure upgrading objective, it was critical that the office be kept open and because locals used it to update records in cases of sales, when people get divorced or married or in the event of death/s. The service provider responsible reached an agreement with the municipality to hand over the running of the office to the municipality. The lease of the office was terminated with effect from 1 July 2012.

Had this decision not been taken, the land ownership records would get outdated because local people would not have access to a place where changes can be effected. This would create a problem when title deeds are registered, in that the land records would be outdated. The consequence of this decision is that Senqu Municipality had to take over the payment of salaries for the two office administrators as interns. The role of this take over by the municipality was more about maintaining the system.

The original total number of sites that had been surveyed 3 years earlier were estimated to be in the region of approximately 3 400. However high resolution aerial imagery depicted an estimated 700 new sites that had not been surveyed. The number of sites kept growing during the course of the project, so the enumeration process had to respond to invasions and new allocations. By the conclusion of the exercise the enumeration process had captured approximately 96% of residential sites that were in existence. In some instances there was a perception that the recordal system legitimized land invasions, even though there was no basis to support that view. There is ample evidence of invasions being rife because of the high cost people were expected to pay inn order to access land through the traditional leaders.

2.6.5 Anticlimax

September 2012 saw the upsurge of a wave of service delivery protests in Sterkspruit, which were underpinned by an idea of a “total shut down” from the protest leaders. Some of the municipal offices of Senqu in Sterkspruit were burnt in these uprisings. The land administration office was not burnt but it could no longer operate because the entire administration came to a halt. The office had to close down. This coincided with a decision by Treasury to stop NDPG in small towns in favor of cities, which resulted in Senqu losing the funding commitment. These two factors combined, signified the death of the tenure upgrading project. Because the municipality’s objectives were closely tied to their short term objective of increasing their revenue base through rateable property rights, rather than the long term incremental tenure upgrading process. In this process the land administration office became a victim of circumstances and had to close down. When the situation returned to normality, the municipality soon realized that they needed the space as a storage facility for equipment.

2.6.6 Key Lessons from the Sterkspruit experiment

The timing of the Sterkspruit initiative probably either preceded or coincided with the wave of development of various free automated electronic land administration systems taking place internationally. Even if some of these land administration systems were available, issues of staff capacity would have made it difficult to implement such a system at that particular time. The process as well as its outcomes have shed an important lesson for the future, that there is no rocket science in setting up a local land recordal system.

There were different understandings of what the role of the land administration office was, from different stakeholders. By default, the office became a land information office for some of the members of the community, while it was a tenure upgrading office for the municipality. The municipality did not see anything besides tenure upgrade to freehold, which would in turn result in them getting a new revenue stream. For people whose rights were infringed in one way or other, the office provided a mediation or adjudication service. The office attracted a range of other service providers such as engineers who were encountering land related problems to enquire about land tenure.

While the land administration office was not very accessible to the wider community of the Sterkspruit-Herschel district, the office could effectively perform a district wide function. Theoretically, one way to make the office more accessible to the coimmunity would be to use mobile offices for the initial data collection, and then use local institutions such as headmen to take responsibility for ensuring that updates were done when changes happened. On a quarterly basis or even six monthly cycles, updates could be made through an institutionalized system that connects the Sterkspruit office with local data updating system which would need to somehow be institutionalized. The option of keeping hard copy records at a village level is also an option which could have been considered. The hard copy records would be updated annually or as required.

The range or spectrum of information that could be collected is unlimited, but the capacity to collect the information is also limited. It was not always possible to get all information fields completed for various reasons. Even in cases where the development information was collected, the intended beneficiary of the information never used the information. It is therefore not always necessary to have the full spectrum of possible data and a corresponding full range library of evidence. The key lesson from this is that one needs to start by capturing only information that can be collected and captured with relative ease as a starting point. Over time and based on need, one could add various layers of information. It is only when there was a dispute that we had to collect more detailed information on a particular land parcel or household.

Directly related to the point above, some thought needs to be given to categorizing information records according to different levels of accessibility. The full spectrum of information should be available to the individual households to whom it belongs. Not all of information on the land information system should be freely accessible to the general public, because this would compromise individual privacy. Some information may have been collected for research purposes and should only be made available to relevant research or government institutions, possibly with conditions, and in some cases in forms that protect privacy of individuals. The following questions need to be considered when preparing to collect household information.

