

Innovative Approaches in Securing Land Rights and Enhancing Transparency in Sub-Saharan Africa: Good Practices and Lessons Learned from Four African Countries

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Abstract

Land and the property on it are among households' most important assets virtually everywhere. Access to land and other natural resources and the associated security of tenure of these resources has significant implications for all kinds of development including human development. Securing land tenure and property rights is fundamental for the realization of human rights, poverty reduction, food security, sustainable urban development, economic prosperity and environmental sustainability. Today, the world faces housing, land and property rights challenges of critical proportions. Rapid urbanization, increased demand for natural resources, water and energy insecurity, increased natural disasters, insecurity of tenure, unsustainable land use, land conflicts etc. are pressing issues with a clear dimension to weak land governance. One of the most damaging outcomes of poor and weak governance is corruption which flourishes when transparency in land administration and management is absent.

This paper documents innovative land tenure security interventions in the Democratic Republic of Congo, Kenya, Uganda and Zambia, in the quest to improve the fairness of land administration systems and a just land system. Tenure security is required to assure individuals they are guaranteed to enjoy the fruits of any improvements they make to their land without fear of eviction by others or by the state. Through the different experiences, the paper will showcase efforts made to overcome information gaps on land inventories towards strengthening the management of land, improving tenure security and improving transparency in the sector. It will also explore how building capacity for partners within the network and raising awareness on land issues is enhancing transparency in land for individuals and local communities, as well as helping national and local government institutions to develop, adapt and strengthen their land governance systems to strengthen land rights of poor, women and vulnerable groups, enhance transparency and address corruption in the land sector.

Key Words: Land policies, Land tenure, Gender, Corruption, Transparency

Innovative approaches in securing land rights and enhancing transparency in Sub-Saharan Africa: Good practices and lessons learned from four African countries

Land is the single greatest resource in most countries. Access to land and other natural resources and the associated security of tenure of these resources has significant implications for all kinds of development including human development. Securing land tenure and property rights is fundamental for the realization of human rights, poverty reduction, food security, sustainable urban development, economic prosperity and environmental sustainability. The United Nations 2030 Agenda for Sustainable Development (SDGs) is underpinned by five fundamental concerns: people, planet, prosperity, peace and partnership. These goals (SDG1.4.2 & 5.a.1). are not achievable without a seismic change in land tenure security and land governance.

Land governance concerns the rules, processes and structures through which decisions are made about the use of and control over land, the way the decisions are implemented and enforced, and the way in which competing interests in land are managed, (Palmer, Friccka and Wehrmann, 2009). When land governance is weak, the powerful in society can dominate the competition of scarce land resources. As evidenced in some African states, those with power may illegally transfer lands to themselves or to their allies. They can implement land redistribution policies and laws in their favour and give unjust compensation to those whose land is acquired or taken forcefully for instance by posing as land squatters themselves (Oketch, 2019). They may make decisions to change land use that cannot be justified on objective grounds such as constructing on riparian lands. Given this context, there is an urgent need to strengthen tenure security of vulnerable groups and ensure that people-to-land relationships are well captured.

Weak land governance is a cause of many land-related problems such as tenure insecurity, unsustainable land use, including corruption in the land sector. Around the world, one in five people report that they have paid a bribe for land services in recent years; in Africa, almost every second client of land administration services have been affected by the devastating effects of corruption (Transparency International 2013; 2018). The controversial issue of the increasing gap between the landed (rich) and the landless (poor) has often been linked to corruption. The VGGTs make explicit mention to corruption as a cause of land conflicts and demand that governments should “prevent corruption in all forms, at all levels, and in all settings”. Limited access to land information, limited participation in decision-making processes with regards to land, complex laws and procedures regulating land ownership, and insufficient access to justice are some of the driving forces behind land corruption, while the insufficient capacity of local land offices and traditional institutions makes it more difficult for officials to support good governance practices.

