

Bridging the municipal-traditional authority divide: towards a consolidated land information system in South Africa's former homelands

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Keywords: customary land administration; municipal-traditional authority nexus; land tenure; fit-for-purpose land administration

SUMMARY

This paper investigates the options for managing the complex interface between statutory and customary land administration systems in South Africa. The study responds to the persistent fragmentation and inefficiencies in South Africa's land administration landscape, where overlapping governance structures and legal ambiguities hinder the development of a coherent national land information system. The aim is to identify the conditions under which traditional and municipal land administration systems can be consolidated to support equitable and efficient land governance. The work draws on an embedded single-case study situated in two former homelands: Jozini Local Municipality in KwaZulu-Natal and Thulamela / Collins Chabane Local Municipalities in Limpopo Province. Data is drawn from secondary sources of published information and official reports, triangulated with ethnographic methods of key informant interviews with traditional leaders and municipal officials. The researchers also draw from site observation and key informants' records of land allocation and recording. The study highlights that municipal and traditional authority land allocation is not coordinated. This leads to inconsistencies in land allocation and administration standards and the generation of inconsistent data. We offer practical recommendations for integrating plural land administration systems in South Africa following the fit-for-purpose land administration guidelines, while calling for further research across other former homelands to capture the full spectrum of customary practices and inform national policy development. In doing so, the study supports the broader goal of securing land tenure for all and advancing sustainable land management in line with global development agendas.

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1 INTRODUCTION

Globally, pressure on land resources is increasing. This is due to competition and conflict stemming from the reduction in productive land through climate change, population growth increasing demand for housing and food, and technological advances requiring land for rare earth mining and renewable energy infrastructure. Effective land administration and management systems are critical to securing land tenure for vulnerable and marginalised populations and supporting the realisation of Sustainable Development Goals (SDGs) (Enemark 2016), particularly those related to poverty, hunger, gender equity, climate action, and sustainable land use (Enemark 2023).

In South Africa, the challenge of effective land administration is compounded by a complex history that established dualistic governance and land tenure systems (Rautenbach and Ferreira 2023). The “municipal-traditional authority nexus” (Chakwizira and Tshivase 2024, p. 1) reflects this legacy. Traditional authorities historically served as custodians of ‘communal’ land, managing land allocation. This role was systematically redefined by colonial legislation, such as the *Black Administration Act No. 38 of 1927* and the *Bantu Authorities Act No. 68 of 1951*, which co-opted traditional leaders as state intermediaries to govern segregated ‘homelands’, also known as ‘Bantustans’. Though traditional leaders maintained control over allocation, their authority was heavily regulated to serve apartheid interests (de Souza Louw 2021), contributing to a system where land administration in South Africa is now described as disjointed, constrained, under-resourced and fragmented (PLAAS-PARI-SALGA 2021).

After the fall of apartheid in 1994, democratic reforms introduced ‘wall-to-wall’ municipalities that cover the entire Republic, including the former homelands. This resulted in an ongoing duality where municipal governments apply ‘formal’ land administration via statutory laws (e.g., the *Spatial Planning and Land Use Management Act No. 16 of 2013* (SPLUMA)), while traditional authorities administer land ‘informally’ based on customary norms and traditions. This duality has led to overlapping, inconsistent, and often conflicting governance structures, resulting in “legal and administrative chaos” (Lahiff 2006, p. 3).

The coexistence of formal statutory systems (offering legal certainty through registration and title) and customary systems (offering community-based governance through social structures and unregistered use rights) necessitates integration efforts that respect local customs while providing legal clarity. This pilot project investigates the conditions necessary for resolving this fragmentation. Specifically, the aim of the project is to **explore the conditions under which**

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traditional authorities and municipalities can have a consolidated land information system. Such a consolidated system would be beneficial for aligning land use planning with actual land use, clearly defining ambiguous roles and responsibilities, securing land rights (especially for marginalized groups), and building coherent land administration institutions. To achieve this aim, the research addresses the following objectives:

1. To understand the existing legal and policy landscape through a review of pertinent literature concerning land administration in South Africa, especially in the former homelands.
2. To highlight the land information management practices of traditional leaders and municipal authorities in the former homelands of South Africa.
3. To suggest the conditions under which the municipal and traditional authorities could begin to develop an integrated and consolidated land information system to support coherent and efficient land resource management in South Africa.