- Which information should be made available to the land rights holders only?
- Which information is made available to researcher and in what format and on what conditions?
- Which information should be freely available to the general public?

The service provider had originally not envisaged to play an adjudication role when the project started. A key lesson is that once a land recordal system is put in place, some mechanism for adjudication should be considered. Adjudication comes at different levels, at a household of family level, between households, between households and the community or institutions or between communities. All of these levels require different principles and tools.

The objectives of the different stakeholders are a key factor to take lessons from. The service provider needed skills in treading through the dynamics resulting from having differing objectives between different stakeholders. The one important strength of this project is that it demonstrated that it had the full support of the community, though driven by enumerators. Lack of support from traditional leadership had very little bearing on the project.

The special Access Office database that was designed with the sole purpose of capturing data was rather inflexible to handle some of the data requirements that had not been envisaged. Each field could be limited to take up a limited number of either digits of syllables. Given that the GIS was operated off site, with the local office only working on hard copy mapping resulted in a fragmented information system, with evidence sitting in different places. GIS mapping information could not be integrated with Access and both of these could not integrate with the evidence collected. Scanned documents could not be saved in a manner that links them to the particular household, except for the unique numbering.

At the project set up stage, it was extremely important to have hard copies, partly because the computer literacy skills of the data capturers would have taken longer than required to upgrade to the requisite level. While hard copy files were good to have and were useful in providing feedback to the community, these became a nuisance to manage and store. In hind sight hard copies could have been eliminated from the system by printing them as per need. The storage conditions were not optimum for storage of paper records. In future, one would need to take a minimalist approach to use of paper records.

The attitude of traditional leadership to the bigger project was a major problem. They mobilized their supporters not to participate in the process. The Traditional Council took sides with the Department of Agriculture and refused anyone access to PTO records that were in the custody of the Department. Largely emanating from the opposition, there were many threats to staff of the possibility of the office being put on fire.

The unexpected termination of the Sterkspruit project and the resultant lack of caretakership for the data is an important lesson to keep in mind for the future. This challenge also highlights the need for a backup of information. Any system that is set up will need to consider all “What if questions”. What if a staff member leaves? What if the office is gutted by a fire? What if there is no power?
A key lesson from this project is that it highlighted the importance of integration of data. The integration of data linking the land people and evidence is an important lesson which comes very strongly from the international automated systems.

One key lesson is that, Senqu Municipality missed and opportunity from the land administration process. The municipality failed to use the process to gather data that was important their service delivery processes. For example the municipality could have used the process to determine which households has septic tanks, or which households had household water connections. While the data realting to household water connection was included in the enumeration, the municipality never saw the need for the data.

Despite the unfortunate collapse of the land recordal system, in 2015 the plan was given authorization by the Surveyor General. The implication of the registration of Surveyor General diagrams is that, the land records which were left unmaintained, would need to be reinitiated, at a high cost in future.

2.7 Other recent initiatives

2.7.1 Willowvale Pilot

Another proposed local land recordal data generating project is one for the administration of informal land tenure rights and land use management that is planed for the the Amajingqi Traditional Council area, Mbashe Local Municipality, Willowvale Magisterial District, Eastern Cape, South Africa. The initiative is supported by Redi 3x3 and managed by Umhlaba Consulting Group The data generating project will systematically capture data pertaining to recordal and governance of land rights and land use management dating back to the 1994-1996 democratic transition up until 2015. The secondary contribution that this will make is in piloting a land recordal system (either the Talking Titler or the Social Tenure Domain Model system) to evaluate its relevance to the context of a communal area that was minimally affected by Betterment.

2.7.2 Pilots focusing on Eastern and Western Cape

Phuhlisani a land sector non-profit company is at an advanced stage of developing a proposal for a pilot program targeting some parts of the Eastern Cape and Western Cape. The proposal is considering piloting two prototype land management systems that record various forms of land rights. The idea behind the Land Management System (LMS) is to set up a platform to cater for land recordal for those South Africans who are currently not included in the current formal deeds registration system. In this regard Phuhlisani envisages to explore the applicability of a range of technological innovations which are available such as the Social Tenure Domain Model (STDM) and the Talking Titler which enable the development of a land tenure information system (LTIS) which incorporates social network analysis to reveal the relationships that underlie a local tenure system (Asiedu and Barry, 2014). The envisaged land management information system will provide a decision making tool for land rights holders and affected communities along with municipalities and other state departments. Critical to the pilot will be consideration for policy, the implications of rolling out the system by government and implications for regearing of personnel.

