





Collaboration, Innovation and Resilience: Championing a Digital Generation

Brisbane, Australia 6-10 April

A Conceptual Framework for Enhancing Legal Pluralism in Land **Administration Systems**

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April 2025

No. 13001

08/04/2025

11:30-13:00

Land Policy and Legal Perspectives (C7)























Why is a new conceptual framework needed?

- Failure of land administration systems:
 - Multiple legal systems not recognized as equal
 - Conflict between customary and statutory legal systems
 - Needs of actors are not met
- Reform of official state legal systems requires understanding of alternative normative legal systems

Legal pluralism occurs when two or more legal systems coexist

official state law customary law

religious law other normative legal systems











CHCNAV













Woodman's continuum of legal pluralism

land Universalism state-legal v socially legitimate Sovereign (level of ideas and political contestation) territorialism professionals Panlegalism - all normative phenomena Theory that all state-centred law Critiqued for wanting to are legal is modified customary law. capture pluralism within state law But now customs are so legal globally influenced - this social science / training and challenges the state-centred legal anthropology model of law thinking State-centred State law Parallel systems Compounded, Codified customary Living customary hybrid forms law Weak Legal Deep Legal Tribalisation -**Pluralism Pluralism** Statute law and customary Law must be acknowledged the state recognises you Accepting certain rules law are distinct and applied through your belonging by state laws e.g. and norms as law and based on population. Social theory of law: constitutions Austinian: law is only law when rejecting others based location/geography, etc. Law is a social product Politics/statehood and derived from a sovereign on legal reasoning For example, in the former Within a constitution law divide essentialist and is a-historic Legal anthropology: **British Colonies** systems of law that are Changed through The law needs independent of the state interpretation state actors [not only customs and norms] Needs non-state actors Risk of abuse of power Possible failure to protect Enforcement through state **Enforcement may** structures e.g. prisons, fines. only be coercive



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A new framework

- Supports extending or modifying land administration and management beyond
 - ignoring legal pluralism
 - articulation (legal recognition) or
 - adaptation (transformation)
- Gives equal weight to all forms of alternative normative legal systems





















Methodology

- Case Study Ekiti State, Nigeria
 - Legal pluralist context: sources of law are Constitution, customary law, legislation (statutes, Ordinances, decrees, bylaws, and edicts), received English law (common law), Islamic law, judicial precedents, international law, legal writings
 - Vulnerability: high demand for land & loss of agricultural land - impacts livelihood of the peri-urban dwellers



























CASE STUDY RESULTS & CONCLUSIONS

- In prior research
 - Soft Systems Methodology conceptual modelling of peri-urban land administration challenges
 - weakness in the organisational and institutional framework of peri-urban Ekiti State
 - 'Inherited' legal system dominates the 'inherent' land administration system
 - · lacks legitimacy
 - 8 Rs of Responsible Land Management assess land management interventions
 - LAS is dysfunctional need to improve 4 of the 8 indicators
 - legitimacy and jurisdiction need to be improved

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CASE STUDY RESULTS & CONCLUSIONS

- In prior research ...
 - interrogate the institutional and legal frameworks against FFPLA criteria
 - Not FFP and fails to meet the needs of peri-urban dwellers
 - Flexibility needs improvement
 - institutional isomorphism theory to understand the pressure exerted on the customary legal framework (customary courts and the Customary Court of Appeal of a State)
 - Customary court processes need to be strengthened
 - Constitutional support is required
- In this paper
 - legal pluralism lens
 - development of conceptual framework and tools























RESULTS & CONCLUSIONS – Legal pluralism model & indicators

























RESULTS & CONCLUSIONS – approaches to incorporating non-state actors



Combative

Rejection of other (official/ alternative) administration system peaceful, but intentional and active

Competitive

Non-state actors retain a level of autonomy in land administration Spatial location may determine the dominant system Conflicts between systems but mutual recognition/tolerance

Complimentary

Non-state actors have delegated responsibilities and clear processes Alternative dispute resolution Rule of law is upheld Intensive state capacity and resources

Cooperative

The alternative land administration system submits to the normative legitimacy of the official state system

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Categories of legal pluralism

interpreted in land

administration

























CONCLUSIONS – conceptual model

- Remember a state of balance/harmony should be sought between weak and deep forms of legal pluralism
- enhancing legal pluralism requires:
 - application of customary law in land administration
 - enhancement of legitimacy and jurisdiction
 - collaboration between customary and statutory institutions
 - decentralisation of the legal and institutional frameworks
 - improvement in Responsible Land Management

Application of customary law in land administration **Enhancement of** legitimacy and jurisdiction

Designing LASs to enhance legal pluralism in land administration

Decentralised legal and institutional framework

Collaboration between customary and statutory institutions in LAS

























Overall conclusions

- Conceptual framework and tools are designed for strengthening legal pluralism and thus land tenure security
 - Useful in developing world and complex contexts
 - Includes justice systems, institutions, approaches and processes
- Further supports the value of empirical research in theory building























The most relevant SDGs related to the presentation and theme of this session









International Federation of Surveyors supports the Sustainable Development Goals



























STEP 2: COPY THE SDG INTO PREVIOUS SLIDE























