Between 2012 and 2018, the Global Land Tool Network (GLTN) began implementing country programs in four African countries with a focus on the Democratic Republic of the Congo (DRC), Uganda, Zambia, and Kenya. These programs were implemented through partners in the different countries and in different contexts; rural, urban and the peri-urban. Efforts were put in place to accelerate reforms in the land sector by fostering national and local discourse on responsible land governance and transformative land policies;

institutionalizing land tools to scale up tenure security interventions, monitoring land-related commitments and obligations by mobilizing international, regional and national partners to track progress and build evidence, sharing and developing capacities, knowledge, research and resources on land tenure security. Practical tools were developed, tested and implemented with the aim of enhancing transparency and improving tenure security to everyday people especially those at the risk of being left behind; women, youth and vulnerable groups in both urban and rural settings.

One strategic area of intervention was the data collection and mapping by local communities residing in informal settlements, slums and on customary lands to strengthen evidence and challenge the narratives of forced evictions, displacement, land conflict, disinheritance (especially after the demise of male spouses in customary settings) all of which thrive in the absence of sound and up-to-date data on land governance and land tenure. With the absence of data, these poor communities remain vulnerable and are often the subject of harassment, corruption, land grabs and malpractices from authorities and other powerful institutions. The introduction of innovative land tools and approaches have provided authoritative information on people to land relationships collected by the locals themselves. This community-based information with support from local and/or national authorities strengthen the legitimacy of people's occupation, residency, use and tenure. In some instances, this information is easily accepted in formal cadaster or registry. On the other hand, by simply having this critical information in the hands of the poor communities, they can address issues of encroachment, disputes and forced evictions.

GLTN is a dynamic alliance of more than 75 global land actors and stakeholders who subscribe to a core set of values and principles and a shared work programme aimed at delivering improved security of tenure. The essential function of GLTN is the development and dissemination of an inclusive land tenure approach with practical, innovative implementation tools that will leave no-one behind. The approach and tools are grounded in intensive normative tool development, complemented by testing in a selection of illustrative, catalytic demonstration countries. In the second phase of implementation which ran between 2012 and 2018, GLTN worked to contribute to securing land and property rights for all through the development of pro-poor, gender appropriate, effective and sustainable land policies, tools and approaches. GLTN partners and stakeholders, including state and non-state actors, developed and piloted a number of pro-poor land tools such as the Continuum of Land Rights, Social Tenure Domain Model (STDm), Participatory Enumerations, Fit-For-Purpose land administration, and the Gender Evaluation Criteria (GEC), among others. Subsequently, GLTN engagement and implementation of GLTN Tools at country level gained traction, generating positive results and impacts.

GLTN interventions in DRC, Kenya, Uganda and Zambia

This section presents a brief description of land tenure innovations in the DRC, Kenya, Uganda and Zambia in select sites through the implementation of land tools and approaches. It is not possible in the context of this paper to provide an in-depth discussion on the process of implementation but rather the emerging impacts from these interventions and how they

are contributing to enhancing efficiency in land administration in an effort to curb corruption.

Table 1: Select Project sites for the implementation of GLTN tools and approaches.

Country	Project Site	Description	Implementing Partner/s
Kenya	Turkana County	Situated in northern Kenya, about 700km from Nairobi the capital of Kenya, Turkana County is the second largest county in Kenya covering 68,680 square kilometres.	Food and Agricultural Organization- Kenya Ministry of Lands, Physical Planning and Urban Areas Management, Lodwar, Turkana County
Uganda	Mbale-Bufumbo & Mission settlements	Mbale and Bufumbo are two cells within Mbale municipality. They were selected as pilot sites for the GLTN's tool Social Tenure Domain Model (STDM) in Uganda in July 2011.	ACTogether Uganda, National Slum Dwellers Federation of Uganda, Mbale Slum Dwellers, Mbale Municipal Council, Ministry of Lands, Housing and Urban Development
Zambia	Kanyama ward 10 informal settlement	Kanyama is the largest informal settlement in Lusaka and among those prioritized for upgrading under the Citywide Slum Upgrading and Prevention Strategy.	Lusaka City Council, Kanyama Ward Development committee,
DRC	Masiani neighbourhood, Beni, North Kivu (Boikene Centre, Kitobi and Munyabelu cells)	Masiani neighbourhood is a constituency or administrative entity component of the Mulekera municipality with an area of 15 square kilometres, located in the city of Beni, North Kivu Province, eastern DRC. The estimated population is approximately 16,264 inhabitants or 2,711 households.	Christian Bilingual University of Congo (UCBC), Ministry of Land Affairs and Urban planning in North Kivu

