Research Paper

Social tenure domain model as one of the mechanisms for reducing land disputes in Kayunga District

Accepted 12th December, 2023

ABSTRACT

This research proposes the use of Social Tenure Domain Model (STDM) as a mechanism for resolving land disputes in Kayunga district-Uganda. STDM was developed by the Global Land Tools Network (GLTN), an affiliate of the World Bank, as a pro-poor land information tool that bridges the gap between formal systems of land administration and informal tenures. STDM has three major components. First, it allows interoperability between formal and informal tenures. Secondly, as a concept, it represents ‘people – land’ relationships independent of the level of formality, legality and technical accuracy. Lastly, as an information tool, it covers the information asymmetry gap and reconciles what is on ground with cadastral pages. Although a lot of research has been conducted on land dispute resolution mechanisms in Uganda, little is known about; (i) the rampant land disputes as a result of weak legal regime in Kayunga District especially in protecting informal tenure-customary tenure among others; (ii) whether the law, policy and land institutions are fundamental in reduction of disputes in Kayunga; (iii) whether land disputes in Kayunga are gender discriminative; and, (iv) whether there is security of occupancy to informal tenure holders. Using interviews, questionnaires, desk research and observations in Kayunga district, this dissertation analyzes the potential impact of STDM on land rights in reference to reduction of land disputes. This study found that land disputes are as a result of: insufficient data coverage, weak legal framework on informal tenures, lack of implementation on amendments to Land Act (2004/2010), influx of investors in the district, political and military forces and lack of standard boundaries to land interalia. Furthermore, the institutions governing land also face institutional and structural challenges ranging from; corruption, inability to conclusively handle land matters, case backlog, insufficient knowledge and skills both on substantive and procedural provisions, lack of funds, political interference which were evident in all institutions. The study revealed that many land related disputes result from a gender imbalance where women are treated as ‘second class citizens’ in relation to ownership of land and many times women’s consent to land dealings is obtained by duress or fraudulently leading to loss of their ultimate rights in property. The research went on to give comments on the proposed amendments on Article 26 of the Constitution and the Land Acquisition Act (1965) Chapter 226) which amendments are likely to erode the citizenry right to own property which is guaranteed by the same Constitution. Finally, the National Land Policy (2013) and Commission of inquiry set by the President to investigate land conflicts reflect a major lack of implementation by responsible institutions and political unwillingness to settle land related disputes. This inherent legal and institutional weakness has perpetuated tenure insecurity especially on informal tenures leading to constant suffrage and loss of rights which STDM aims to combat.

Key words: Social Tenure Domain Model, land disputes, Kayunga district.

INTRODUCTION

Both government agencies and research and development partners are increasingly perturbed by the limited impact
of Sustainable Land Management (SLM) innovations on the lives of the poor and their environment. They argued that the limited impact of SLM is partly attributed to the dearth of innovative, participatory approaches to generate and disseminate technologies including land care, lack of multi-stakeholders and multi-scale platforms to catalyze and accelerate scaling processes, and poor links between research, development and policy.

Most developing countries have less than 30% cadastral coverage. Moreover, it can be observed that existing land administration systems have limitations, because of the fact that informal and customary tenures cannot be included in these registrations, which particularly affects the poor in society. Existing land administration systems require substantial changes to include all existing types of tenure. But the need for this is not always recognized and institutional changes are not so easy to implement.

Therefore, STDM was identified as a common standard for the land administration domain which will also stimulate the development of software applications and will accelerate the implementation of proper Land Administration Systems (LAS) that will support sustainable development in many developing countries. The model integrates essential data such as party names and rights with source documents such as titles, deeds, survey field data, court decisions, decisions made in participatory mapping and other decisions. All essential data can be related to authentic sources (e.g. documents or imagery with evidence from the field). Available ISO standards are used to support multimedia archives, measurements and observations as well as spatial representations.

It is a sub-version of the LADM that presents a generic and inclusive solution as a way forward for building flexible land administration systems. The STDM software and source code were released simultaneously at the 2014 FIG Congress in Kuala Lumpur, Malaysia. As of December 2013, pilot studies in Kenya, Columbia, and Haiti had been undertaken. Scaled rollout was occurring in parts of Uganda as well. Meanwhile, capacity development programs regarding STDM had been delivered to professionals in Namibia, Lesotho, South Africa, Botswana, Mozambique, Zimbabwe, Tanzania, Kenya, Malawi, North Sudan, South Sudan, Nigeria, Ghana, Burkina Faso, India, Thailand, Malaysia, Philippines, Indonesia, Jamaica, and Trinidad and Tobago (and other Caribbean Islands). Meanwhile, further rollouts were planned for DRC, Zambia and Fiji.

STDM came at a time when in developing countries, large portions of land was largely untitled, with less than 30% of cadastral coverage conforming to the situation on the ground, with little land information thereby low land management. Conventional land information systems cannot adequately serve areas that do not conform to the land parcel approach applied in the developed world. Resultantly, a more flexible system is needed for identifying the various kinds of land tenure in informal settlements. Based on a global standard, this system has to be manageable by the local community itself, hence the social tenure domain model. The scope of STDM includes the definition of a reference model, covering all basic information-related components of land administration and provides conceptual schema with five basic packages, related to; people - land Parcels (spatial units in STDM terminology); property rights (rights, responsibilities, and restrictions in STDM terminology). Others are; surveying, geometry and topology.

Globally, land use rights are useful to informal settlement residents not capable of being integrated into a conventional land administration system. Such residents include; slum dwellers, families and groups living under customary tenure, indigenous people, pastoralists, and refugees interalia. The Social Tenure Domain Model (STDM) covers all types of tenures, conventional and other social tenures such as informal and customary tenures. It complements the Land Administration Domain Model (LADM) and allows inter-operability between the two systems. LADM does not include all tenure types and in most developing countries there is incomplete cadastral coverage. There is therefore a technical gap which is linked to the inability of conventional land administration systems to go to scale as well as that they do not include the social tenure types commonly found in developing countries.

STDM has been successfully tried in Mashimone-Nairobi, Mnanzi-Mombasa, Cedadela Sucre-Soacha-Colombia, Mungule chiefdom-Zambia, Luhonga in North Kivu- DRC.

