

Land governance arrangements in operationalizing effective land administration systems: Prospects for evaluation approach

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Key words: Land policy, land management, land governance, land administration, sustainable development

SUMMARY

Land administration (LA) is acknowledged to support evolving societal needs to land resources management. To do so, good land governance is a necessity for attaining effective LA. However, issues in land governance have been repeatedly reported in different literature. This study aims to contribute to development of an evaluation approach on land governance arrangements in operationalizing effective land administration systems (LASs). A review of frameworks on land governance and LA was made to identify features that relate good governance and effective LA. To build benchmarks for evaluation, country experiences on land governance arrangements in processes of LA were referred to. The constructs from linking elements in frameworks and the identified possible benchmarks derived three main elements for evaluation: the legal and institutional framework (inclusiveness of multiple interests to land), land management (transparency in handling issues to land), LAS (system serving the social welfare in a way sustaining the purpose behind the system development). Differences in land governance arrangements showed that they can play an impact in the process of operationalizing formal land administration services at a large scale. Despite the differences, what is expected from developing LASs to support formulated land policies may not be attained as a result of such differences in land governance arrangements. Similarities in persistent issues to land governance are identified, although operating under different arrangements to land governance. Hence, the study suggests that the evaluation approach should base on what comes out from operationalizing a LAS against the purpose of its development whatever land governance arrangement in place.

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1. INTRODUCTION

Effective and operational land administration systems (LAS) are a bridge to good land governance, which is the global agenda for sustainable development. Land governance refers to policies or rules, procedures or practices, and institutions that control people's interactions or relationships with land (Enemark *et al.*, 2016). Land policies are implemented by means of land administration (LA), which is defined as a process of managing information about people's relationships to land (UNECE, 1996, Lemmen *et al.*, 2021). LA assists in the achievement of good land governance for sustainable development (Williamson *et al.*, 2010, Enemark *et al.*, 2016, UNESCO, 2017).

Security of land tenure (including transfer of land rights), land value (including valuation and taxation of land), land use (including planning and control of land use) and land development (including implementation of utilities and infrastructure) are the functions of LA in support of land policies. Consequently, LASs are recognized as an infrastructure that supports these functions, with tenure security at the center, for land management decision-making, which evolve in response to how people interact with land (Williamson *et al.*, 2010, Enemark *et al.*, 2016).

In implementing land policies through operationalization of formal LA, countries adopt different land governance structures or arrangements. An example to such differences can be identified in the land governance cases of Ethiopia and Rwanda. In the former, in respect to the federal legislations, region states have the power to enact their respective land proclamations and to administer land and other natural resources (FDRE, 1995, 2005). In the latter, land legislations are centralized and implemented at the local government level (Republic of Rwanda, 2004, 2013, 2021).

Previous studies looked into the benefits of land registration and certification in formalizing LA (see Ali *et al.*, 2014, Bezu and Holden, 2014, Hailu and Harris, 2014, Bizoza and Opi-Omoding, 2021), to cite some. Other studies dealt with land governance arrangements and issues (see Wily, 2003, Reda, 2014, Hicketier and Fellmann, 2016, Adam *et al.*, 2020, Agegnehu, 2020, Wabelo, 2020, Siyum, 2022), to cite some.

The land governance assessment framework (the LGAF) (Deininger *et al.*, 2012) was developed in response to the repeatedly reported issues in land governance. The framework acts as a diagnostic tool that is to be implemented at the local level to help countries to prioritize reforms and monitor the progress over time. The framework has been used to assess the status of land governance in specific country contexts (see Deininger *et al.*, 2014, Hailu, 2016). However, assessing land governance arrangements specifically with regard to operationalizing effective LASs has not been covered. It would therefore be worthwhile to

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study land governance arrangements in the development of effective LASs for realizing land policy goals.

This study aims to contribute to development of an evaluation approach in operationalizing effective LASs. The first specific objective is to draw relative key features on good land governance and effective LA processes by identifying key features in frameworks on land governance and land administration. The second is to identify benchmarks for evaluation from experiences on land governance arrangements in processes of LA. The third is to develop measurement criteria of land governance arrangements in their different contexts for operationalization of effective LASs.

The paper is structured as follows: The introduction section is followed by the methodology that was used to attain the research objective (section 2). The third section presents the results of conceptualizing the evaluation approach intended in this study. The fourth section presents the developed evaluation approach with a discussion, and the concluding remarks are provided in the fifth section.