2 METHODOLOGY

This study adopted a qualitative approach, combining an integrative literature review (Lubbe *et al.* 2020, Lamhamedi and de Vries 2022) with primary data collection through an embedded single-case study (Yin 2009). The case under investigation is land administration at the municipal-traditional authority nexus. The embedded units are two municipalities in two former homelands.

2.1 Integrative Literature Review

The integrative literature review was conducted to address Objective 1. This method allowed for the inclusion of findings from a wide variety of sources, offering a broader view of the topic than a standard systematic review. Lubbe *et al.* (2020) describe five steps for conducting an integrative literature review, as illustrated in Figure 1, viz. 1) composing a research question, 2) Sampling the literature (searching, screening, selecting), 3) Critical appraisal, 4) Analysis (data extraction and analysis), and 5) Presentation of findings.

The question that prompted this study is, “*What are the conditions for a consolidated land information system in South Africa?*” The search focused on articles published post-1994, using databases such as Scopus and Web of Science with keywords relating to customary land administration in South Africa. The titles and abstracts of the resultant set of 35 articles were screened and 16 were removed for being either too theoretical (i.e. desktop studies), inaccessible to the researchers (behind a paywall to which we did not have access), or incorrect scope (not related to South Africa or land administration in the former homelands), leaving 19 sources.

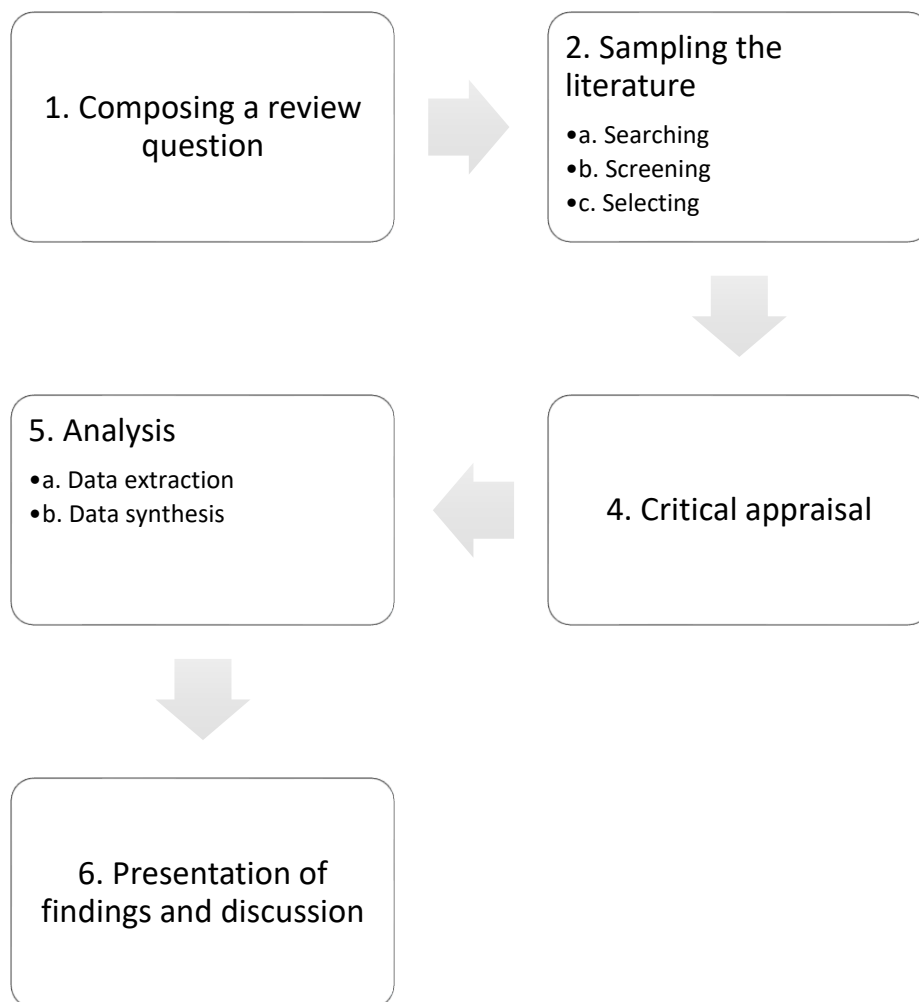


Figure 1 Integrated literature review process (Lubbe *et al.* 2020)