1 Sustainable Land Management (SLM) is a knowledge-based procedure that helps integrate land, water, biodiversity, and environmental management including input and output externalities to meet rising food and fiber demands while sustaining ecosystem services and livelihoods (World Bank, 2006).
2 Land care is a widely adopted approach to integrated natural resources management. As an approach, it centers on community groups working together to rehabilitate highly degraded landscapes using novel, but practical science-based agroforestry and natural resources management techniques. It also focuses on empowering local people to willingly take action to address local problems (Catacutan 2001).
3 (Wangati, 1994; Stroud 2003; Sanginga et al., 2004; Campbell et al., 2003).
4 In many countries such infrastructure is not available with a nationwide coverage; in fact this is the case in only 25 to 30 countries worldwide. (World Bank, 2006).
8 Ibid
10 Ibid
12 Supra foot note 3
and Mbale-Uganda. Even though the STDM was implemented in Mbale, there was a legal gap in the tenure security procedure. Nevertheless, the researcher’s goal in this study is to highlight the urgent need for the STDM to be legally recognized, applied, and enforced in order to lower the frequency of land disputes in Kayunga district. STDM conceptualizes the relationships between people and land by acknowledging other non-formal tenure arrangements, opening options for innovative and incremental approaches to improving tenure security; bridging the gap between informal and formal systems that emphasize titles, unpacking existing social tenures, giving a snapshot of the people-land ‘relationship’ at any given time; and informing the land administration activities about the actual situation on the ground\(^a\) (STDM as a concept).

Central to the STDM proposal is the need to record oral and on-register arrangements that are socially recognized, particularly amongst the poor\(^b\). Such new forms of recording are sometimes described as “progressive cadastres”, “halfway”, “grassroot”, “flexible”, “pro-poor” and capable of offering a degree of tenure benefit that can be a first step to greater benefits over time for the urban and rural poor who constitute the majority in developing countries\(^c\).

Participatory enumeration\(^d\) and participatory rural appraisal has shown that when communities are organized, they can undertake systematic identification of land rights and natural resource use rights\(^e\). In regard to the pro-poor land recordation system, a more systematic approach to the creation of records can also be done when the community is ready for it. In some communities, it might not be possible to start with a sporadic approach, because of suspicion between neighbors, and the first step will have to be systematic. Although cheaper per property (due to economies of scale), this requires more upfront investment. A requirement for the design is that even if the proposed pro-poor approach is used, it will not be possible to cover the whole country in a few years and areas of high priority will have to be chosen for a more systematic approach. Additionally, STDM should build on the paper documents already being used by communities and should be implemented either sporadically or systematically, depending on community demand and resources that can be mobilized.

The Ugandan Constitution as amended\(^f\) and the Land Act\(^g\) provide for the land tenure systems as Freehold, Mailo, Leasehold and Customary which is largely undocumented and based on customs. These tenures have transited from pre-colonial; colonial and post-colonial eras. Apart from customary tenure, other tenures are majorly capitalistic and in support of the neo-liberal theory as opposed to social rights to land.

It should be noted that STDM model was initially piloted in Mbale, Uganda by UN-Habitat and Slum Dwellers International (SDI) in partnership with; Ministry of Lands, Housing and Urban Development (MoLHUD), Mbale Municipality, the NGO ACTogether, the local slum dweller federation, community leaders and residents\(^h\). The pilot was part of the Government of Uganda’s initiative to transform the Settlements of the Urban Poor in Uganda (TSUPU). This initiative was supported by the Cities Alliance through its Country Programme framework. Emphasis was placed on scaling up the use of STDM in Uganda as in other countries where UN-Habitat and SDI are operating, including the establishment of regional resource centers in Uganda and the Philippines\(^i\).

As said before in Mbale, the model proved successful because of community involvement and participation in the mapping processes. However, it suffered from a legal gap as STDM is not formally recognized in the formal/conventional land registrations in Uganda. Kayunga, being an area of both formal and informal tenures similar to those in the foregoing areas (and Mbale in particular as a proximate), can greatly benefit from the mechanism of STDM which will act as a complimentary tool to the formal systems and lessen land disputes.

Therefore, the use of STDM mechanism seeks to contribute to a need for more cohesive institutional and legal framework in land administration and management that will be restrictive to the practice of land disputes. Lemmen observes\(^j\) that the model (STDM) was designed to cover all types of tenures, conventional and other social tenures such as informal and customary\(^k\).

It complements the Land Administration Domain Model (LADM) and allows interoperability between the two. In this instance, the Mailo tenure, which is unique to the central region of Uganda, is recognized and respected by STDM. As earlier noted, only 30% of land is recorded on the cadasters therefore such disputes may exist on what is supposed to be registered land for instance Mailo land not captured in the formal systems. Secondly, Mailo, an officially recognized interest, supersedes other interests that STDM recognizes in the local understanding, and will

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\(^{11}\) Ibid


\(^{13}\) Zevenbergen J, C Augustinus, D Antonio & R Bennett “Pro-poor Land Administration: Principles for Recording the Land Rights of the Underrepresented” (2013) 31 Land Use Policy 595.


\(^{17}\) Ibid

\(^{18}\) Ibid

\(^{19}\) Section 3 of the Land Act of Uganda (1998) Chapter 227 Laws of Uganda

\(^{20}\) Cities Alliance in Action (2013), “Promoting Land Rights for the Urban Poor with the Social Tenure Domain Model”. From www.citiesalliance.org accessed on 16th April 2017 at 10.30pm

\(^{21}\) Ibid

\(^{22}\) Clarissa AUGUSTINUS, UN-HABITAT, and Christiaan LEMMEN, ITC, (2006) “What is required to bring the social element into land administration? Moving from the Land Administration Domain Model to the Social Tenure Domain Model

\(^{23}\) Ibid
be the “kibanja holder” which can be formalized to a
conventional interest. STDM can help cover information
asymmetry to the Mailo land lord and also grant social
tenure to the occupants where it has been accepted.

STDM is a subversion to compliment the formal tenures
especially through covering the information asymmetry. 
Although it currently suffers from a legal gap, it has not
been incorporated or accepted legally. Hence it looks
forward to a legal framework/regulation that will ease its
operation. Issues that may arise in this case to ease
operation include inter alia; policy formation; sensitizing
people on STDM and its incident; advocacy for
nationalization of land to allow access to everyone
especially citizens as provided for in Article 23724 that
“Land in Uganda belongs to the citizens of Uganda and shall
vest in them in accordance with the land tenure systems
provided for in the constitution”. Therefore going by the
tenures hailed by the Ugandan Constitution, land is owned
individually through specific tenures, and collectively in
case of public and customary land, the latter being largely
informal and undocumented.

STDM can identify and describe the range of land
disputes that exist and at an earlier stage prior to entering
court, thereby decreasing the number of cases in court and
increasing the number of cases that could be solved
through Alternative Dispute Resolution mechanisms. This
has always been a crucial role of surveyors and may
strengthen the role and scope of community leaders, para-
legals, government officials, surveyors and lawyers
involved in mediation25. Also, since STDM is a pre-conflict
mechanism, it will provide more realistic information
which will be reflected in the land value, the market will
indirectly influence quicker resolution of land disputes26.