Within the context of UN-Habitat's work, land is an essential dimension for sustainable urbanization, particularly the processes related to land administration. Key issues include the exposure to forced evictions, unrecognized rights and the difficulty to exercise them (increasing the degree of marginalization of the poor and vulnerable people from decision-making processes), and obstacles in using property as a source of income or collateral to access formal credit. According to Land Equity International (2008), good land governance in land administration occurs, inter alia, where: land policy is in line with principles of fairness and equity; where a variety of accepted and socially legitimate rights that are legally recognized exist, and can be recorded; where land administration institutions have clear mandates and operate transparently, cost-effectively and sustainably; and, where information provided by the land administration system is reliable, sufficient, and accessible at reasonable cost. In the context of this paper, the select cases addressed these principles with the aim of mitigating against corruption by increasing transparency in land and land-related processes.

1. Implementation of a Land Information System in Turkana County, Kenya.

Turkana County has held its land communally for a long time, and it has never been adjudicated. Currently, all the community-held land in Turkana County is held in trust by the county. Most of the landowners only have allotment letters. The geo-political location and ecological variability of Turkana County have influenced resource use and political conflicts with neighbouring pastoral groups, as well as neighbouring countries, in the past and present.

In October 2016, the Food and Agricultural Organization of the United Nations -Kenya the GLTN signed an agreement to design, develop, deploy and build capacity on a land information system for the Ministry of Lands, Physical Planning and Urban Areas Management, with an initial pilot focusing on capturing tenure information in Lodwar town. The specific objective of the project was to pilot the use and application of STD M in the context of a county land information system for managing tenure and land rates in urban areas within the county, and to document the processes and build capacity on its use and capabilities, with the opportunity of scaling it up to also manage customary rights for communities within the County. The long-term objective was to address the land information requirements of women and men in pastoral communities, to reduce conflict for grazing and water resources between communities; improve tenure security; form a basis for inclusive planning and to improve access to basic services and infrastructure.

Initial results from project implementation included a Land Information Management System (LIMS) built on top of STD M. This means that customizations and new features were added for Turkana County LIMS based on the needs and requirements of the Lands Ministry. The system now consists of a single database server that will store data and process document requests. Unlimited numbers of users can access the server using LIMS client – QGIS with STD M plugin. Data is backed up periodically to avoid data loss. Also, staff members of the County, the majority of whom are land administrators from the sub-counties were trained on the STD M and LIMS data management and updating. Approximately 1,200 records containing land ownership information in Turkana have been migrated to the county

LIMS from paper-based sources (i.e. ledger book and survey plans). The county LIMS is also expected to support the development of the Turkana County Spatial Plan that will be the basis of a land policy to allocate appropriate land use and promote sustainable use of natural resources.

2. Addressing land information requirements for the urban poor in Mbale, Uganda

Data on informal settlements are needed to enable residents to demand their rights as citizens, to improve land tenure, to plan for the provision of infrastructure and services, to redevelop/upgrade slums, to guide housing improvement, land readjustment, land allocation and to use in land administration and information systems. The STDM intervention in Uganda commenced in July 2011 in two cells of Mbale municipality; Bufumbo and Mission. The project was a complementary initiative to the then ongoing Transforming Settlements of the Urban Poor in Uganda (TSUPU) program, implemented by the Government of Uganda and funded by Cities Alliance. It aimed at piloting and testing the STDM to document the process and capacity building requirements around its use and application for wider learning and implementation. The long-term objective was to address the land information requirements of women and men living in slum communities in order to build their capacity in the use and application of the land information systems based on free and open-source software packages and to form the basis for dialogue between local communities and cities to improve tenure security, inclusive planning and enhance access to basic services and infrastructure.

