Securing Tenure through Responsive Land Use Planning
An Innovative Tool for Country Level Interventions

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ABSTRACT

The focuses on securing tenure through land use planning processes. It argues that when land use planning is implemented in participatory and inclusive ways; and while recognizing a continuum of land rights (both formal and informal) of land users. Its methodology is based on the Global Land Tool Network's good practice learning cycle. It involved assessment of the impact of land use planning on tenure security, using case studies conducted in selected countries from Africa, Asia, and Latin America. It then used evidence from these case studies to support arguments for the adoption of a tenure responsive land use planning approach as an innovative tool for country-level interventions in developing countries. The study also argues for the utilization of a Learning Package for training on tenure security responsive land use planning as an accompaniment to the new the new approach.

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1. INTRODUCTION

In the year 2000, global development stakeholders gathered at the United Nations to form a broad vision to fight poverty. "That vision, which was translated into eight Millennium Development Goals (MDGs), has remained the overarching development framework for the world for the past 15 years."[1]

The implementation of the MDGs produced one of the most remarkable anti-poverty outcomes in the history of international development. According to the United Nations (2015):

> *"The MDGs helped to lift more than one billion people out of extreme poverty, to make inroads against hunger, to enable more girls to attend school than ever before and to protect our planet. They generated new and innovative partnerships, galvanized public opinion and showed the immense value of setting ambitious goals. By putting people and their immediate needs at the forefront, the MDGs reshaped decision-making in developed and developing countries alike".[2]*

Despite this enormous outcome, the challenge of poverty followed humanity into the post-2015 period. This reflects the magnitude of poverty problem humanity faces today. More efforts are still needed in tackling the various factors or structures of human settlements that enable poverty and its spread across nations, especially in developing countries. If more efforts are not put into tackling poverty generating situations, poverty will continue to plague humanity (whether as individuals, groups, communities or nations). This is why there is urgent need to scale up actions for improvement to achieve the targets of the post-2015 Sustainable Development Goals (SDGs).

Many challenges that lead to unfavorable living conditions are factors that generate poverty (e.g. environmental risks, climate change issues and tenure insecurity). Also, some of them are consequences of poverty (for instance, food insecurity and physical insecurity). All of these challenges are directly or indirectly linked to land issues. Therefore, to address these challenges, it is important to reassess how people use land, as well as the relationships people have with land and other natural resources. This makes land use planning and land tenure security important aspects for improving the situation. Concerns surrounding land use planning and tenure security are important

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[1] United Nations' Millennium Development Goals Report 2015.
[2] Statement of Mr. Ban Ki-moon, Secretary-General, United Nations, in his foreword for the Millennium Development Goals Report 2015.

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for achieving the SDGs. However, although land use planning and tenure security are equally important and interlinked issues for development, very often the two issues are addressed separately in planning and development practices. In many developing countries, often land use planning initiatives exist but are either isolated or not sufficiently linked with tenure security. Considering the importance of land use planning and tenure security as effective components or instruments for poverty alleviation, it is necessary to combine them to form an innovative tool for country-level interventions.

This paper envisages that it is possible to secure tenure through land use planning processes that are participatory and inclusive, and recognize a continuum of land rights (both formal and informal). That includes creating the opportunity for recognizing the rights of disadvantaged groups such as women, indigenous people, pastoralists and the landless.

2. LAND USE PLANNING AND TENURE SECURITY: USING THE TWO CONCEPTS TO CREATE ONE TOOL

LAND USE PLANNING: WHY IS IT IMPORTANT?
"Land can be defined as a limited area of the physical environment that is owned by somebody (Mäntysalo, 2000: p. 14). Land use planning is a very contentious term. No matter how it is defined, it involves decisions and activities that represent the future uses of land and attempt to organize these uses in ways that will be beneficial to people who live on or use the land and the environment. On its own, land use planning is an essential instrument for achieving adequate land uses, mitigating against environmental (e.g. risk pollution prevention and control), achieving sustainable natural resource management, among many other development objectives.