**Problem statement**

The need for industrialization, land redevelopment, real
estate development, failure to recognize informal/
customary tenures, insufficient cadastral coverage,
modernization of agriculture are the main factors blamed
for the rampant land disputes in Uganda and specifically in
Kayunga district which predominantly is covered by
customary and Mailo tenures. This has been evident inter alia
in Bulisala oil rich region in western Uganda, the
Bukaleba forest reserve in eastern Uganda, the Mabira
natural forest reserve in the central region, and the
Kalongala oil palm project in Lake Victoria27. Considering
Kayunga District, Daily Monitor, Bukedde, New Vision and
the Observer papers since 2013 to date have covered
stories on land wrangles therein; they observed that there
is an increase in land wrangles and grabbing perpetrated by
foreign investing companies and the rich from the poor
(especially women). Despite the existence of a legal
framework on land tenure and dispute resolution
mechanisms, informal tenure holders (especially customary
tenure tilled by women) in Kayunga district have continued
to be under the suffrage of land disputes.

Whereas the Constitution provides for the right to
property28 and protection of customary tenure29 which
provisions are reinforced by the Land Act, Kayunga
 dwellers still suffer from loss of land rights and constant
homelessness. There is need to examine whether the legal
regimes are weak or have loopholes that give way to land
disputes. The second question is to examine whether policy,
institutional and administrative modes of resolving
disputes are effective enough to guarantee security of
tenure. It is against this background that this research
analyzed STDM as one of the mechanisms of reducing land
disputes and proposing its application as a complimentary
approach to the traditional land administration systems
that are still short of guaranteeing security of tenure. There
is need to fill the existing knowledge gaps and also offer
viable solutions to the problem at stake. Failure to address
land disputes in the country will create a state of
landlessness, lawlessness and impunity to perpetrators.
The legal and institutional frameworks need to be
empowered to guard against perpetrators.

**Purpose of the study**

To identify, analyze and establish the application of the
Social Tenure Domain Model as one of the mechanisms for
reduction of land disputes in Kayunga District.

**Specific objectives**

i. To identify the legal reforms of the STDM as a
mechanism of reducing land disputes in Kayunga
District.

ii. To establish the impact of STDM on reducing
gender related land issues in Kayunga District.

iii. To analyze the potential impact of STDM on
promoting land rights in Kayunga District.

iv. To investigate other Alternative Dispute
Resolutions (ADR) applied in Kayunga district.

**Research questions**

1) What are the legal reforms of the STDM as a
mechanism of reducing land disputes in Kayunga
District?

28 Constitution ( 1995) Supra note 18
29 Article 26 Constitution (1995) Supra note 18
30 Ibid Article 237 (3)
2) What impact has STDM on reducing gender related land issues in Kayunga District?
3) What is the potential impact of STDM on promoting land rights in Kayunga District?
4) What Alternative Dispute Resolutions (ADR) Mechanisms are applied in Kayunga district?

Significance of the study

The study findings will provide policy makers, law makers and the government of Uganda a platform to initiate dialogue on inclusive planning and possible tenure security improvement. In addition, the current study through the Ministry of Lands, Housing and Urban Development, will provide a platform for innovation around land registration tools by informing and modernizing the Land information System in the ministerial zonal land offices. It will guide officials of the National Land Information Centre to facilitate and improve the delivery of basic land services to Ugandan citizens.

Research findings will further enhance learning among physical planners in different districts of Uganda faced with land disputes and conflicts including the oil-rich Bunyoro sub-region. Land users will benefit from the fact that STDM addresses their information requirements especially improving tenure security, enhancing planning, access to basic services and infrastructure.

STDM projects have also attracted considerable interest from various countries and partner organizations. The study may provide literature for further researchers and academicians who may pick up interest in alternative land administration strategies for better land dispute management. The study is expected to produce findings that will assist in an effective solving of land disputes in rural Uganda and other parts of Africa that face similar land disputes like Sudan, Congo, Zimbabwe, Tanzania, Ethiopia, Eritrea, Kenya among others.

Justification of the study

The research findings will provide significant insights and suggestions informing and influencing policy decisions. For instance, the developed research framework can serve as a legal and gender framework to help cope with the rapid population growth and land disputes in some areas of Uganda such as Kayunga and Kasese districts. These are matters that are becoming increasingly complex with a wide range of actors with different interests, needs, demands, and different overlapping challenges with access to the land use and its market.

This research attracts adequate policy attention through promoting information asymmetry. Currently funds meant to resolve land disputes are probably going to waste on one hand, while on the other hand, the country is facing several other challenges. These include rapid population growth and urbanization, consistent budget constraints and deficits for which most social interventions for example under the Millennium Development Goals (MDGs) and National Development Plan (NDP II) have not yet been fully achieved. In the light of these, it may appear prudent for certain government agencies such as Ministry of Lands, Housing and Urban Development to be deregulated and tasked to use pro-poor land reforms such as STDM; that serve a gender and human rights purpose. In this regard, the study may offer insights into the actual research problem that needs to be tackled and not the symptoms.

Few researchers have made serious efforts to investigate the modern land dispute resolution strategies and measure their legal implications and how applicable they are in reducing land disputes. Focus has been placed on the already-unpopular land administration systems in various developing countries like communal land tenure systems. The current study is thus unique and will contribute to the body of knowledge in the area of legal research particularly land administration systems in Uganda and the entire developing world.

Theoretical framework

This research is premised on two theories; the neoliberalism theory of land reform and the evolutionary theory of land rights, hereafter expounded.

Neo-liberalism theory of land reform

The neo-liberalism theory focuses on private property rights restoration, through land titling - meaning that ownership is protected and unchallenged30. The premises of neo-liberalism are such that; first, the State and the market are distinct and mutually exclusive institutions; second, the market is a more efficient mechanism than the State institutions in resource allocation and; third, state interventions distort land allocation leading to conflicts. These free-market social and economic policies, popularly known as the Washington Consensus31, became the dominant economic policy during Reagan and Thatcher governments in the United States of America and the United Kingdom in the 1980s, and now pervade multinational institutions including the; International Monetary Fund, World Bank and the World Trade Organization (WTO)32.

While implementing these policies, the World Bank aims at achieving; individual property rights by distributing idle

land through a market mechanism referred to as “willing buyer-willing seller” or Market-Led Agrarian Reform (or MLAR); increased farmers’ investment in agriculture; written records of land ownership through acquiring asymmetric information about land ownership; and, improved transferability of property from the seller to the buyer.

With the advent of neoliberal land reforms, informal land in Uganda has become increasingly an insecure resource, triggering land conflicts, largely attributed to the fact that state land cadastres and land registration are not comprehensive or efficient. These land policies have so far had a variety of effects, with some subsectors benefiting and others losing. They have also intensified social differentiation- with few capitalists and rich farmers capable of adjusting to new market conditions, while poorer peasants, farmers and women with little competitive potential lose property rights, rendering them landless and vulnerable due to the delineation of boundaries of customary land. In Kayunga district - as is the larger Uganda, only a small percent of total land holdings are mapped, registered or maintained in databases. Similarly, the process of land acquisition herein is slow, transaction costs are high, yet prospective land purchasers have to acquire considerable information on the land before they can make a decision. Thus, ownership is often disputed and subject to various claims on single or to multiple ownership.