2. RESEARCH METHODOLOGY

This section describes the methodology that was used to attain the research objective of developing an evaluation approach for land governance arrangements in operationalizing effective LASs. Data used in this study were collected from literature on frameworks to land governance and land administration to identify key features on good land governance and effective LA processes. To build benchmarks for evaluation, example cases on experiences from land governance arrangements were referred to on reported issues and efforts made for improvement. The research methodology flow is presented in Figure 1.

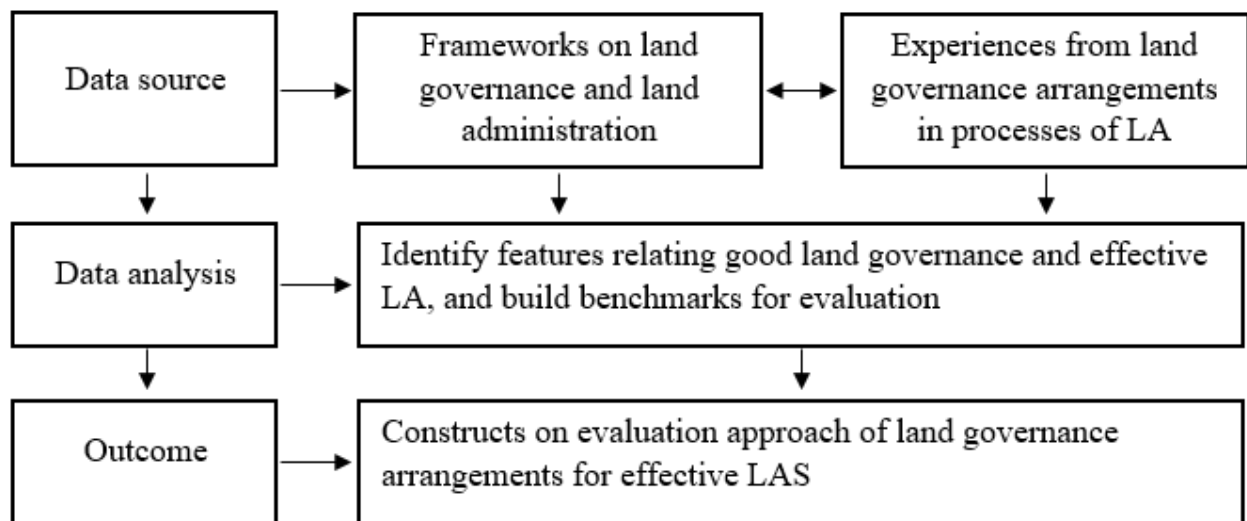


Figure 1. Research methodology flow

Source: Author

To carry out this study, as shown in Figure 1, a review of frameworks on land governance and LA was made to identify features that relate good governance and effective LA. To do so, key elements from the LGAF were identified with inputs from other existing studies that

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relate to land governance and LA to derive interconnected elements that can serve for evaluating land governance arrangements to LAS development.

To build benchmarks for evaluation, a review of literature was made on country experiences in arrangements to land governance, reported issues and efforts made when formalizing LA services through the development of LASs. The constructs for evaluation approach were then made by features generated from linking elements in frameworks of land governance and LA with the identified benchmarks derived from experiences in land governance arrangements for LA. The evaluation approach was constructed considering operationalization of effective LASs for security of land tenure rights and other LA functions seen in section 1.

3. CONCEPTUALISING EVALUATION ELEMENTS OF LAND GOVERNANCE ARRANGEMENTS FOR LAND ADMINISTRATION

This section presents the results of conceptualising elements for evaluating land governance arrangements for the sake of effective LASs. The frameworks on land governance and LA are first presented, and they are then related on their common elements. The section then presents experiences in land governance arrangements for the development of LA to build benchmarks for evaluation.

Land governance and land administration frameworks

This section provides a brief on the LGAF and the inputs from existing studies that relate to land governance, to make a relative assembly of evaluation elements to land governance in formalizing effective LA services. Key features in the LGAF (Deininger *et al.*, 2012) are presented in Table 1.