At least three pilot areas are targeted in the Eastern Cape Province, each representing a range of considerations. In the Western Cape at least one pilot site will be selected. In the Eastern Cape selection criteria will focus a mix of considerations. The selected potential pilot areas will be geared to resolving real land administration problems on the ground, with a view to finding solutions for multiple stakeholders. The initial set of possible pilot sites include:

- **Sterkspruit-Herschel** (Senqu Local Municipality): This is predominantly communal, with pockets of quitrent tenure. There are a few unsettled betterment land claims. A few years back a land administration office was set up in Sterkspruit with the support of the Municipality, with a view to support a land tenure upgrading project which did not go ahead. While the previous project did not cover the whole district, there is a lot of potential to piggy-back on the strengths of this previous initiative. The settlements immediately abutting town have a demographically fast growing population while the rest of the district is relatively stable.
- **Keiskammahoek** (Amahlathi Local Municipality): This is demographically and politically relatively stable district, with the most mixed bag of tenures, including communal, freehold, and quitrent. There is a Communal Property Association which is managing land and development in the midst of dynamic between traditional authorities and the municipality. There are also outstanding forestry lease monies which have not been paid to communities over years, largely because of outstanding

land claims and lack of tenure clarity on rights. The area is well researched with a lot of secondary literature, so the pilot would hit the ground running.

- **Peddie** (Ngqushwa Local Municipality): This is relatively stable, predominantly communal with some small pockets of quitrent. (former Ciskei dynamic):
- **Willowvale** (Mnquma Local Municipality): The district is predominantly communal. The coastal dynamic together with the Dwesa-Cwebe Communal Property Association which is a settled conservation claim will be a key dynamics to cast eyes on in this pilot. There is already a demand for the intervention from one local traditional leader. There is an initiative to start a very small pilot in a very small area which is to be supported by Reddi 3x3. If this pilot does not materialize it can be replaced by a place like Butterworth, which has both PTO and quitrent and rapid urbanization.
- **Butterworth** (Mbashe Local Municipality): This is demographically and politically a relatively stable district, predominantly communal and strong history of quitrent.
- **Ebenhaeser or Genadendal** in the Western Cape are considered as possible pilot sites. These fall under the *Transformation of Certain Rural Areas Act, (No 94 of 1998)* (TRANCRAA) which seeks to transfer land in 23 former-colored rural areas to land holding entities or municipalities.

Phuhlisani is also in discussions with Afesis-Corplan to explore collaboration on this initiative, with Afesis-Corplan possibly tackling the same from the urban and informal settlement angle.

There are a number of initiatives at various levels, which are possibly operating in isolation and without support. There are possibly a number of similar initiatives in other provinces as well. There is a need to identify those initiatives and coordinate them in some form.

2.8 Conclusion

The Sterkspruit case is a demonstration of a rudimentary land recordal process which worked to a high degree without sophisticated tools. The Sterkspruit case throws up a number of important lessons which show that land recordal is not rocket science, but should be planned and implemented correctly. The land recordal processes that are being initiated by Phuhlisani and Afesis-Corplan are intended to cumulatively build up an alternative platform for recording off-register land rights across the pilot sites and eventually to contribute to the development of an alternative Land Records system that can be rolled out provincially and nationally. Building land administration from below is the guiding principle.

While there might be a range of other local initiatives that are being considered by other roleplers, it is important to go beyond local and think provincially and nationally. Some high level decision needs to be taken on which instrument (land information system) will be promoted. Such a decision would need to be supported by some thinking on what infrastructure, equipment and institutional requirements would be required to support that system.

The Sterkspruit case demonstrates clearly the need for interdepartmental coordination in carrying out land administration. The current state of decay of PTO records is a situation which is prevalent not only in the Eastern Cape but also in other provinces and calls for some attention. These records need to be saved wherever possible, with a view to digitize them. The old PTO records constitute the cornerstone of a future land recordal system.

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