2.2 Primary Data Collection: Embedded Single-Case Study

The primary data was collected through case studies of selected traditional authorities in Limpopo and KwaZulu-Natal respectively in South Africa. It was expected that these cases would elicit contrasting results due to their differences in customs, contexts, cultures, ethnicities, and histories (Zulu and Venda). Hence, the choice of case locations is one of theoretical replication (Yin 2009). Although every relationship between customary land governance institutions and the many respective municipalities in South Africa is unique, the results from this study are context specific and cannot be generalised across the country. The findings nonetheless generate useful insights into how traditional authorities and municipalities in South Africa generate and manage information in land allocation and administration.

The two case study locations **Fejl! Henvisningskilde ikke fundet.**(see Figure 2) are:

1. **Jozini Local Municipality (JLM)**, in northern KwaZulu-Natal Province (KZN): JLM is predominantly rural, with 60% of land administered under customary authority and falling under the ownership of the Ingonyama Trust (IT), of whom the Zulu king is the sole trustee (Manona and Kepe 2023). KZN is considered a special case in South Africa due to the IT's unique legislation and rules.
2. **Thulamela and Collins Chabane Local Municipalities (TLM/CCLM)**, in Limpopo Province: Limpopo was chosen because customary practices are comparatively under-researched, and the province has a high percentage of households living under customary tenure (Chakwizira and Tshivase 2024, Pearson 2024).