For that reason, many of the contemporary concerns with land reforms focus on finding ways of; harmonizing customary land tenure with land registration, and; finding ways of mapping customary relations alongside cadastral surveys (Levigne, 2000). Registering and mapping all customary plots is not easy, since they are sometimes subject to intractable disputes. Neoliberal land reforms will address the issue of customary land and the relationship between customary and state land administration by; finding new ways of registering and delimiting customary plots, and; collecting information about customary ownership. The mapping of customary lands and the establishment of customary management agencies have the effect of demarcating customary lands and preventing farmers from using the remaining lands in the future.

Therefore, like the Ugandan Constitution and Land Act, both STDM and the neo-liberalism theory emphasize private property rights (private and individual), expressed in a legal form and backed up by the state. Neoliberal land reforms encourage voluntary titling and registration of customary land rights thereby increasing formalization of informal property rights to achieve a reduction in land disputes. Property rights bring about a continuum of tenure security, an emphasis of STDM, where by different sources of land access and use patterns co-exist, allowing a diversity of tenure situations ranging from informal to full ownership (GLTN, 2012) where people are able to move from one form of rights to another over a period of time.

Registration of individual or group customary titles under the Land Act is a step forward to customary land tenure formalization in Kayunga district. The time is ripe for its implementation, and more importantly, people and other entities should be made aware of this. The theory provides a justification for the need to harmonize formal and informal tenures, and helps in creation of a platform to advocate for further reforms to accommodate social tenures through the mechanism of social tenure domain model that will significantly reduce the ill of land disputes. STDM should be adopted to encourage flexibility in land tenure system, for example in the transfer of land to individuals capable of using the land profitably.

**Evolutionary theory of land rights**

The evolutionary theory of land rights (ETLR) is a framework of analysis used by economists to assess the gradual approach to acquisition of land rights, and to make predictions about the evolution of land tenure. Ester Boserup - a Danish Economist advanced the idea that population increase stimulates agrarian changes resulting in a rise in property (land) values. Central to this theory, due to increasing population pressure and market integration, land rights quickly evolve towards rising individualization: Rights holders press for the creation of fully formalized private property rights. Hereafter, an increase in the value of a communal resource inevitably leads to its privatization. As real estate values increase, land disputes increase, which can only be resolved through government-sponsored real estate proceedings.

Customary tenure is evolving towards private land ownership where individuals can transfer and decide on land use without seeking consent from clan heads. In these land tenure arrangements such as is in the Ugandan context, powers to administer, allocate and resolve land conflicts are vested in the hands of the community heads. Herein, social groups adopt property rights because the benefits from doing so exceed the costs, implying that society will always gain. Additionally, individuals herein

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have use rights, and the main mode of land acquisition is through inheritance and allocation among family members by descent, or being a member of the community. At the initial stages of the evolution, communities are homogenous in terms of ethnic composition and are closely knit. Moreover, land is abundant. As population increases, the social cost resulting from the communal land tenure system which does not allow for market transactions increases with reducing land availability. This virtuous cycle of increased land scarcity leads to more precise definition of property rights as well as a rise in land conflict.

People respond to such situation by demanding for individualized land rights so as to be able to secure investment returns accrued to new farming systems. This can be achieved through land titling in the form of individual private property. Adjudication and demarcation which is part of the titling process (emphasized by STDM) resolves all land and boundary disputes, thereby promoting greater tenure security and an increase in incentives for owners to make long-term investments in the property.

The ETLR encourages registration and customary land title documentation as the main mechanisms for formalizing informal land rights, also emphasized by STDM. This ensures protection from challenges to individuals’ rights and makes transferring these rights easier. To achieve increased security of property rights in Kayunga District, the ETLR observes that legal and institutional issues should be tackled in tandem or evolved jointly, with reference to the broader social and economic environment within which land rights are embedded. On the legal side, the definition of property rights to land and the way in which people can acquire them must be clear, equitable and sufficiently long term. As a result, ETLR justifies implementation of STDM in Kayunga district since it encourages a unified system of land documentation and registration, giving a land owner proof of ownership. Timely and efficient registration of informal customary land improves ownership security.

Although the perspectives from the two theories are not mutually exclusive, they are intertwined, aiming towards adopting strategies of STDM for the reduction of land disputes in Uganda. Hence, strategies should be put in place to ‘codify’ the ‘local systems’ of landholding; ‘register’ the local rights; conduct cadastral surveys, and map land uses; and to ‘reform’ rules and procedures for land administration.

LITERATURE REVIEW

STDM describes relationships between people and land in an unconventional manner in that it tackles land administration needs in hitherto neglected communities, such as people in informal settlements and customary areas whether in rural or urban areas. It supports development and maintenance of records in areas where regular or formal registration of land rights is not the norm. STDM is a pro-poor, participatory and affordable land tool for representing people to land relationships along the continuum of land rights. STDM can be implemented as a participatory enumeration. This is a survey method to gain better knowledge of the needs and priorities of a community. This is about involving and engaging poor communities in one of the first steps of any participatory planning or upgrading initiative.

STDM on legal reforms

Authors argue that early priorities for the reform process tended to focus on issues of tenure security in relation to specific historical tenure problems. Reform of the structures for land management and land administration, and issues of land use and environmental sustainability assumed greater importance at a later stage in the process. The current distribution of land rights, together with the systems of land administration and management, are rooted in the past, and any attempt to resolve Uganda’s land problems requires an appreciation of past policies and their impacts. Similar to most colonial regimes, the Protectorate Government in Uganda implemented a dualist system of land tenure, through which parts of the country were brought under a system of statutory controls while maintaining traditional customary systems in the rest.

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46 Ibid
Since Uganda was not a settler colony, the dualist system privileged certain Ugandan political and ethnic interests over others. Within the customary sector, there were regional and local differences due to ethnicity, farming systems and agro-climatic conditions. The impetus for resolution of these tenure issues was largely political and the connection with poverty reduction may not be immediately evident, although in large measure they deal with the problems arising from the need to strengthen the rights of occupier’s vis-à-vis those of owners.

In addition to tenure issues, the land reform process needed to consider the appropriateness and cost-effectiveness of existing systems of land administration and management. The principal features of these systems are centralized and inefficient land management and a costly and inaccessible system of land administration.

Other issues are the limited number of registered surveyors, which results in high land registration costs, manipulation and overcharging by the surveyor, and the lack of access to legal aid service providers. From their analysis, authors consider that some of the root causes of such failures relate to the ineffective structures and procedures of the formal system of land administration, the general state of women living in poverty, the misuse and misunderstanding of some customary practices, the abuse of traditional power, the gaps that exist between the customary and formal system, the marginalization of the position and condition of women in Uganda compared to men, and that will remain a male-driven affair culturally.