In this pilot, data was obtained from 1,183 households, which data revealed gaps in terms of accessibility to basic community services and how these were interlinked to tenure security issues. Armed with this information, the community through the Mbale federation started negotiations with the Mbale municipal council and subsequently became recognized as legitimate development actors in the municipality. In the second and third phase of TSUPU program, the Mbale federation was granted significant amounts of funds to implement capital projects to improve living conditions in the slums of Mbale. These include eight water points, five public toilets, one school toilet; two stone pitched drainage channels, two open roads, and improved street lighting. In a bid to ensure proper maintenance and the sustainability of these projects, the Mbale federation pushed for a Memorandum of Understanding outlining the community mandate to manage these upgrading projects. On the 8th of January 2015, the Mbale Municipal Council through the Community Development Officer signed an MOU which gave the federation the right to manage all the eight water. The implementation of the STDM has since scaled up to cover fourteen municipalities where tenure security for 181,604 households from 120 informal settlements has been improved through profiling and participatory enumeration and mapping of land rights.

3. Improving Tenure Security of Slum Dwellers in Peri-Urban Lusaka, Zambia

Lusaka, the capital city of Zambia has an estimated growing population of three million people and has the largest share of urbanization challenges in Zambia. It dominates the country's urban system and accounts for 32 per cent of the total urban population in the country with approximately 70 per cent of the population living in unplanned settlements. Lusaka City Council (LCC), the authority responsible for the operations of Lusaka city is taking comprehensive steps to address slums and informal settlements challenges citywide by regularizing about 37 informal settlements and recognizing them as 'Improvement Areas'

under the Housing (Statutory and Improvement Areas) Act of 1972, (now Urban and Regional Planning Act No. 3 of 2015), in readiness for their upgrading. Kanyama settlement is the largest informal settlement in Lusaka and among those prioritized for upgrading under the Citywide Slum Upgrading and Prevention Strategy. The settlement has a population of approximately 143,274 people (Lusaka City Council, 2016) and was declared an improvement area in 1999 which means that it is a recognized settlement that can receive government support and that occupiers of the plots therein can obtain occupancy licenses.

GLTN is, inter alia, supporting LCC in implementing its Slum Upgrading and Prevention Strategy. One of the areas of support is enumeration, mapping and documentation of land tenure rights of the current inhabitants. GLTN is providing technical support to map Kanyama ward 10 for the purposes of speeding up the process of issuance of occupancy licenses with the aim of improving tenure security of the residents. The intervention has been a great achievement culminating to the issuance of occupancy licences to a total of 33 residents in Kanyama guaranteeing tenure security for a period of 30 years, which is renewable. This is a first, with the potential to scale up. Since Kanyama is an improvement area, the benefits of slum upgrading will follow suit i.e. improvement of the roads therein, provision of more basic services etc. Also, the households can use the licences as collateral security to financial institutions while seeking loans and they can also improve their structures as they see fit. The project has also established a database at the LCC which has since been integrated into the City Council's system on the central server and is currently being utilized by the different departments involved in the occupancy license delivery chain.

4. Promoting a Flexible land administration system in Urban DRC

Since the 1990s, the Democratic Republic of Congo and particularly the eastern provinces North Kivu, South Kivu and Orientale have been shattered by one of the deadliest conflicts in the world. In this post-conflict situation in Eastern DRC, where large numbers of internally displaced people and refugees are waiting for return to their places of origin, disputes over scarcely available land have the potential to generate new outbreak of large-scale conflict. The current situation encourages corruption, land disputes, difficult access to land by the poor and vulnerable, as well as the marginalization of poor, women and rural agriculturalists.