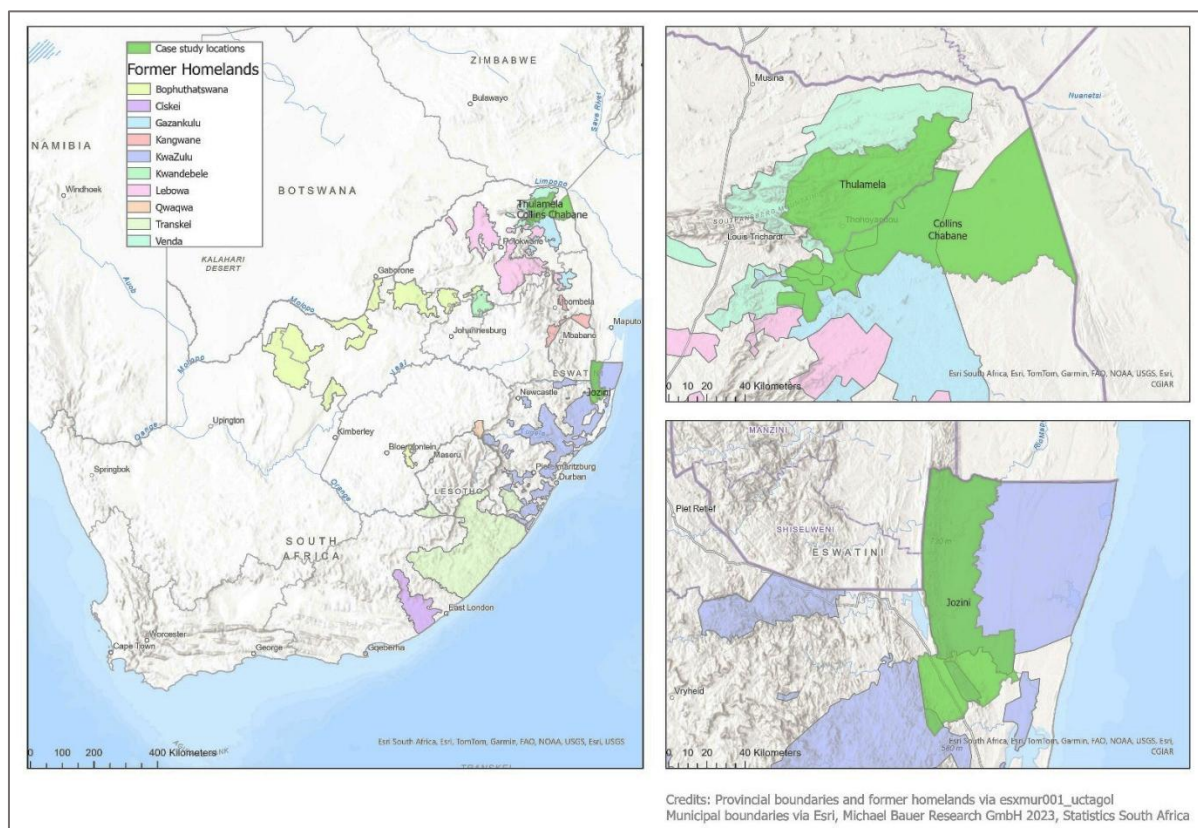


Figure 2 Case study locations and former homelands of South Africa

Fieldwork was conducted in October 2024. At each location, interviews were conducted with key informants, including one chief, two headmen, and relevant officials from the municipal planning, human settlements, and GIS departments. Prior established relationships were key to securing cooperation from local authorities and traditional leaders. Semi-structured interviews followed guiding questions focused on land allocation, record-keeping, engagement between authorities, and challenges. An ‘active interviewer’ approach (Holstein and Gubrium 1995) was adopted to foster a conversational and collaborative knowledge-construction environment. All

traditional leaders were anonymised, and specific locations were not divulged due to concerns expressed by one chief regarding the dissemination of results.

Qualitative data analysis of the literature and interviews followed a six-step process per Guest et al. (2012) and Braun and Clarke (2022), viz. 1) becoming familiar with the data, 2) generating initial codes, 3) identifying themes, 4) reviewing themes, 5) defining themes, and 6) reporting findings. For efficiency, artificial intelligence (ChatGPT 4.0) was used to assist in synthesizing summaries and identifying dominant themes (primarily step 3). Morgan (2023) has shown that ChatGPT could well disrupt the practice of coding and categorising in future. However, researchers remain responsible for their findings and must avoid the temptation of surrendering analysis to a robot. Hence, for due diligence, we read through every article and transcribed every interview ourselves. We compared the AI output against our own impressions, making adjustments and refinements as necessary. Thus, AI was used as a tool but the authors maintain full responsibility for the final analysis.

3 RESULTS

The analysis draws together the thematic challenges identified in the literature review (Objective 1) and the land administration practices observed during fieldwork (Objective 2).

3.1 Legislative and Tenure Challenges (Objective 1)

The integrative literature review revealed three interconnected themes contributing to the problem of fragmented land information management: conflicts between customary and statutory tenure, confusion regarding roles and responsibilities, and confounding legislation.

3.1.1 Customary vs. Statutory Land Tenure:

A stark contrast exists between the ‘formal’ statutory system, which relies on written laws, individual ownership recognized by title deeds, and cadastral surveys, and the customary tenure systems prevalent in the former homelands. Under customary tenure, land is often communal, with individuals or families possessing strong use rights rather than outright legal ownership (dominium). Rights are often passed through oral agreements and kinship networks. People identify as “belonging to the land” (Manona and Kepe 2023, p. 192), not as owners of land, and landholding is “regulated by local traditional institutions, based on customary norms and practices” (Chitonge *et al.* 2017, p. 83). Access to land is via “social norms and networks ... where local powers play an important role in land rights regulation and conflicts resolution” (Lavigne Delville 2010, n. 1).

Rights to the individual holdings and the commons are recognised under customary law. While providing *de facto* tenure security for some, these use rights do not confer individual ownership. This duality creates difficulties when land is needed for development, investment, or redistribution, and customary landholders struggle to prove their rights under the statutory system. Furthermore, customary systems often conflict with constitutional guarantees, particularly regarding gender equality, as women’s rights to land are frequently secondary or limited, leaving them vulnerable to dispossession (Sihlali 2018, Paradza *et al.* 2020).