Table 1. Land Governance Assessment Framework

| Key feature | Element for assessment |
|---|---|
| Legal and institutional framework | a) extent to which the range of existing land rights is legally recognized; b) level of documentation and enforcement, the cost of enforcing or gradually upgrading these rights, with pro-poor and gender sensitive approaches; c) whether regulation and management of land involve institutions with clear mandates as well as policy processes that are transparent and equitable |
| Land use planning, management, and taxation | whether or not a) land use restrictions are justified on the basis of public interest; b) necessary exemptions are granted promptly and transparently; c) the process for land use planning is efficient; d) taxes on land and real estate are transparently determined and efficiently collected |
| Management of public land | extent to which a) public landholdings are justified and transparently inventoried and managed; |

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| Key feature | Element for assessment |
|--|--|
| | b) expropriation procedures are applied in public interest through clear, transparent, and fair processes involving compensation of all those who lose rights; c) transfer or devolution of state land is transparent and monitored |
| Public provision of land information | whether or not a) information systems provide sufficient, relevant, and up to date data on land ownership to the general public; b) whether or not land administration services are accessible, affordable, and sustainable |
| Dispute resolution and conflict management | whether or not a) a country has affordable, clearly defined, transparent, and unbiased mechanisms for the resolution of land disputes; b) these mechanisms function effectively in practice |

Apart from evaluation elements in the LGAF, other similar studies have suggested features for evaluation.

- The Framework for Effective Land Administration (FELA) (UN-GGIM, 2020) lays down the following pathways with their respective requirements:
 - Governance, institutions and accountability: Accountable and transparent governance,
 - Policy and legal: Inclusiveness and recognition of all land tenure types with gender responsive and inclusive of vulnerable groups,
 - Financial: Affordable with sustainable business models and assurance of economic return,
 - Data: maintenance and security of data with no duplication for attaining data reliability and quality of service,
 - Innovation: systems and approaches that are upgradable for responsible and innovation oriented,
 - Standards: consideration of international agreed standards for interoperability and integration supported,
 - Partnerships: strengthening partnerships and supporting collaboration for cooperation, partnerships and participation,
 - Capacity and education: facilitating capacity development and knowledge transfer and exchange,
 - Advocacy and awareness: advocating effective LA for enhancing national engagement and communication.

The Conceptual Framework for Governance in Land Administration (Burns and Dalrymple, 2008) stipulates the following elements: fair policies, legitimate rights, participatory land management, transparent institutional functioning, especially in terms of public land management, information access, clear and efficient land valuation and taxation and equitable dispute resolution procedures.

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Other elements for assessment include the following:

- Land governance is fully integrated into policies, programming, and operations (NEPAD, 2020);
- Awareness of various interests in land, the multiple and often fragmented agencies of relevance to land management, the legislative framework, the level of decentralization, and the importance of customary land governance institutions (Debonne, 2019);
- Land is considered in a position of key elements for 1) sustainable development and 2) human rights (UN-Habitat, 2017);
- Clarification regarding the multiplicity of rights to land (Ott, 2012);
- Economic opportunities outside agriculture that can help to reduce pressure on land and facilitate more progressive and peaceful evolution. The opportunities to assess involve effective agricultural policies supporting family farming on the one hand, and policies to develop economic activities in rural areas on the other hand (Chauveau *et al.*, 2006);
- Environment for land administration (Burns and Dalrymple, 2006):
 - Clarity and social congruence in formally recognized rights and the ability of the regime to implement systems which recognize these rights as indicated by the proportion of the population and jurisdictional area that benefits from formal land administration services,
 - Recognition afforded by the regime to informal land rights covering, where appropriate, both informal settlers and populations living under customary arrangements,
 - The level of disputes over land rights, the formal and alternative dispute resolution mechanisms available to resolve these disputes and the efficiency and effectiveness of them,
- Inclusion of land and land administration within a broad policy framework rather than a number of isolated policy initiatives to secure access to land and other natural resources in the recovery and reconstruction of a country after violent conflict (FAO, 2005);
- Empowering local communities or decentralizing powers to local communities, gaps between what land policy and law lay out as the future and what actually occurs in practice (Wily, 2003).

By relating elements of the LGAF with elements from other similar studies, the elements for evaluation of governance to land administration can be derived as follows:

- Legal and institutional framework:
 - inclusiveness and recognition of all land tenure types and various interests in land (multiplicity of rights to land and all categories of people with attention paid to gender and vulnerable groups),
 - transparent institutional functioning,
 - the level of decentralization and the importance of customary land governance institutions,
 - inclusive policies, programming, and operations with inclusion of land and land administration (with agricultural policies supporting family farming, and

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policies supporting development of economic activities) within a broad policy framework for sustainable development and human rights;

- Land management: participatory land management, clear and efficient land valuation and taxation and equitable dispute resolution procedure;
- What land policy and law lay out as the future and what actually occurs in practice.