Beginning 2017, the GLTN entered into an agreement with the Christian Bilingual University of Congo (UCBC) which aimed at supporting land dispute resolutions through the implementation of a land information system based on the STDM. The project also focused on building the capacity of key land stakeholders and providing a model for future land systems and in support of sustainable processes for land reform. In collaboration with the national and provincial authorities in North Kivu and civil society organizations, women and youth groups, and customary leaders, the project managed to register over 2,368 plots and generate a map for the Masiani neighbourhood which has since been validated. Provincial and territorial land administration authorities have appreciated the initiative especially on the ease of doing business i.e. hastening the production of sketch plans as opposed to manual production in the past. Digital and hard copies of the data for each parcel is also now available, and storage has been made efficient to enable fast retrieval and updating of data

where necessary. Additionally, the project has been instrumental in addressing existing land conflicts by demonstrating land demarcation procedures to landowners. Neighbours have been able to resolve boundary issues in the presence of customary chiefs after which the final boundary points agreed upon are marked by the surveyor. To a great extent, the project has improved relations between the traditional and formal systems hence good land governance. For example, a copy of the cadastral map and a register of the members in the different cells was shared by land administration officers to the customary chiefs. This will enable chiefs to identify those who have no formal documentation and those without land for consideration in the allocation. It will also help in addressing land conflicts because the map will be used as a reference in such cases.

Conclusion

In the four countries, land tools implementation has influenced national land policies by offering cost-effective and inclusive approaches that lead to tenure security by advocating the continuum of land rights and fit-for-purpose land administration concepts. In Uganda for example, GLTN land tools and approaches are in line with the implementation of the National Land Policy, including the implementation of the national gender strategy on land to ensure that women's land rights and gender-related reforms are affirmed and prioritized. In Zambia, lessons from the implementation of the STDM in Kanyama settlement in Lusaka and on customary lands (not documented in this paper) are informing the broader land reform processes on improving coverage of land records in Zambia. In the DRC, the establishment of the LIS within the land administration offices is providing practical evidence and serving as a benchmark for the discussion of land reforms towards addressing the gaps in land recordation and with a focus to broaden the framework to recognize the rights of women and youth currently not accommodated in traditional systems. With the successful implementation of the LIMS, in Turkana County, the demand for its application and implementation has steadily increased, including for potential application in other counties in Kenya. Local governments are keen to adopt the STDM and other GLTN tools and approaches for development objectives like inclusive planning, tenure security improvement, provision of basic services and infrastructure in their jurisdictions.

Corruption in land administration has significant societal costs and can have a major effect on the livelihoods of people worldwide. It reduces peoples' access to land and harms the livelihoods of small-scale producers, agricultural labourers, indigenous communities and landless rural and urban poor. The brief accounts presented in this paper are an attempt to show how this vice can be prevented by ensuring availability of an inventory of existing land data and rights- in totality- by recognizing tenure can take a variety of forms beyond the conventional system of property rights. The processes of implementation of these land tools and approaches are also participatory which favor good governance in land administration as inclusive processes are required to ensure the equitable distribution of benefits from land and related natural resources. While these projects demonstrate opportunities at improving land governance, a strong political will is necessary to increase transparency, eliminate overlaps, and improve coordination in land and land related activities by those who might want to resist especially if they are benefiting from the status quo.

REFERENCES

Assembly, G. (2015). Sustainable Development goals. SDGs), Transforming our world: the, 2030.

Committee on Food Security and Food and Agriculture Organization of the United Nations (CFS and FAO). (2014). *Voluntary Guidelines on the Responsible Governance of Tenure of Land Fisheries and Forests in the Context of National Food Security*. Rome.

Government of Zambia. (1995). The Lands Act, 1995 (No. 29 of 1995), 13 September 1995.

Government of Zambia. (1994). Lands and Deeds Registry (Amendment) Act.

Land Equity International (2008). Governance in Land Administration.

Oketch, W., (2019). Why Swazuri is a squatter on disputed Kwale prime property. Retrieved at <https://www.standardmedia.co.ke/article/2001336271/swazuri-listed-as-squatter-on-hotel-s-golf-course-court-told>

Palmer, D., Fricska, S., & Wehrmann, B. (2009). Towards improved land governance. *Food and Agriculture Organization of the United Nations, United Nations Human Settlements Programme*. Rome, Italy.

Transparency International. (2013). Global Corruption Barometer.

UN-Habitat. (2013). Tools to Support Transparency in Land Administration. Nairobi, Kenya

UN-Habitat. (2016). Implementation of Responsible Land Governance; A Land Information System for Sustainable Development in Turkana County, Kenya.