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3.1.2 Confusion over Roles and Responsibilities

Traditional leaders retain significant control over land allocation and dispute resolution, whereas legislation like the *White Paper on Local Government* positioned municipalities as the primary agents of land administration (Fast 1998, Nzewi and Sibanda 2023). This overlap and legislative ambiguity create uncertainty. The role of traditional leaders in cooperative government needs to be clarified (Rautenbach and Ferreira 2023). Such legal duality, where customary law (administered by traditional leaders) and statutory law (administered by the government) coexist, contributes to confusion, with negative consequences that are especially felt by the poor and marginalised (Winkler 2021).

3.1.3 Confounding Legislation and Legal Gaps

Legislative uncertainty fuels governance disputes. Key problematic legislation includes:

1. **The *White Paper on Local Government* (WPLG, 1998):** Failed to clarify the respective powers and functions of municipalities and traditional leaders regarding land allocation (Fast 1998, Ntsebeza 2004, Winkler 2021).
2. **The *Communal Land Rights Act* (CLRA, 2004):** Intended to formalise communal tenure but was declared unconstitutional in 2010 due to governance and gender equity concerns (Cousins and Hall 2011, Weinberg 2015). No suitable replacement has been forthcoming, creating a critical legislative vacuum (that Manona and Kepe (2023, p. 190) note is “not simply a matter of omission, but a policy design choice”).
3. **The *Traditional and Khoi-San Leadership Act* (TKLA, 2019):** Mandated cooperation but did not provide detailed mechanisms for resolving land disputes, and its implementation has been criticized for reinforcing traditional authorities’ control without sufficient accountability (Custom Contested 2020, Pongweni 2023). It was declared unconstitutional on procedural grounds (Rautenbach and Ferreira 2023), though its invalidity is currently suspended.
4. **SPLUMA (2013):** Assumes land is owned and bounded (Winkler 2021), which conflicts with customary practices. It empowers municipalities for formal land use planning, but many rural municipalities lack the capacity to engage meaningfully with traditional councils (Mamabolo and Tsheola 2017), and traditional leaders sometimes resist the intrusion of municipal authority into what they consider their customary domain. This has led to continued friction between the two governance systems, creating tension with traditional authorities who view SPLUMA as a challenge to their historical control over allocation.

The core issue remains unresolved: the overlapping jurisdictions and lack of clear delineation of roles at the municipal-traditional authority nexus. This legal duality contributes to fragmentation, making effective land administration difficult, particularly for the poor and marginalised.

3.2 Land Administration and Allocation Practices (Objective 2)

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The fieldwork revealed significant similarities and striking differences in land administration and allocation between the two case study areas.

3.2.1 Similarities

In both JLM and TLM/CCLM, land is managed primarily under traditional authority, with chiefs and headmen playing central roles in allocation. The allocation process is community-based, often involving public gatherings (*imbizo*) for consensus. Record-keeping in both areas is heavily reliant on manual, often inconsistent systems, such as handwritten diaries and basic registers maintained by headmen. Evidence of land rights is informal, comprising receipts of fees (*khonza*), verbal agreements, or physical features like trees or cairns of rocks. A particularly intangible form of evidence cited by one resident in JLM was the presence of ancestral graves. Both locations experience challenges with corruption, including headmen or residents facilitating multiple allocations of the same plot. Traditional authorities often invoke the sentiment of *indawo yam* (“this is my land” or “my place”) as justification for non-compliance with statutory processes and resistance to perceived government interference, viewing the land as their customary domain.

3.2.2 Differences

The land administration system in JLM shows limited municipal engagement in residential allocation, which is dominated by traditional authorities. When an applicant desires a residential site, they go to the headman, who identifies the site and calls the community to confirm boundaries using visible features. The applicant pays a *khonza* fee to the chief’s secretary, receiving a receipt. The headman records only names in a diary, with no geographically identifiable description of the plot (see Figure 3).

The municipality has “no working relationship” with headmen concerning residential allocation and “don’t really have a say in anything to do with land” in traditional areas, according to the municipal representatives interviewed. Municipal involvement is only triggered for business applications, where officials use GIS to confirm whether the land falls under IT or State ownership (see Figure 5), and assist with statutory compliance (e.g., SPLUMA or building permits). Plot adjustments or boundary changes must be witnessed by the headman and community. Land sales are illegal but occur privately nonetheless. The chief strongly defends this customary system, fearing that formal titling would destabilise communal ownership and expose communities to the risk of foreclosure and taxes they cannot afford.

