

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

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### April 2025



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## 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







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#### Woodman's continuum of legal pluralism









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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



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## Methodology

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- 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

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 Vulnerability: high demand for land & loss of agricultural land - impacts livelihood of the peri-urban dwellers

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## **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







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#### **RESULTS & CONCLUSIONS – Legal pluralism model & indicators**





Weak legal pluralism

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#### **RESULTS & CONCLUSIONS – approaches to incorporating non-state actors**



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## **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





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## **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



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



# SUSTAINABLE GOALS

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