

Slowly towards trustworthy land records of pre-existing land rights

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Tenure security

- Has many advantages
- Titling projects mixed results in esp. Africa
- Limited impact of formal tenure
 - Main burden on customary
- Not totally capable of 'modern' trends, incl. increased land transactions
 - Need solid land administration:
 - Trustworthy, sustainable, appropriate

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Tenure security

- Trustworthy:
 - Information is reliable and accurate
 - Trust in the processes and institutions involved
- Immovable goods need special arrangements
 - Rights limited in general interests
 - Object of rights not directly clear
 - No physical handing over

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Transactions through time (e.g. Western Europe)

- Symbolic gesture (handing over twig, ..)
- Written document by literate person (scrib) kept by the new owner; risks of loss and fraud
- Storing (a copy) in with 'trusted person' (keeper)
- Enhance indexes to such records; even geographical
- Increased checking of document by keeper of records
- Legal status of the 'indexes' (esp. for 3rd parties)

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Transaction Evidence (Larsson 1991)

Means of transaction	Evidence
Oral agreement	Witnesses
Oral contracts	Oral Negotiation
Oral promises	Oral-Oral Negotiation
Oral promises	Registration and of law

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Local developments (e.g. Africa)

- Land transfers taking place (inheritance, sales within in lineage, sales to outsiders)
- Local trusted leaders witness (customary, (in)formal)
- Increasingly documents used ("petit papiers")
- Trying to get some document from administration, a/o trusted literate (scrib) involved (same leader or other)
- Sometimes copies, little systematic archiving
- No standard forms (some literates get a style)

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Possible further steps (one by one ?)

- Give standard forms (gov't afraid ?; role for NGOs ?)
- Help to set up archive; with some indexes
- Train the trusted record keepers
- Introduce some graphical index
- Officially mandate the role to those who have gotten and maintained the trust (scribs a/o keepers)
- Make recordation obligatory
- Increase legal effect of recordation

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Innovative Land Laws

- Parallel to or instead of (massive) titling innovative approaches are introduced
 - E.g. Uganda (CCO), Ethiopia, Madagascar, ..
 - Formal systems (eg Torrens) have limited coverage, are outdated and only elites can afford them
 - Still duality remains; talk about 'lesser title'
 - Capacity needs of top-down innovation huge
 - Trust in chosen approach differs locally

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Trust comes slow

- Scrib and records keeper need to be trustworthy
- Accessible and affordable for all (not only elite)
- Land holders need awareness of their role and importance of it
- Not just add another layer to confusion
- Not solve all (sleeping and awake) conflicts at one time; buyer combines records with local knowledge
- But can this stand outside pressure ?

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Trust comes slow

- *Trustworthy:*
 - *Information is reliable and accurate*
 - *Trust in the processes and institutions involved*
- Surveyors good in first one; focus here needs to be on the second one
- Trust needs to be built up, it can not be mandated !
- **"Trusts comes by foot and leaves on horseback"**

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