Besides evaluation elements suggested in the previous studies, the empirical experiences on governance to land administration are referred to in the present study to benchmark evaluation of land governance arrangements.

3.2 Experiences in land governance arrangements for LA

This section presents experiences on governance to land administration from previous studies to build benchmarks for evaluation approach. The presentation does not cover all land governance experience cases, but the focus is made on issues in land governance, possible differences between land governance arrangements and efforts in addressing issues to governing land.

3.2.1 Issues in governance to land administration

The issues on inadequate implementation of good land governance elements, including participation, responsiveness, transparency, accountability, equity, efficiency, and effectiveness have been reported in the case of Ethiopia. The causes reported for these issues include mainly lack of resources, commitment, human resources, clear rules and regulations, modern service delivery, materials, budget, and rent-seeking behaviour (Siyum, 2022).

The application of the LGAF to 10 African countries reported issues that include weak protection of rights in practice, large gaps in female land access, and limited outreach and effectiveness of institutions to record rights and adjudicate disputes. The countries include DRC, Gambia, Ghana, Madagascar, Malawi, Mauritania, Nigeria, Senegal, South Africa, and South Sudan, with their different characteristics in terms of population density, levels of income, urbanization, and land abundance (Deininger *et al.*, 2014).

The study in the Eastern Africa region reported diverse background of land governance arrangements with formal systems that are not reaching large parts of the society yet. The limitations of formal systems imply that aspects of custom and informal authority structures exist and are used by people for conflict resolution and other transactions related to land. The results of these structures are land governance arrangements that include traditional actors, informal actors and formal actors (Adam *et al.*, 2020). Similar findings are identified in other geographical areas like Cambodia, Mozambique and Brazil (Hickethier and Fellmann, 2016). In a similar vein, Otto and Hoekema (2012) discussed strong pressures on unregistered land tenure forms caused by large-scale buying of big tracts of land by both foreign governments and multinational enterprises.

Signs on governments that do not always sustain their enthusiasm behind LASs development have been reported. The governments confront the realities of implementing good land governance principles or the loss of control over land management. Empowering local communities or decentralizing powers to local communities tend to go hand in hand with

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protective measures of majority land interests that may make land access by investors not as straightforward as they may wish (Wily, 2003).

It can be drawn from this section that different arrangements and issues to land governance exist, particularly in operationalizing effective LA. In recognition of issues in land governance, efforts have been made by countries in formalizing their LA, which is seen in section 3.2.2.

3.2.2 Efforts in solving issues to land governance

The inclusive land information collection, with gender-sensitive disaggregation has repeatedly been raised (see Deininger *et al.*, 2012, 2014, UN-GGIM, 2020). Efforts in addressing the issue have also been reported. The study of Hailu (2016) reported that Ethiopia has achieved significant results in the first level registration and certification in the rural land sector and legally recognizing women's land right. However, there were still a lot to make geo-referenced parcel mapping to enhance tenure security and enforcing the legally recognized women's land right specifically in communities exercising polygamy marriage arrangements.

The recent literature on Ethiopia shows a significant progress in geo-referencing registered land rights (see Eversmann, 2019, LIFT, 2021). However, the regions differ from one to another in the progress of systematically formalizing land rights (Deininger *et al.*, 2008, Persha *et al.*, 2017). The existing differences between regions can be related to the regionalization of land administration which gives the regions to independently develop their respective LASs, as seen in section 1.

A reference is also made to land governance case of Rwanda, which has a different land governance arrangement to LA relatively to the Ethiopia one. The Rwandan case has been reported for an advanced progress in formalizing LASs across all country regions as a result of systematically registering land rights within a centrally governing umbrella on land policy and law (cf. section 1). The boundaries of the registered land rights are all georeferenced (Nkurunziza, 2015, Ngoga, 2018).