The main role of land use planning in human settlements is to organize or control land uses relating to socioeconomic activities that occur within in a particular area. It also has a direct impact on way people live in a particular place because it "influences the human behavior patterns they create, and their effects on the environment" (World Bank, 2012: p. 70). It defines and specifies how and where land uses should occur, thereby, influencing the performance of land activities, as well as the level of human interrelations that occur on land. In developing country context, land use planning serves as a necessary development catalyst in the following ways (see Chigbu *et al.*, 2015a):

- It can be used to determine the physical boundaries of land/property.
- It is a process for identifying ownerships, privileges, and rights that people hold in land.
- It serves a means for imposing development restrictions and controls in order to encourage sustainable and responsible development.
- It has the capacity serve as an instrument for identifying or determining land areas, parcels, land uses and users.
- It involves much documentation, so can enable documentation of land areas, parcels, rights, restrictions, and responsibilities.

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- It provides an opportunity for stakeholder involvement, compensation of claims and community participation.
- It has an impact on land value, land markets, and credit opportunities.

In general, land use planning (as a process) provides a lens for identifying future development needs of a place, as well as helps in identifying the relevant issues (social, economic and environmental) necessary for development. For instance, it exposes the merits and demerits of a particular kind of land use by identifying suitable and incompatible land uses.

TENURE SECURITY: WHY IS IT RELEVANT?
Relevant to land use planning is the issue of land tenure, commonly "the relationship among people, as individuals and groups on land and other natural resources" (Food and Agricultural Organization, 2005: p. 19). It particularly concerns "the manner in which land rights are held" (Tschirhart *et al*., 2015: p. 136). The issue of land tenure security arises because to hold rights on land is one thing, to enjoy those rights without threats from other people or the government is another issue altogether. Tenure security can be described as having "enforceable claims on land...supported by regulatory frameworks" (International Fund for Agricultural Development, 2008: p. 4). Bruce and Migot-Adholla 1993) categorized such the rights people can have on land and natural resources to consist of three key elements: duration of rights, protection of rights and robustness of rights. UN-Habitat (2008) recognizes tenure security as an embodiment of a continuum of land rights (see Figure 1).
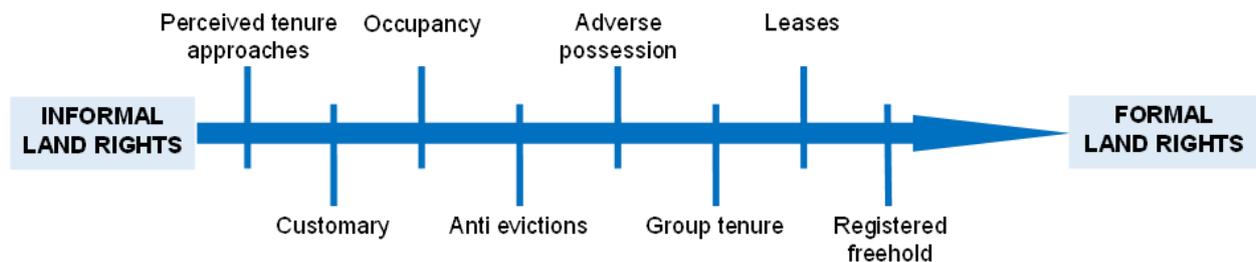

Figure 1: Continuum or range of land rights (UN-Habitat, 2008)

Tenure security is a continuum because it is identifiable in real-life cases to comprise of different levels, starting from a level of informality to one of formality. At each point within the continuum, there exist different sets of rights with varying degrees of security options. Land tenure security (based on the continuum of land rights concept) is important for improving the development standard of people in developing countries in the following ways:

- It leads to the recognition of land rights of women and vulnerable groups about access (including inheritance) and use of land.
- It embraces the practice of customary land tenure systems which is predominantly practiced in many developing countries. Hence, it embraces both legally and socially defined rights to resources in rural and urban communities.

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- It enables the protection of the fundamental right to housing and other amenities necessary for better living conditions in human settlements.
- Having high tenure security in land leads to greater social, political and economic strength and ability to demand services from service providers.

In summary, tenure security influences every aspect of landholding or property. The resolve most of the world's greatest challenges (e.g. urban slum problems, climate change issues, property market, etc.) it is important to improve tenure security situations in developing countries. This is why the Global Land Tool Network (GLTN) has advocated for the combination of tenure security objectives as a key aspect of land use planning processes. Their argument being that tenure security issues should be addressed alongside land use issues because they are related. That calls for finding a way of securing tenure through land use planning.