STDM intervention in Uganda commenced in July 2011. It was a complementary initiative to the ongoing Transforming Settlements of the Urban Poor in Uganda (TSUPU) program. STDM software was tested in the municipality of Mbale - Uganda, for wider learning and application. In regard to Mbale, most of the work including mapping, enumeration, community mobilization, local consultations and sensitization, data entry, analysis and validation were done by Mbale Slum Federation and community members themselves. The STDM implementation in Mbale is a case of a locally-driven process of ensuring community access to services, improved leadership accountability and community participation which are central issues for enhancing urban resilience. Successful outcomes in therein led to scaling up the initiative to other municipalities in Uganda in a bid to address the increasing cases of tenure insecurity.

Perhaps one of the success factors often ignored by researchers for the STDM implementation in Mbale was the presence of Municipal Development Forums (MDFs) and settlement level forums that were established under the Cities Alliance-funded TSUPU programme. It is however unknown whether officials were instrumental in mobilizing communities in slums to participate in slum profiling and enumeration. STDM has become a champion in facilitating negotiations and discussions between communities and governments. The Mbale experience continues to bring out the catalytic nature of the tool where it has attracted funding from the Central government through the TSUPU program to enable communities have both capital and livelihood projects.

**STDM on gender**

There is a great need to address land rights through a gender based approach to regulate the imbalance in access to land rights and also enable shifts in gender power relations that are oppressive to women as a weaker sex compared to their male counterparts. Women are the backbone of Uganda’s economy producing up to 60% of cash crops and 80% of food crops. Ugandan women contribute 83% of the labor force in the agricultural sector. Therefore, this implies a direct relationship between women’s right to land and; economic empowerment, food security and poverty reduction. Therefore, women land rights need to be empowered to assure benefit for all regardless of sex.

However, despite their essential contributions to the national economy, only few women enjoy secure rights to the land they till. In fact, control and ownership of land is mainly concentrated in the hands of men. Women’s access to land is crucially dependent on their relationship with a male, usually a father, husband, brother or son. Further still, women do not always share in the benefits of production, even though they may have done most of the work. As a result, women often are much less enthusiastic than men about production participation because of the men’s control of incomes.

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53 Ibid


Studies\(^{60}\) show that central to discussion of good land governance is the provision of access to land and security of tenure to all with particular attention on the poorer segments of the society like women and slum dwellers. Moreover, women have a critical role in participatory enumerations. For example, Huairou Commission reported that enumerations (or community mapping) allow grassroot women to assess and record the community’s needs and assets and to come up with solutions to the issues they are facing\(^ {61}\). Using STDM, data on informal settlements are needed for a wide range of purposes; enable the residents to demand their rights as citizen, to improve land tenure, plan for the provision of infrastructure and services, redevelop/upgrade slums, to guide housing improvement, land allocation and adjudication and to use in land administration and information systems\(^ {62}\).

The Ugandan government has made conscious efforts to address gender inequalities in access to and ownership of land, recognizing that women’s lack of control over livelihood resources such as land is one of the main causes of poverty\(^ {63}\). The government of Uganda put in place a gender-responsive legislative and policy framework strengthening women’s land rights and prohibiting customary practices denying women access to, ownership of or occupation of land\(^ {64}\). Moreover, in addition to the protective statutory provisions, the customary rules safeguarding women’s interests in land now have full judicial force in national law and are upheld also by state courts due to the legal recognition of customary tenure\(^ {65}\).

These legal frameworks are laid down in the Ugandan Constitution\(^ {66}\), the Land Act\(^ {67}\) (as amended in 2004 and 2010)\(^ {68}\), and a host of family laws relating to marriage, divorce and succession\(^ {69}\). The property laws of Uganda do not expressly discriminate between men and women regarding the right to own property. Article 26\(^ {70}\) protects the fundamental right of every person to own property individually or in association with others and not to be deprived without compensation; Article 26 (2)\(^ {71}\) provides that: “No person shall be compulsorily deprived of property or any interest in or right over property of any description....” Chapter 4\(^ {72}\) of the Constitution and in particular articles 31–33\(^ {73}\), provides for equality between men and women, including in respect to the acquisition and holding of land.

Under Article 31 (1)\(^ {74}\) of the Constitution, men and women above the age of eighteen years are accorded equal property rights in marriage, during marriage and at its dissolution. Succession laws also recognize a woman’s right to inherit from her husbands and fathers. This is reflected in Article 31 (2)\(^ {75}\) of the constitution which compels that: “Parliament shall make appropriate laws for the protection of the rights of widows and widowers to inherit the property of their deceased spouses and to enjoy parental rights over their children\(^ {76}\).”

Further still, Section 3 of the Registration of Titles Act\(^ {77}\) recognizes the right to own land and property by any person as long as it is lawfully in his or her name. This section specifically disclaims any intentions to limit or abridge any laws relating to the property of married women\(^ {78}\). The Land Amendment Act\(^ {79}\) gives some minimal protection to women by providing that before a man makes any transaction/disposes off family land, he has to seek the consent of his wife. These provisions on equality are further strengthened by the principles of affirmative action, provided for under Articles 21\(^ {80}\), 32\(^ {81}\) and 33\(^ {82}\) of the Constitution, which seek to remedy the historical discrimination faced by marginalized groups, including women, and redress the social imbalances that exist against them\(^ {83}\).

Another clear focus on women in Uganda shows that they are claiming their rights through these systems but they face serious obstacles and gaps, such as; the complex structure and the blurred border line between legal systems (that is, courts’ hierarchy and jurisdiction); the multiple land institutions in Uganda at different levels; the lack of understanding and knowledge of the diversity of customary laws and institutions; and; the recognition and


\(^{63}\)MGLSD, 2012


\(^{65}\)Adoko, J. Levin, S. (2008). Falling between two stools: How women’s land rights are lost between the state and customary laws in Apac Northern Uganda, Fountain publishers, Kampala

\(^{66}\)Constitution (1995) supra note 18

\(^{67}\)Land Act (1998) supra note 19

\(^{68}\)Land Amendment Act 2004

\(^{69}\)See Adoko supra note 71

\(^{70}\)Constitution (1995) supra note 18

\(^{71}\)Ibid

\(^{72}\)Ibid

\(^{73}\)Ibid

\(^{74}\)Ibid

\(^{75}\)Ibid

\(^{76}\)See Adoko supra note 71

\(^{77}\)Registration of Title Act Chapter 230 Laws of Uganda


\(^{79}\)S. 27. Land Amendment Act (2004) supra note 74

\(^{80}\)Constitution (1995) supra note 18

\(^{81}\)Ibid

\(^{82}\)Ibid

reuse redistribution failures women face trying to access justice. Even though the legal environment appears to be favorable to women in Uganda, the situation on the ground is still far from satisfactory since abuse of women’s land rights is wide spread, particularly in the rural areas. Herein, widows are often chased away from their matrimonial land, divorced and separated women are denied access to land in their maiden homes, and, married women are dispossessed of their land by their husbands.