Despite differences existing between the two land governance cases, Ethiopia and Rwanda, in formalizing their respective LASs across the country, the issues reported in their land governance present similarities. The reported issues include mainly the process of large-scale investments, which adversely affect local communities to benefit from their local land resources. Other reported issues include developments of public infrastructure in adversely affecting local communities (Rugema *et al.*, 2022). In both kinds of issues, the large-scale investments and developments of public infrastructure, another particular reported issue is related to timely and fair compensation (Mugisha, 2015, Rose *et al.*, 2016, Dires *et al.*, 2021). Country experiences in land governance arrangements, presented in this section, provide insights on a range of people's relationships to land and the governance to land thereof, reported issues and efforts made to solving the issues. The reported issues present similarities, mainly in sustaining the functions of LA in support of land policies, although they are based on differently contextual conditions to land governance. Such similarities in issues for different land governance structures can inform possible benchmarks for evaluation, which is addressed in section 4.

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4. EVALUATION APPROACH AND DISCUSSION

This section relates evaluation elements discussed in section 3.1 and empirical experiences to land governance presented in section 3.2 to form evaluation elements for land governance arrangements in operationalizing effectively formal LA services to all societies. Table 2 provides features for evaluation approach. The features presented in the table stem from the LGAF with elements from similar studies presented in section 3.1. The studies include those with a focus on land governance (Wily, 2003, Chauveau *et al.*, 2006, Burns and Dalrymple, 2008, Deininger *et al.*, 2012, Ott, 2012, UN-Habitat, 2017, Debonne, 2019, NEPAD, 2020) and others on LA (FAO, 2005, Burns and Dalrymple, 2006, UN-GGIM, 2020).

Hence, evaluation elements from previous studies share similarities with elements in the present study on legal and institutional framework, land management, and LAS aspects. However, in the present study the elements are deliberately adapted to the purpose of evaluating land governance arrangements in formalizing LA services for operations of effective LASs. The adaptation of the three elements is made respectively on inclusiveness of multiple interests to land, transparency in handling issues to land, and the sustainability behind development of LAS.

Table 2. Evaluation approach of land governance arrangements in effective land administration services

| Core evaluation aspect | Key Indicator | Possible benchmark | Evaluation element |
|--|---|---|---|
| Legal and institutional framework | Inclusiveness of multiple interests to land | Inclusive to multiplicity of interests in land | Clarity in formulated legal framework and its implementation |
| | | Inclusive to all categories of people | Attention paid to gender and vulnerable groups |
| | | Institutional functioning | Level of decentralization including customary land governance institutions |
| | | Inclusive policies, programming, and operations | A broad policy framework for sustainable development and human rights, encompassing: - land and land administration, - agricultural policies supporting family farming and policies supporting development of economic activities |
| Land management | Transparency in handling issues to land | Participation of local communities | Decisions involving local people in land related governance |
| | | Land valuation and taxation | Clear and efficient procedure |
| | | Dispute resolution | Equitable procedure |
| Sustainability behind development of LAS | LAS serving social welfare | Purpose of developing LAS | Support in implementing formulated land policy and law |
| | | Establishment of LAS and its utilization | Implementing what lays out in land policy and law, particularly to protecting social tenure and natural resources for economic development >>> usage of land information from LAS in land management decisions |

| Core evaluation aspect | Key Indicator | Possible benchmark | Evaluation element |
|------------------------|---------------|--|--|
| | | Protective measures of majority land interests | Equity in formal recognition of land tenure rights in planned public interests, whatever land governance arrangements in place |

Source: Author

The features in Table 2 are constructed by relating inputs not only from evaluation elements in the existing frameworks related to land governance but also with inputs from empirical experiences in land governance arrangements. These are experiences with different characteristics in governance to land, the reported issues and efforts made in operationalisation of LASs, which served in this study as benchmarks for the evaluation approach. Hence, the constructs are made with a specific focus on the relationship between land governance arrangements and LASs development in implementing what lays out in land policy and law, rather than evaluating a broad context of land governance. As seen in section 1, LASs are developed to support in implementation of land policies (cf. Williamson *et al.*, 2010, Enemark *et al.*, 2016).

The level of decentralization including customary land governance institutions is considered important for evaluation approach in this study. Such importance is shared with the study by Salfarina and McCluskey (2014) showing that a decentralized system reduces the need for co-ordination, creates more opportunities to the local people in decision making processes, promotes participatory governance and encourages sustainability.

The key benefits of good governance in LA include pro-poor support, public confidence, economic growth, stewardship of the environment, protection of state assets, more effective and efficient public administration of land, conflict prevention and resolution (Bell, 2007). In addressing challenges to a such governance, the fit for purpose land administration (FFPLA) emerged as a flexible approach to the development of LASs, mainly for the spatial aspect of LA with the legal and institutional frameworks supporting it, particularly in developing countries (Enemark *et al.*, 2014, 2016). The FFPLA approach has been adopted by different countries (see Enemark *et al.*, 2021), including those seen in section 3.2.2 of the present study.