3. METHODOLOGY

This study is based on an on-going project co-financed by the GLTN, GIZ, and TUM. It followed GLTN's (2014) methodology for good practice learning cycle. It involved assessment of case studies conducted in ten countries selected from Africa, Asia, and Latin America. The case studies were based qualitative in nature focusing on the evaluation of land use planning projects in different countries to understand their relationship with (and impact to) tenure security improvements. Data selection techniques varied from case to case, however, field visits enabled, and interview of stakeholders was used to gain direct data in all cases. Scoping studies were backed by a series of Expert Group Meetings held in Germany and USA as well as concise literature reviews on land use planning and land tenure security issues documented by key agencies like GIZ, FAO, Cities Alliance, World Bank and IFAD among other agencies. The project also involves the development of a Learning Package (refer to Chigbu *et al*., 2015b). The Learning package was developed based on GLTN's (2014) capacity development procedures. A detailed explanation of the methodology applied in the overall work is available in Chigbu *et al*. (2014).

The main focus of the paper is to present case studies' findings on the impact land use planning has on tenure security. Using these findings as evidence for the potential of land use planning as a tool for tenure security, the paper argues for combining land use planning and tenure security as one tool for tenure security improvement in developing countries.

4. SELECTED CASE STUDIES ON TENURE RESPONSIVE LAND USE PLANNING

DIGITAL ZONING CERTIFICATE PROGRAM IN THE URBAN AREA OF CHILE
In Chile, only 25% of the municipalities have a land use plan that can be considered up-to-date. As a result, municipalities lack effective instruments for managing their territory and citizens lack reliable information on the land uses that are permitted in a particular area of their communes. To improve the situation, the Digital Zoning Certificate (CEDIZ) Programme was initiated by Chile's Ministry of Economy. The aim of CEDIZ was to facilitate the establishment of enterprises and

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support the optimization of public management processes. CEDIZ consists of an online platform, which allows for a natural or juridical person to find out whether a particular use is allowed in a particular land parcel to obtain the Zoning Certificate. This Zoning Certificate is digitally signed by the Municipal Land Development Authority and is a prerequisite for applying for provisional permits, by Law N° 20.494. About tenure security impacts, the following were found:

- CEDIZ allows for a better management of land use by the municipalities. For example, the system also allows for identifying areas of different levels of economic activity. This provides decision makers with a clearer view of the areas that need promotion for certain kinds of development. This scenario has led to regulated spatial planning, and monitoring and enforcement of compliances with the plans are vital to tenure security (FAO, 2012).
- CEDIZ has improved the processing time for the establishment of new land developments or businesses. Before CEDIZ, the processing time for new land development permits was 27 days. The process was bureaucratic and costly. It has now been reduced to just a few minutes.

5. LAND USE PLANNING IN PERI-URBAN AREA OF GHANA

Ghana has experienced a high urbanization rates and rural-urban migration caused by population growth in the past decade. This has been compounded by a lack of adequate land use planning. This has led to land tenure challenges, especially contestation of land rights. Leading to increasing land conflicts. One of the affected places includes *Awutu Breku*, the capital of *Awutu Senya* District in Central Region of Ghana. A Land Use Project implemented as part of the Land Administration Project in Ghana was initiated in 2003 and implemented till 2010. It was designed to improve land titling, registration, valuation and information's systems for human settlement, among other objectives. The project area comprised of 987 parcels owned by three landowning families.[3] The post-implementation impact of the project was conducted in 2014 to gain data on tenure security improvements. The following were found concerning tenure security:

- Land use planning resulted in the emergence of different tenure security types: The project served as a tool for facilitating tenure security in three ways. (1) The issuance of permits to landowners or users for the improvements on land (e.g. building) increased their de facto tenure security. (2) It increased de jure tenure security of landowners by requiring individuals/groups to access registration and titling opportunities as one of the legal demands to which the project had to conform. (3) The local planning authority in Awutu Breku prepared a local plan that identifies land parcels and locations. This local plan serves as a public reference material for land identification. This gave land users and owners a higher perception of tenure security.

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[3] A land-owning family may vary considerably in household numbers. Some land-owning families are between 10-300 households.