A study on the impact of National land policy and land reform on women in Uganda found that women’s land rights were constrained by a number of factors including lack of Information about women’s land rights; prevailing cultural attitudes that discriminate against women; lack of formal land ownership by women where the majority of these do not engage in land agreements despite saving money to purchase the land. They also include lack of participation in land policy formulation processes, exclusion in matters of land inheritance, lack of access to justice, women’s weak economic muscle and the existing gaps in the legal system.

Furthermore, strategic litigation in respect of the Divorce Act and the Succession Act nullified sections of the law charged with realization and ascertainment of land rights for vulnerable groups, especially women and children. In addition, Uganda has ratified several international instruments on human rights in relation to women’s land rights, in relation to women and children. However, the gap between what is in law and what is in practice is clearly distinct.

Despite progress on women’s rights, rights to land and security of tenure are not enjoyed equally by women and men in many parts of the world. This goes against international human rights, and also impacts negatively on households and the economy. However, gender issues related to land are complicated. They involve sensitive social and cultural territories and challenge deeply rooted power structures. At the same time, we know that for a land tool to be effective, it needs to go beyond a technical lens and also consider social dimensions such as gender.

GLTN has developed a set of gender evaluation criteria that can be used to check whether land tools incorporate gender issues, and to show how they can be changed. Many women are doubly disadvantaged; by poverty and by gender. Women make up at least half the world’s population but two thirds of the world’s poor. In many places, national laws, social customs and patriarchal tenure systems prevent many from holding rights to land.

Research shows that women often rely on their male relatives for access to land. If their relationship with the man breaks down, if they get divorced, if their husband dies, or if the male land owner decides to use the land in another way, women find themselves with no land, and no way to support themselves. A UN study indicated that women’s access to land needs first and foremost to be seen as a universal human right independent of any other arguments in favor of it. They argued that inequality between men and women is a major form of discrimination, but it is not the only one. Inequality in land rights also relates to discrimination against indigenous peoples and against younger and older people. These vulnerable groups face a range of challenges with regard to rights in land. Such issues are increasingly addressed through providing guidance for policy makers at regional, national and local level who are responsible for promoting access to land and security of tenure for vulnerable groups within a human rights framework.

**STDM on land rights**

STD, contributes to poverty reduction as the land rights and claims of the poor are brought into the formal system over time. In developing countries, cadastral coverage is often less than 30 percent of the country. This means that about 70% of the land in many countries is outside of the freehold parcel based land administration system and its land information system. This implies that people living in these areas are often at a disadvantage, not just in regard to security of tenure, but also in regard to service delivery and land management approaches. The people in the 70% generally use a wide variety of social tenures to secure their

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86COHRE/WLLA/ULA, 2009
87S.4 (2), Divorce Act Chapter 249 Laws of Uganda
88Succession Act Chapter 162 Laws of Uganda
89International Convention on Civil and Political Rights (1966) was ratified by Uganda in 1995
90International Convention on Economic Social and Cultural rights (1966) was ratified by Uganda in 1987
91Convention for Elimination of all forms of Discrimination against Women (1979) which Uganda ratified on 22 July 1985. In Uganda’s report 2010 CEDAW/C/UG/CO/7 Para 6(a) Uganda was commended for the progressive amendment of the Land Act 2004
land rights and claims\textsuperscript{97}. These tenures include documented, undocumented, individual and group, legal, illegal and informal and over-lapping rights and claims, such as those of slum dwellers, pastoralists, women whose rights are often nested in family rights, rights of groups, and multiple over-lapping claims in post conflict areas.

The variety of rights and claims in land should be seen as a continuum of land rights which can be incrementally upgraded over time. It should begin with weak rights based on political support up to full freehold. Among other things, it should consider steps in between for informal and formal rental agreements/leases, migration routes, claims on post conflict property and so on. There will be different continuums in different countries and different contexts. Across a continuum different tenure systems may operate, and sites in a settlement may change status over time, (UN-HABITAT: 2008). Secondly, the continuum of land rights requires a new type of land information management system and land administration system. This is required to implement the continuum of land right and claims and systematize them also for the purpose of land management. The STDM was designed to fill this technical gap\textsuperscript{98}.

Moving away from individual freehold parcel based tenure systems and adopting a range of rights and claims in order to extend security of tenure to more people, including the poor, implies that a new form of land administration has to be designed. The adoption of a continuum of land rights revealed the technical void in land administration, which STDM fills. By systematizing information, including rights (formal, informal and customary), claims, overlapping rights and claims and disputes, oral and written contracts, STDM could make an important contribution to bringing peace in post conflict countries where land has been a key driver of civil conflict. Generally land disputes are not addressed systemically, or in time, in these situations because of this technical gap, and STDM would also enable land dispute resolution to be scaled up, thereby directly contributing to peace building.

STDM can be used to document land rights, claims and over-lapping rights prior to conventional adjudication, planning, surveying and registration, which is expensive, takes a lot of time and normally is out of the reach of the poor. Also the STDM information will include both de facto as well as de jure land ‘rights’ and use rights on the same system. The availability of data and on the same system will mean two things. First, this will enable more effective, efficient and affordable city wide land use planning, which has often suffered from data deficiencies. This will make it possible to service slum areas more easily and link it to the trunk infrastructure, also because it will give the poor an address, making it possible to undertake cost recovery on services. This will increase service delivery to the poor, such as water. Secondly, a major cost and time issue related to land registration is the information produced during adjudication in formal land titling processes.

The question and gap identified is whether STDM will hold information on the rights and claims of the poor and the information from the cadaster, state asset register, and asset register (where this information is available). More so, authors tend to ignore the question of whether the knowledge of the legal status of the land will limit evictions in areas like Kayunga which the current study intends to investigate. Finally, a literature gap is whether STDM can make full coverage of both the rich and the poor land rights and claims possible, and place the information on the same system. This would facilitate the better allocation of resources and the redistribution of land and use rights for improved sustainable development.

In terms of the institutional framework, they should be designed for administering the rights in land along with issues related to; land valuation and taxation, land use and development. The principles of good land governance should be applied, which prescribes that governments should be; legitimate, transparent, accountable, equitable and dedicated to integrity. Furthermore, the Principles of Responsible Governance of Tenure\textsuperscript{99} should be applied to ensure efficient and transparent administration of land rights and land information with easy access for all. Importantly, administration and management of the land administration activities should be organized in a holistic perspective aiming to treat land and natural resources as a coherent whole rather than in isolated sectorial silos. Fundamental to this is the early formulation of a national land policy that provides guidance for a coherent administration of land issues across sectors and provides benefits to society, businesses and citizens. The institutions should be underpinned by a flexible ICT-infrastructure and consider alternatives, such as the use of open source solutions\textsuperscript{100}.