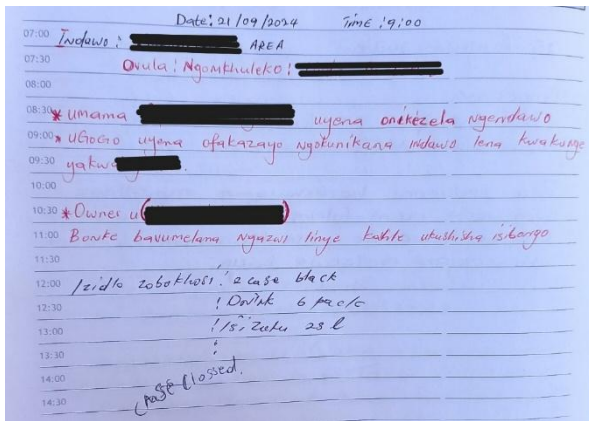


Figure 3 An example of a residential land allocation record in JLM (redacted).



Figure 4 A Venda headman (*musonda*) holding a register of land allocations.

Land administration in TLM/CCLM reflects a legacy of apartheid-era betterment planning (Abel 2019) where settlements were forcibly consolidated, formally planned, and stands were surveyed and demarcated by surveyors since the 1960s. This has created a legacy of more active municipal involvement. When new housing is needed, the headman appeals to the municipality to plan and demarcate stands with professional standards for roads, electricity, and water. The municipality provides the site plan to the headman for allocation. For both residential and commercial allocation, the traditional council uses a land management committee to conduct site inspections and ensure compliance with bylaws. The municipality retains records of all commercial and residential allocations and populates its GIS with corresponding information (see Figure 6), providing a crucial backup to the headmen's manual registers (see Figure 4). Plot adjustments are rare because of strict adherence to the planned, surveyed boundaries. Although the system is more formalized, inconsistency persists; one headman bemoaned the lack of responsiveness from surveyors, forcing traditional authorities to demarcate land themselves.

The findings highlight that while TLM/CCLM benefit from better-developed planning systems due to historical demarcations, land information remains asymmetrical and vulnerable. Traditional leaders in both locations emphasized the need for training, basic stationery, and digital tools (like a computer and geospatial software) to manage information effectively and avoid disputes like multiple allocations.



Figure 5 Jozini Local Municipality GIS of landholdings

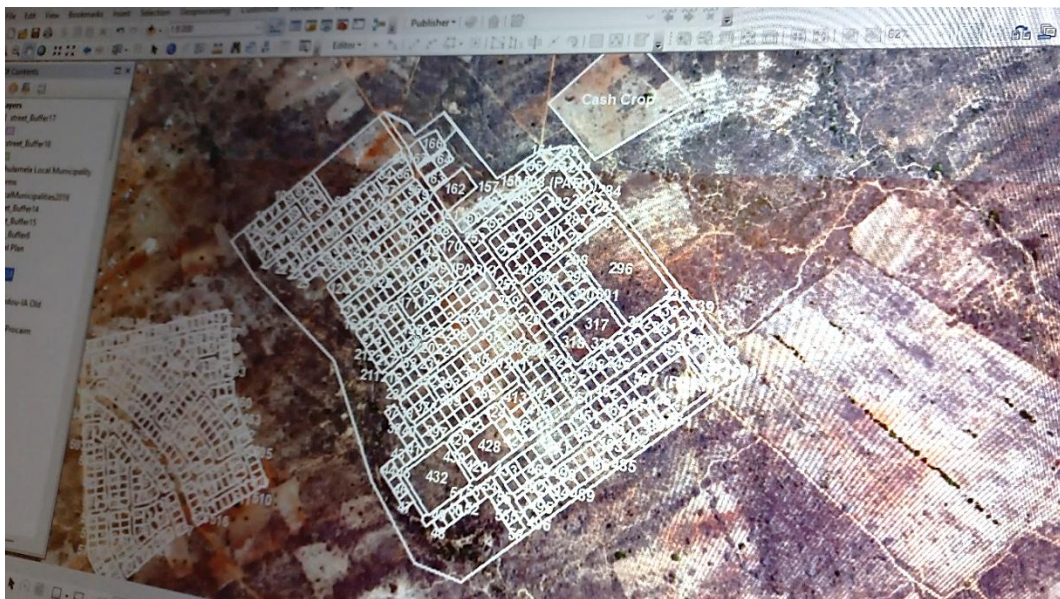


Figure 6 Thulamela Local Municipality GIS showing a village development planned for customary land