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6. LAND USE PLANNING IN THE RURAL AREA OF THE LAOS

The rural population of Lao has very limited formalized land rights. In Lao land titles are issued only in urban and peri-urban areas. The implication was that cash crop production, commercial plantations and other investments in land were creating insecurity for those with traditional land rights in the rural areas. Without officially recognized land titles, farmers were to lose access to valuable land resources for individual or communal use. It was necessary to initiate a land use planning for this reason, necessary, with the objective of improving land and natural resource management at the village level. The process served as intermediate, preparatory and complementary steps in improving tenure security in the following ways:

- Delineation of land boundaries and land data records (including digital mapping of land) led to the documentation of rights
- Participation of citizens helped to improve the tenure security perceptions of landowners in the process.
- The issuance of land, though not the legal equivalent of land titles, serve as intermediate options for rights identification and recognition.

7. IMPLICATIONS FOR NEW DIRECTIONS IN LAND USE PLANNING AND TENURE SECURITY

EMERGING ISSUES FROM THE CASE STUDIES

The case studies provide qualitative evidence that land use planning has some impact on tenure security improvement. This evidence, however, does not in any way try to hide the reality that land use planning in most developing countries tends to impose more of restrictions than secure tenure. What they truly do is to show that the argument that land use planning could serve as a tool for tenure security improvement is a strong and genuine one. It has implications that can be used for effective land use planning practice, especially in its use of a tool or methodology for pro-poor development. This is evident when practitioners consider the following key outcomes from the case studies:

- There is a link between land use planning and land tenure security. This is evident in all three case studies.
- Tenure security and land use planning share a similar effect on investment. Both of them encourage land development or investments. This is conclusive from the case of Chile.
- Land use planning and tenure security can provide security against eviction.
- Both land use planning and tenure security have pro-poor impacts on communities and individuals. When carried out in a participatory manner (as in the case of Ghana and Lao), land use planning enables the disadvantaged people to have a say in their welfare.

There is an established consensus in the empirical literature and land administration practice that land registration and titling generate the greatest for of tenure security. However, the above-listed implications provide definite conclusions on why the adoption of tenure responsive land use

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planning as a complementary tool for tenure security improvement is worth piloting in developing countries.

WHY COMBINE LAND USE PLANNING AND TENURE SECURITY INTO ONE TOOL?
Despite that more than 900 million people in the world's urban population live in slums today, the UN-Habitat (2013) forecasts that in less than 30 from now, over a billion people will move to urban slums in the developing world. That means that whatever is done to avoid this crisis must include tenure security improvement and land use planning because the urban slums are the domains of tenure insecurity and inefficient land use. More so, "conflicts between different land users have been rising over the past decades due to increasing global interests in land", leading to increasing inequality (Chigbu *et al.*, 2015a: p. 3). Defining or making clearer the boundaries of land and rights in land will play a great role in improving the situation.

Two questions that arise then are, why combine land use planning and tenure security into one tool? Is it possible? To answer the first question, it is important to recognize the role land use planning and tenure security can play, in addition to existing roles being played by registration and cadastre. To depend on titling for tenure security for the whole developing countries is neither feasible nor viable in practice. The reason is that, at the moment, only 30% of developing countries' land areas have titles. A further implication is that; it would take about 600 years before all developing countries' land areas would be covered by a titling.[4] Land registration and cadaster (and titling), although playing crucial roles in improving tenure security, can no longer be depended on as the only means of securing tenure. They cannot be solely depended upon to guarantee secure tenure for all people with a legitimate claim to land. It is therefore not realistic to ignore other possible options for tenure security improvement. Combing the process of land use planning with tenure security objectives would complement the current roles of land registration and cadastre (and titling) in providing secure tenure, hence, is a viable option.

To answer the second question, it is important to recognize the similarities land use planning and tenure security share concerning the different dimensions of development where they influence. Both of them are connected—such that they have an impact on the physical, political, socio-cultural, economic, technological, spatial and environmental aspects of development (see Figure 2).