**STDM with a continuum of claims on land:** Continuum of claims means a variety of land rights that can be recognized in a given area. In matters of STDM, the Continuum approach works with what is already in place and incorporates it into a land information management system and caters for the whole spectrum of formal, informal and customary land rights in the country. UN-HABITAT, GLTN provide guidance for designing such a flexible approach\textsuperscript{101} as the first attempt to assist the implementation of a continuum of land rights approach at scale. It is about the development of a recording system aimed at supporting the recognition and protection of a range of rights of the poor. This publication emphasizes a co-management approach

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\textsuperscript{97}Habitat, Lemmen, van Oosterom: 2006
\textsuperscript{98}Ibid
\textsuperscript{100}UN-HABITAT, GLTN (2012b)

However, for STDM to work, it is recommended that countries assess and baseline their current land governance practices to identify and prioritize areas for improvement. World Bank’s Land Governance Assessment Framework\footnote{World Bank (2011): “Land Governance Assessment Framework. Washington. http://www.worldbank.org/external/default/WDSContentServer/WDSP/IB/2011/11/24/000386194_20111112_4011109/Rendere d/PDF/657430/PUB0EPI1065724B09780281387580.pdf [accessed 11th April 2017]} provides an excellent process of evaluation. The quality of land governance should be regularly monitored to measure the transition from weak to good land governance and to update priorities within the land governance improvement program. The National Land Policy of a country determines the political priorities on land and natural resources. The result of the assessment of land governance should be compared with the National Land Policy to determine priorities for improvement to land governance. A land governance improvement program can then be formulated.\footnote{Ibid}

Land management requires operational processes for implementing land policies in comprehensive and sustainable ways. The four functions of land tenure, land value, land use and land development interact to ensure the proper management of rights, restrictions, and responsibilities in relation to property, land and natural resources (Water, soil, wetlands, forests).

Another key area where STDM can be applied is land pricing. According to a Mozambique study\footnote{Baia, S. (2001) “a contribution to the land market analysis in Mozambique”. Maputo. Ibid}, the land pricing base is related to intervening agents such as; land owners, direct land buyers, and indirect “those who buy infrastructures” or the final beneficiaries and the promoting middlemen. The owner sells the land either for money to resettle or to change activity and live on that income. The promoter buys the land, equip and build to increase profits and resells. The land value increases.\footnote{Ibid} The process creates competition between groups because each one wants to maximize their profits. In a favorable environment, the prices rise and urbanization increases, and when the economy deteriorates, the demand lowers and the market stagnates.\footnote{Ibid} However, these authors do not link this very well with the situation in developing countries where an inefficient land titling system is making it difficult for people to acquire and develop it; this information gap necessitates further research.

### Alternative dispute resolutions (ADR)

**Introduction:** Alternative Dispute Resolution Mechanisms are other means of settling disputes other than litigation. They take the forms of arbitration, mediation, conciliation, negotiation which are most prominent. Some Scholars refer to this consequence of legal pluralism as institutional or forum “shopping”. In recent years, a menu of case management approaches known as Alternative Dispute Resolution (ADR) has gained wide popularity in legal settings throughout the world. Originating in the United States as a creative response to excessive court costs, delays, backlogs, dissatisfaction with limited legal remedies, and the adversarial antagonism borne of litigation, ADR promotes collaboration between parties to find appropriate solutions with the help of a neutral third party.\footnote{Brainch, B. (2007). “ADR In the world: an African Perspective on community mediation.” Paper Presented 5 January 2007 At the 2006 CDsRC Regional Conference at Fordham Law School, NY. Ibid}

Proponents emphasize that the non-adversarial nature of many ADR Approaches (mediation inclusive) preserves the parties’ existing relationship and fosters reconciliation, a key principle enshrined in Article 126 (2) (e) of the Constitution.

A study done by Safari to examine the role and efficacy of the Land Adjudication Committee as an Alternative Dispute Resolution Mechanism in Narok County, Kenya,\footnote{Safari, D.J. A. (2013). The Role and Efficacy of the Land Adjudication Committee as an Alternative Land Dispute Resolution Mechanism in Narok County. A project submitted in partial fulfillment of the requirements for the award of a degree of Masters in Political Science and Public Administration, University of Nairobi} used the conflict transformation model of and the Alternative Dispute Resolution (ADR) Framework. The most prominent element in this study is that the Land Adjudication Committee as an alternative dispute resolution system has been effective in handling land disputes in Narok County. Safari concludes by recommending that the Land Adjudication Committee should be empowered so that they will have the capacity to adapt to the needs and preferences of the modern society and thus administer justice efficiently. It also suggests the enhancement of the Land Administration Committee (LAC) as an alternative dispute resolution mechanism (ADRM) by bestowing it with the power of execution being an organ
hearing land disputes at first instance rather than splitting this power to other organs.

Previous studies have concentrated on individualization of land and its effects. However, this study filled the knowledge gap on the disputes occurring due to individualization of land in a predominantly pastoral community and how the Land Adjudication Committee has effectively resolved these disputes. This is yet another contribution of the widening pull of literature on the efficacy and the acknowledgement on the role land dispute resolution mechanisms can fill the gap left by the formal judicial system and informal customary system in resolving disputes. In short as it has been observed from the literature review, little effort has been made to study Dispute Resolution Mechanisms even though having an effective STDM plays a paramount role in land tenure security in Uganda, recent studies show that disputes over customary land - which accounts for 80 percent of the country and nearly all land in Northern Uganda - are on the rise, especially in the wake of recent development schemes and returns from displacement.

Under the Land Act\textsuperscript{113} and Local Council Courts Regulations,\textsuperscript{115} two parallel systems - those of the Local Council Courts and Clan courts - are recognized as having legal authority to determine and/or mediate disputes over customary land. This overlapping jurisdiction allows more powerful parties to exploit the ambiguity between the two systems to their own benefit, picking and choosing whom to approach in order to obtain their desired outcome.\textsuperscript{116}

**Mediation:** Mediation has also come to flourish outside Uganda’s formal business context, enjoying wide application in community level conflicts over access to land. Yet while both Local Council (LC) and clan courts play important roles in land matters, legislation has tended to favour one over the other.\textsuperscript{117} But when the Land Act was amended in 2004,\textsuperscript{118} LC II courts became “the courts of first instance in respect of land disputes”. These two statutes are contradictory because in practice, clan courts do not occur anywhere in the appeal process for a land dispute after it has been heard by the LC II.\textsuperscript{120} By mandating land cases to begin at the LC II level, the Land Act,\textsuperscript{121} in effect, circumvents the clan and prevents it from exercising its legal authority to decide and mediate on these disputes.

### RESEARCH METHODOLOGY

**Research design**

Given the nature of the research problem, the research questions embedded both quantitative and qualitative research questions.\textsuperscript{122} A case study research design was adopted. The qualitative component of the study was undertaken as a snapshot type of case where the objective was to understand in detail the beliefs, feelings and perspectives of STDM from key informants’ and land users’ point of view.

