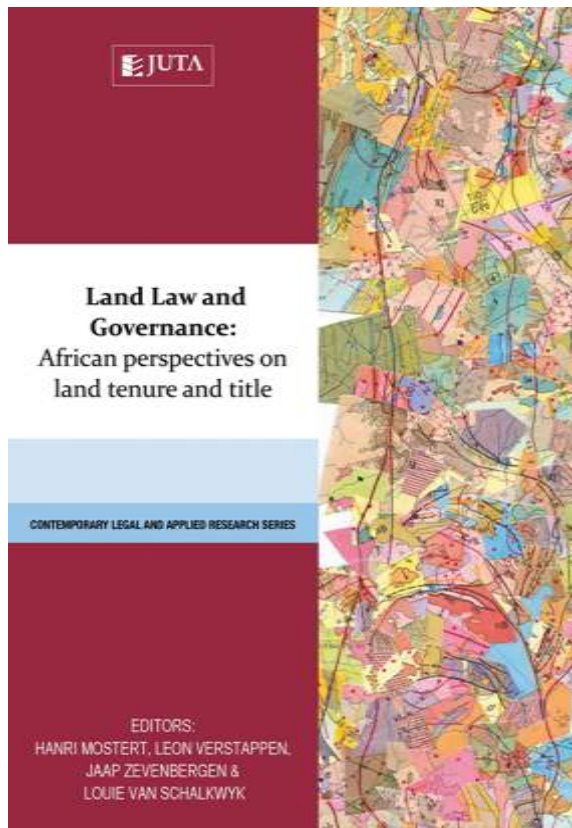


## **Book Review**



### **LAND LAW AND GOVERNANCE African Perspectives on land tenure and title**

Editors: Hanri Mostert,  
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Jaap Zevenbergen &  
Louie Van Schalkwyk

(210 pages)

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***"And homeless near a thousand homes I stood."***

– William Wordsworth (1770-1850)

The multiple complexities and strata embedded in the concepts and reality of land on the African continent admit of no easy solutions. The editors of this compilation set the scene:

*"Land is a finite resource, crucial for production and accessing shelter. Worldwide, the challenge is to find a way to regulate access to this resource to serve the interests of all its users. Rapid urbanisation, poverty, land as 'dead capital' and marginalisation of already vulnerable groups in the process of development; these are all issues that demand better understanding if appropriate solutions are to be sought."*

Extensive research, academic interaction and intense debate over many years have culminated in this collection by an impressive array of contributors. It forms an invaluable resource to understanding questions around land tenure and security, traditional land rights, title to land and the many legal intricacies associated with these and other land issues.

The authors explore different ways of conceptualising secure land holding in Africa, offering contrasting perspectives and approaches evolved or imposed from differing origins. Case studies drill down into actual experience in historic territories, developing urban areas and the many mixed and marginal localities where occupation occurs.

These case studies include customary land rights seen in the context of urbanisation in Botswana, Namibia and Ghana. How the Maasai accommodate privatisation in Kenya, forging alliances, accommodating and reassembling interventions, devising innovative means to counter changes and transforming their lifestyles in response to the implementation of policy changes to land tenure, makes for fascinating reading.

Empirical research among Africans in the Eastern Cape by Dr. Rosalie Kingwill examines property as a social and family asset, the role of lineage and ownership of conjugal property, all in the historical context. She observes:

*"The Constitution has swung South African property law away from exclusivist, absolutist interpretations or principles of ownership, but the legislature has not attempted to incorporate and integrate the possibilities inherent in these interpretations of ownership and possession within the main corpus of property law. Nor have policy and lawmakers engaged with the problem of succession law and its relationship to land law. The result is the perpetuation of dualistic structures of land tenure and land administration, and the inability of off-register, socially based tenures (labelled as 'informal', 'customary', 'communal', etc) to find purchase in state law, depriving millions of people of social justice."*

The people and living creatures of Africa know that they often have to find their way over a forbidding and harsh earth, along stony ground, through bleak and unyielding landscapes, but this is what makes the promise of lush and verdant pastures all the more precious and significant. Going through this book, one realises that instead of seeking to be masters of the land, if we rather saw ourselves as servants to the land, many of the conflicting attitudes to land could be more constructively reconciled.

This exemplary volume is a fine addition to publisher Juta's Contemporary Legal and Applied Research Series. Diagrams, schedules, maps and photographs enhance the text. Sources and references by all the authors are clearly annotated in footnotes. Chapter contents, headings, sub-headings, a

comprehensive index, and well-formatted layout makes this an accessible, compelling and engrossing account of the land we all inhabit and which envelopes us all. This book is undoubtedly one of the keys to unlocking its elusive mysteries.

*Review by Louis Rood BA LLB (UCT), Consultant at Fairbridges Wertheim Becker Attorneys.*