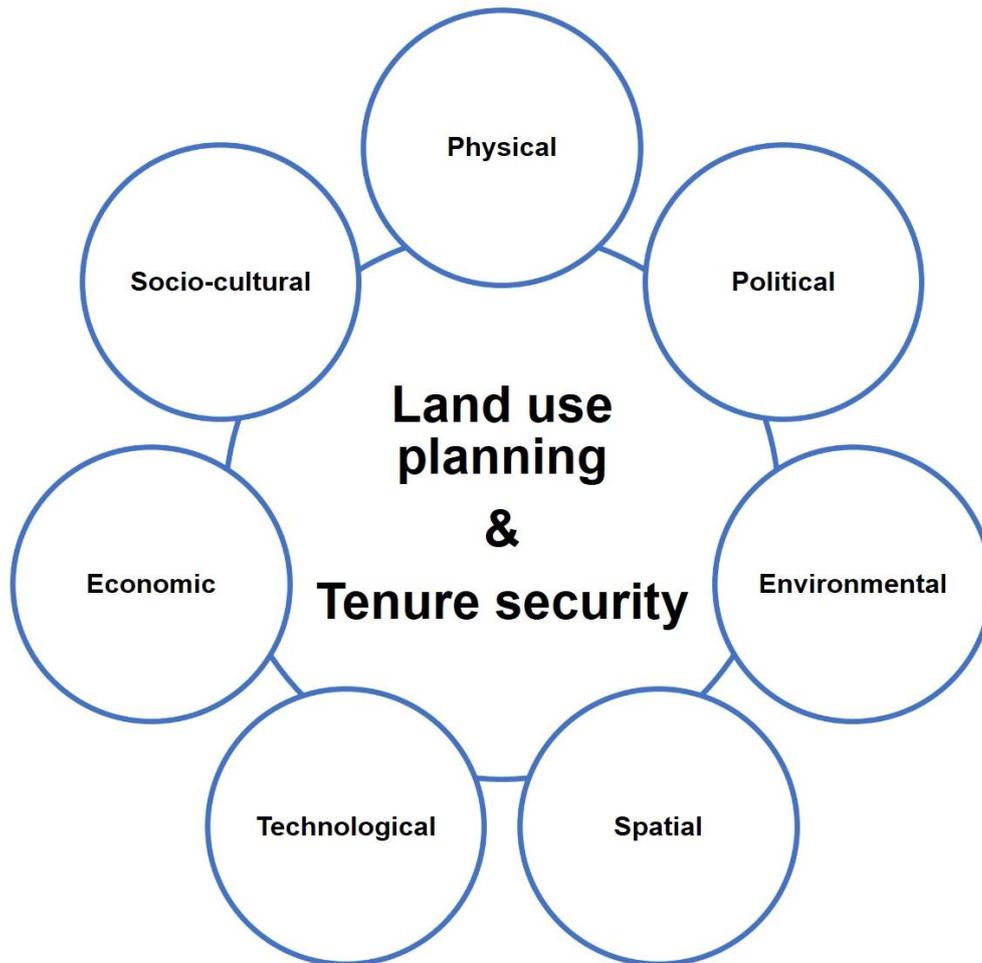[4] Based on researches done by the UN-Habitat / GLTN

Figure 2: Dimensions of development shared by land use planning and tenure security

Combining land use planning and tenure security objectives is possible because of their shared dimensions in fulfilling development goals. This paper envisages that it is possible to secure tenure through land use planning processes by making it participatory and inclusive, and by recognizing a continuum of land rights (both formal and informal), including the rights of disadvantaged groups (like women, indigenous people, pastoralists and the landless). This is what led to the development of "tenure responsive land use planning" (refer to Chigbu *et al*., 2016) as an innovative tool for country-level interventions by the Global Land Tool Network (GLTN), the *Gesellschaft für Internationale Zusammenarbeit* (GIZ) and the Technical University of Munich (TUM). Some important points worth noting on why land use planning should be adopted as a means of tenure security improvement and development are presented here. They include:

- The awareness of land use planning as a multi-purpose tool: It is important for development practitioners to become aware of the potential for land use planning to contribute to an array of development objectives. This is vital because the impact of "land use planning touches all

of us and helps us to have the kind of community we want."[5] Tenure security relates to every aspect of people and the relationship they have with land.

