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

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
Evolving Land Tenure Security Strategies
Registration and Alternative Land Tenure Information Systems

Future state scenarios
- Oral Agreements, Social Processes & Alternative Land Tenure Information Systems
- Something completely new?
- Leave us alone! Never Register (if we can help it)

Current state
- Register sometimes
  - Oral Agreements, Private Conveyances & Social Processes
- Register every transaction advisable by law

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

Graphical Communication

- Perceived Tenure Approaches
- Informal land rights
- Customary Tenure
- Anti-Eviction
- Group Tenure
- Registered Freehold
- Leases
- Adverse Possession
- Occupation

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?
Purpose Oriented / Generalised –

USAID - Payne et al 2014

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?
PERI-URBAN CUSTOMARY SOUTH AFRICA & GHANA
EXPLANATION & PREDICTION AID

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....
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?