4 DISCUSSION: RECOMMENDATIONS BASED ON FIT-FOR-PURPOSE GUIDELINES

Objective 3 seeks to suggest conditions for developing a consolidated land information system. Drawing from the case study findings and the legal and institutional context, the following recommendations are structured according to the Fit-for-Purpose Land Administration (FFPLA) frameworks (spatial, legal/regulatory, and institutional), which prioritize affordable, flexible, and inclusive solutions (Enemark *et al.* 2015).

4.1 Spatial Framework: Mapping Existing Land Rights

For geospatial professionals, addressing the spatial framework is arguably the most straightforward challenge. The fundamental gap is the absence of spatially referenced records for most customary land holdings. The following action points are suggested:

1. **Participatory Mapping and Inventory:** Utilize existing, up-to-date aerial or satellite imagery, combined with low-cost geospatial tools (such as handheld GNSS or drones) to capture current landholdings with metre or decimetre precision. Williams-Wynn (2021) suggests that this is relatively easily achieved since South Africa has extensive, up-to-date and accurate aerial photography coverage of the whole country. This process must be participatory, involving traditional leaders (chiefs and headmen), municipal officials, and residents to collaboratively define and agree upon plot boundaries (Hull *et al.* 2022).
2. **Digital Data Integration:** Create a spatial inventory of all allocated land (residential, agricultural, commercial). Both municipalities already possess functioning GIS capabilities and trained personnel. Mapped parcels should be digitised and linked to existing non-spatial land allocation records (such as headmen's registers), including recording both husband and wife where applicable to address gender equity concerns.
3. **Targeted Verification:** For TLM, existing layout plans surveyed on the South African National Coordinate Survey System should be verified against national requirements (e.g., *Land Survey Act*) and, if compliant, lodged with the relevant Surveyor-General's Office for incorporation into the national cadastre. Areas that have been settled without municipal planning (in TLM and throughout JLM) should be prioritised for mapping.
4. **Long-Term Goal:** Transition towards parcel-based land records integrated into the 'formal' land administration system, with headmen using mobile applications linked to a shared geodatabase for real-time updating of land records. (See Hughes et al. (2022) for an example of such from Rwanda.) Such would require significant investment in information infrastructure (improved mobile network coverage and bandwidth in rural areas), provision of suitable mobile devices and data subscription services, and training to use them.

4.2 Legal/Regulatory Framework: Recognition and Recordation

The current legislative framework is inadequate and rife with gaps, necessitating substantial reform. The core conflict lies in the statutory requirement for titling (ownership) versus the communal nature of customary tenure (use rights). The following action points are suggested:

1. **Recordation over Registration:** Focus on the recordation and certification of land rights, which is cheaper and quicker than full statutory registration, but must provide adequate tenure security (Williams-Wynn 2021). Tools like the Social Tenure Domain Model (STDM) (Antonio *et al.* 2016) can be used to issue certificates of land rights (akin to the apartheid-era Permission to Occupy (PTO) system).

2. **Joint Certification:** These certificates should be certified by both the municipal and traditional authorities and recorded in a shared digital system to prevent issues like multiple allocations.
3. **Dispute Resolution:** Clearly articulate dispute resolution mechanisms that prevent disputants from exploiting the dual legal system by playing one authority against the other.
4. **Long-Term Goal:** Introduce new legislation that clearly defines the recognition of customary land within the national legal framework and addresses the plethora of statutory consent requirements. “Much can still be done through the repeal of outdated legislation and amendment and updating of useful legislation to accommodate technological advances and prevent duplication” (Williams-Wynn 2021, p. 15). The roles and responsibilities of municipal and traditional authorities must be explicitly clarified in relevant legislation to fill existing gaps and uncertainties.