- Tenure responsive land use planning is a necessary approach for development because the embraces the integration of rules regulating access to land and/or improving tenure security, food production can be enhanced because farmers will invest in long-term measures to improve the soil or begin new cultivations that provide higher yields in the long-run.

- To be tenure responsive, land use planning must be implemented in a transparent way. Citizens must also involve in decision-making. Such involvement would create an opportunity for discussions and conflict resolutions, thereby improving the chances of achieving tenure security for all stakeholders, including marginalized groups.

- Since land use planning is a process that embraces legal and social-cultural norms and leads to legal outcomes. It can serve as a tool for the formalization of tenure of informal developments. The process of land use planning can lead to the formalization of informal land rights if it accommodates the recognition of informal land rights and developments.

- The use of land use planning as a data gathering and recording process can lead to a the availability of complete area-wide up-to-date data is still not given in many countries. Sharing or linking land use planning data to other land information systems (or records). Using such data as a reference by land users can improve their tenure security perceptions.

- In concrete terms, tenure security of land users' rights needs to be secured. "Otherwise, land use planning can easily result in their exclusion or eviction. Hence, if local land users' rights are not secure, they need to be secured during the land use planning process." (GIZ, 2012: p. 225). Practical knowledge and experience are available in the *Handbook on Tenure Responsive Land Use Planning* prepared the GLTN, GIZ, and TUM.

8. GUIDE FOR COUNTRY LEVEL INTERVENTIONS AND CAPACITY DEVELOPMENT

Land titling and registration is seen as the principal tool for improving land tenure security within policy debates. Given the status quo, it will be impossible to achieve tenure security using only land titling and registration in developing countries. Hence, there is a need for complementary options of improving tenure is increasing. The paper has used the case studies from Chile, Ghana and Laos to show that, land use planning has the potential to serve as a means for improving tenure. The question then is how it can be implemented to serve this purpose. A Handbook on Tenure Responsive Land Use Planning has been drafted by the GLTN, GIZ, and TUM. The Handbook[6] provides details on the *why* and *how* land use planning should be made more responsive to tenure security improvement by accounting for varieties of formal and informal land tenure. Hence, it

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[5] Statement culled from "Ontario's Citizens' Guide to Land Use Planning" (2009)
[6] Also referred to as an Operational Guide for tenure responsive land use planning. It is at the stage of final review, prior to publication and launching. It is accompanied by a Learning Package for capacity development on tenure responsive land use planning.

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serves as a complementary approach to conventional methods of increasing tenure security. In the Handbook contains key learning points from practices around the world in land use planning as a tool for tenure security improvement. Most importantly it lays out the detailed conceptual and operational framework for practice. The Handbook guides are conceptualizing, preparing, amending, and monitoring land use planning processes in ways that contribute to tenure security. It builds on theoretical frameworks developed within academic and field experiences gained in implementing land use planning in the Global South.

The Handbook is complemented with a Learning Package for capacity development in tenure responsive land use planning. The Learning Package is to help stakeholders (individuals, groups, and communities) strengthen their capabilities in achieving their development objectives using the tenure responsive land use planning approach. The Learning Package modules cover different steps in the implementation of tenure responsive land use planning

9. CONCLUSION

Land use planning is a planning process that is meant to predict and manage the uncertainties. Tenure insecurity is itself an uncertainty people have concerning their land uses, rights, privileges and ownerships. So, why have practitioners not been applying land use planning as means of managing the challenge posed by tenure insecurity? The idea of tenure responsive land use planning discussed in this paper provides a path for tackling the challenge of tenure insecurity. There are two issues involved in the study and practice of land use planning. "You may either focus on the object of planning – that is the built environment – or you may focus on the actual activity of land use planning" (Mäntysalo, 2000: p. 14). The tenure responsive land use planning approach involves the combination of both the object of planning and the activity of planning. Furthermore, it embraces land-use planning as a learning or capacity development activity for community members.

The aim of the paper has been to show why land use planning can serve as a tool for improving tenure security. It showed this by establishing the importance of land use planning and tenure security as separate issues in developing countries. It then used the cases of projects in Chile, Ghana and the Laos to show that land use planning has a favorable impact on tenure security of land users. Having presented these evidence, it justified the importance of GLTN's work on the development of a tenure responsive land use planning tool for country-level interventions in developing nations.

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