The study of FAO (2007) presented issues on weak governance, particularly on large-scale investments and developments of public infrastructure, and the issue of non-timely and unfair compensation. Similar findings are shared with the present study on the recurrence issue to land governance in different land governance contexts, including those that have massively developed LASs by adopting the FFPLA approach. Differences in land governance arrangements showed that they can play an impact in the process of operationalizing formal LA services at a large scale. However, similarities in the repeatedly persistent issues to land governance are identified in those different land governance arrangements.

Land, a primary source of wealth, often becomes the trading medium and motivation for political issues, economic and power gains, and self-fulfilling interests. The need to ensure that there is good governance in LA is thus very important; even to mention necessary (Burns and Dalrymple, 2008). For such governance, the present study highlights an evaluation approach that relates what comes out from a LAS against the purpose of its development whatever land governance arrangement in place.

Sustainable systems to LA require that the institutions that interact with citizens who are the intended beneficiaries do so in ways that build their confidence, particularly by negating disputes and managing points of tension relating to land interests. Those are interests including rights, use and control; in other words, rights, restrictions and responsibilities

(Williamson *et al.*, 2010). The evaluation approach developed in this study took into consideration of this requirement for LAS in the core evaluation aspect on land management. Overall, the study contributed to suggesting prospects for evaluation elements of land governance arrangements against effectiveness of LASs. That is an evaluation approach that can be of use when studying effects of land governance arrangements within the discourse of formalizing LA services to all societal categories for sustainable development, in which security of interests to land for all are at the center. That is protecting the social tenure and natural resources for the economic development. However, the study put a focus on operationalisation of LASs, but it didn't cover in details all aspects of LA, including the legal and institutional.

5. CONCLUSIONS

Following the issues discussed in the previous sections, inferences are made in this section by answering the research question on “what a method can evaluate land governance arrangements for operationalizing effective LASs?” To answer this question, the study related features in the LGAF with elements from similar studies that dealt with land governance and land administration issues. The study referred also to empirical experiences on land governance arrangements in development of LASs to build benchmarks for evaluation. It could be drawn from relating evaluation elements with the built benchmarks that to evaluate land governance arrangements in formalizing land administration services, three evaluation aspects would be crucial. The first one is the legal and institutional framework, with inclusiveness of multiple interests to land. The second one is land management, with transparency in handling issues to land. The third is the sustainability behind development of LAS in a way that the systems serve the social welfare.

Benchmarks built from empirical experiences in land governance help to draw lessons that differences in land governance arrangements can play an impact in the process of operationalizing formal land administration services at a large scale. However, the study shows that despite these variances, what is expected from developing LASs to support formulated land policies may not be attained as a result of such differences in land governance arrangements. The study findings showed similarities in persistent issues to land governance although operating under different land governance arrangements. Hence, the study suggests that the evaluation approach would base on what comes out from a LAS against the purpose of its development whatever land governance arrangement in place.

The evaluation method developed in this study can be used to evaluate land governance cases which are built on different arrangements for the purpose of operating effective LASs. However, the study didn't cover in details all aspects of LA, including the legal and institutional, which future research can consider for a comprehensive evaluation approach to land governance against improvement of LA services.

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BIOGRAPHICAL NOTES

Didier Milindi Rugema is an academic in the field of land administration and management for responsive land policy and governance. His field of expertise, both as an academic and a practitioner, includes land policy and governance, cadastre, land information system, land administration and management backed with geo-information science. His work experiences include the design, implementation and evaluation of contextually responsive approaches for equity in land tenure rights for land resources management.

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Simon Hull is an associate professor and 2019 PhD graduate at the University of Cape Town (UCT). His doctoral research was in the field of customary land tenure reform. He completed his MSc at UCT in the field of digital close-range photogrammetry in 2000 whereafter he spent two years working as a marine surveyor. He spent a further four years completing his articles and is a registered South African Professional Land Surveyor. In 2006 he changed careers and became a high school Maths and Science teacher in a rural village in northern Zululand. He has held his current position at UCT since 2012, where he lectures in the foundations of land surveying, GISc, and cadastral surveying. His research interests are in

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