4.3 Institutional Framework: Collaboration and Capacity

The success of any consolidated land information system hinges on institutional willingness and capacity development. Lack of capacity among traditional leaders (e.g., requests for stationery and computers, and training in how to use them) and municipal officials (lack of resources to maintain systems) is a widespread challenge. The following action points are suggested:

1. **Establish Joint Land Committees:** Form functional Joint Land Committees at the ward level, comprising headmen/chiefs, municipal officials, ward councillors, and community representatives. These committees could review land allocations before approval, thereby preventing overlapping allocations and acting as initial dispute resolution mechanisms. This directly addresses the gap currently existing between chiefs and headmen in JLM.
2. **Targeted Training and Education:** Implement training programs for traditional leaders and municipal officials covering good record-keeping practices, digital system usage, and comprehension of municipal development plans.
3. **Citizen Awareness Campaigns:** Educate ordinary citizens about regulations (like SPLUMA) and the importance of compliance, ensuring they see value in adhering to bylaws rather than just following traditional authority advice.
4. **Long-Term Goal:** Achieve full coordination and integration of land information at the municipal-traditional authority nexus, ensuring strong collaboration between all state and customary institutions.

5 CONCLUSION

This paper set out to investigate the complexities of land allocation and administration at the municipal-traditional authority nexus in South Africa, with the aim of identifying conditions for a consolidated land information system. Three objectives guided the research:

- **Objective one** was achieved through a literature review that highlighted the core challenges: a legal duality stemming from the co-existence of customary and statutory law, confusion around institutional roles, and an environment of legislative miasma caused by failed or contested acts.
- **Objective two** was achieved through the comparative pilot study in JLM (KZN) and TLM/CCLM (Limpopo), revealing significant differences in municipal involvement. In JLM, municipal involvement in residential allocation is minimal, and the system relies on physical demarcation and rudimentary records. In TLM, historical planning mandates a more integrated system where municipalities demarcate stands, leading to more standardized plots and digital record backup. A common theme, however, is the resilience of *indawo yam* (“this is *my* land”), which was articulated by headmen in both cases, signifying resistance to governmental interference and reliance on informal, often inconsistent, record-keeping.
- Addressing **objective three**, we concluded that a consolidated system is achievable using the principles of FFPLA.
 - The spatial framework offers the most immediate gains through participatory mapping using modern geospatial technologies.
 - The more difficult long-term work lies in the legal/regulatory framework, requiring legislative clarity on roles and the introduction of recordation tools (like STDM) that secure rights without enforcing titling, thus respecting communal tenure.
 - Finally, the institutional framework demands immediate action on collaboration and capacity building, particularly through the establishment of Joint Land Committees and training traditional leaders in digital literacy.

Ultimately, the technical means to consolidate land information exist, but achieving a truly integrated, coherent, and efficient land administration system relies critically on political will. Given the significant variation in customary practices and municipal engagement found between JLM and TLM/CCLM, further research in other former homelands is essential to comprehensively understand the nuances of the municipal-traditional authority nexus across South Africa and inform a scalable national strategy.

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BIOGRAPHICAL NOTES

Simon Hull is an Associate Professor in Geomatics at the University of Cape Town (UCT) and a registered South African Professional Land Surveyor. A 2019 PhD graduate, his research

explores aspects of land tenure, land administration, and cadastral systems, with an interest in how frontier geospatial technologies contribute to securing tenure. His work seeks to connect geospatial innovation with inclusive and sustainable land governance in Africa. To this end, he has collaborated with NGOs and global partners in developing educational land administration materials and research reports. He chairs a working group of the FIG on Land Administration Education. At UCT, he lectures on foundational land surveying, GIS, and cadastral surveying.

Gaynor Makura-Paradza is the lead for the Land Governance Programme at the Public Affairs Research Institution. A seasoned land governance expert, Dr Paradza's current focus is land in Just Transition, Indigenous Communities and informing policy in land governance in South Africa through focused work on the municipality-traditional authority interface. Dr Makura Paradza holds a Bachelor's Degree in Rural and Urban Planning from the University of Zimbabwe and a PhD in Law and Governance from Wageningen University.

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