

Assessing Land Administration Systems and their Legal Frameworks: A Constitutional Focus

Kehinde Babalola, Simon Hull and Jennifer Whittal (South Africa)

Key words: Access to land; Cadastre; Capacity building; Land management; Legislation; Security of tenure; land administration system (LAS); legal framework; legal pluralism; Constitution; land policy; customary law; social justice

SUMMARY

Constitutions should provide a legal basis for addressing a country's land administration system (LAS) and legal reform. Considering this vital role, a country's constitution should be evaluated to ensure that it supports, in principle, LAS and law reforms that include pro-poor objectives. In recent years, several land administration assessment frameworks have been developed, yet none give attention to the associated legal framework of LAS reform from a constitutional perspective. It is now commonly recognised that a LAS that is significant for all people in a developing country should include pro-poor approaches. A context-specific framework to evaluate a LAS and its legal framework, specifically the relevant constitution, is lacking. The study addresses this gap in developing a conceptual framework to support the holistic evaluation of a country's constitution in the context of Sub-Saharan Africa (SSA). The framework development involves secondary data (constitution, land laws, land policy, legislation, and published journal articles) collated and assessed using a sampling logic method. Three key areas of a constitution emerged as important to the delivery of pro-poor LAS: human rights, rule of law, and legal pluralism.

The impact of a constitution and potential areas of improvement may be revealed with the application of the conceptual framework. This study is aimed at LAS and the reform of its legal framework from a constitutional perspective. Because the practice of African customary law is principally in rural and peri-urban areas, it is aimed at achieving the significance of the LAS for peri-urban and rural land rights holders. The study is significant for policymakers, professionals, and academics engaged in the reform of the LAS and its legal framework in a developing country SSA context.

Assessing Land Administration Systems and their Legal Frameworks: A Constitutional Focus (11295)
Kehinde Babalola, Simon Hull and Jennifer Whittal (South Africa)

FIG Congress 2022
Volunteering for the future - Geospatial excellence for a better living
Warsaw, Poland, 11–15 September 2022