The researcher adopted a pragmatic approach because it provided an opportunity for multiple methods, different worldviews and different assumptions as well as different forms of data collection and analysis in the mixed methods study.\textsuperscript{123} As explained above, the pragmatic paradigm considers the merits and demerits of qualitative and quantitative approaches in addressing the research questions.\textsuperscript{124} A qualitative approach was majorly used based on primary and secondary data collection and grounded theory analysis. Few quantitative aspects were included for this current study.

### Study area and population

In this study, land owners and key informants constituted the study population. Given that there were two data sources for the study, two sampling units were used consisting of land owners and users in Kayunga District.

The study comprised a parent population of 160 respondents. Specifically, these includes; 10 respondents from the Ministry of Lands; 10 from World Bank (STDM implementation Unit), and; 15 officials from Buganda Land Board-Kayunga. At the district level, key informant interviews were held with the 10 respondents from District


\textsuperscript{114}Section 88 76A, as amended in 2004

\textsuperscript{115}Local Council Courts regulation (2007)


\textsuperscript{117}Section 88 of the Land Act (1998) states that “Nothing in this Part shall be taken to prevent or hinder or limit the exercise by traditional authorities [ie, Clan courts] of the functions of determining disputes over customary tenure or acting as a mediator between persons who are in dispute over any matters arising out of customary tenure.”

\textsuperscript{118}Land Amendment Act (2004) supra note 74

\textsuperscript{119}Section 67 Land Act (1998) supra note 19

\textsuperscript{120}Sec 60 (2) Local Council Courts Regulations (2007) supra note 121

\textsuperscript{121}Land Act (1998) supra note 19


\textsuperscript{124}Ibid
Lands Office, 15 physical planners, 15 surveyors, and 85 land owners.

Sampling size and techniques

Using Morgan and Krecjie Formulae (1970), a sample size determination, a total sample size of 142 respondents were included in the study as shown in Table 1.

Sampling technique: Given the nature of the study problem outlined in Chapter One and the predominant quantitative nature of the study, both probability and non-probability sampling techniques were used. A multi-stage stratified random sampling technique was used due to the expansive nature of the study area. First, Kayunga district was purposively selected comprising of nine sub-counties. The district was selected on the basis that it had most prevalent cases of land disputes. Although convenience sampling is easy and relatively cheaper, the sample selected may not be representative and could be biased.

Out if these, four (4) in the nine (9) sub-counties were selected using systematic random sampling. These included; Kayunga, Busana, Nazigo and Kayonza and for each sub-county, at least five (5) parishes were selected using the same (systematic random sampling). At the household level, simple random sampling from parish to village level was used. However, emphasis was placed on female-headed households for purposes of understanding the gender impact of STDM on land dispute resolution.

At village level, land owners in Kayunga district were selected. They were divided into sub-populations called strata according to gender (female-male headed, widowed, among others). Women were selected due to their vulnerability and powerlessness: They write their land agreements in their husband’s names and only sign as witnesses. The rationale for more representative sample through stratified sampling technique was that rural households in Kayunga were not a homogeneous group. According to Boslaugh125, stratified sampling allows for intentional oversampling which permits greater statistical precision. Simple random sampling was used for the selection of Land owning households for the sample from each stratum.

Data collection instruments

Structured interview schedules: Patton126 and Saunders127 recommend the use of interviews as a primary data gathering technique in a case study. In this thesis, the following interview types were used: Semi-structured interviews were used to offer a series of fixed responses using closed questions. They were easy to conduct as the same questions were asked to all respondents. After securing the interview, a brief explanation was given on the purpose and format of the interview as well as the roles of the interviewer and interviewee. In terms of interview durations, each structured interview lasted for about 30 minutes while an unstructured interview lasted at least 40 minutes. In both the structured and unstructured interviews, audio-recording was used. Consent of the respondents was sought prior to the interview, and this included informing the respondents about the study and its intended purpose. Both English and Luganda were used during the interviews. Handwritten notes were captured in the interview data from the land users, owners and female-headed households.

Key informant interview guide: In-depth interviews with respondents were undertaken face-to-face by the researcher and the research assistant; research assistant captured the data on an audio-recorder. Face-to-face interviews have an advantage of clarifying unclear questions to the respondents and ensure that all questions are answered by the intended respondents. The open-ended questions were used to probe and collect a range of possible responses including non-verbal responses. Unstructured interviews were designed for use with the key informants.

At the national level, key informant interviews were held with a Ministry of Lands, World Bank (STDM implementation Unit), and officials from Buganda Land Board-Kayunga. At district level, key informant interviews was held with the District Lands Officer, physical planners, surveyors, and members of District Land Board. Any further questions related to specific issues arising from the discussion were added during the interviews.

Document review guide: Documentary review guide is another valuable technique used to collect field data128. Secondary data was used to; formulate the research agenda, develop the conceptual framework and analyze the results of the study. The researcher obtained various secondary documentation on the land reforms in the form of reports and publications from the; Government of Uganda, the World Bank and NGOs which focus on land, land rights and gender, books and journal articles. The validity of the documents used in this study was carefully reviewed in order to avoid incorrect data from being included in the study. Some of the documents reviewed include the

Table 1: Sample size.

<table>
<thead>
<tr>
<th>Respondents</th>
<th>Population (S)</th>
<th>Sample Size (N)</th>
<th>Frequency (f)</th>
<th>Cumulative Frequency (cf)</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Lands Officials</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>07</td>
</tr>
<tr>
<td>World Bank STDM Unit</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>20</td>
<td>07</td>
</tr>
<tr>
<td>BLB Officials</td>
<td>15</td>
<td>14</td>
<td>14</td>
<td>34</td>
<td>10</td>
</tr>
<tr>
<td>District Land Officials</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>44</td>
<td>07</td>
</tr>
<tr>
<td>Physical Planners</td>
<td>15</td>
<td>14</td>
<td>14</td>
<td>58</td>
<td>10</td>
</tr>
<tr>
<td>Surveyors</td>
<td>15</td>
<td>14</td>
<td>14</td>
<td>72</td>
<td>10</td>
</tr>
<tr>
<td>Land Owners</td>
<td>85</td>
<td>70</td>
<td>70</td>
<td>142</td>
<td>49</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>160</strong></td>
<td><strong>142</strong></td>
<td><strong>142</strong></td>
<td></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Source: Primary Data, 2017.


**Observation:** The researcher visited households in Busaana, Kangulumira, Kayonza and Bbaale whose lands had been alienated by investors and assessed what activities were taking place therein at the time of the study.

**Data analysis**

Given that the study adopted mixed method design, the type of data analysis integrated both thematic and statistical data. More specifically, the survey data was analyzed using statistical and content analysis (thematic identification and description). This allows comprehension (interpretation and contextualization) and explanation (prediction and generalization) of the phenomenon under study. The case study data was kept and analyzed using Statistical Package for Social Scientists for Windows version 17 especially interview schedules for the households (land users and owners).

The first stage involved organization of details about the case where facts are arranged in a logical order. Categorization of data was also conducted, where specific categories were identified that helped to classify data into meaningful groups. The third stage involved interpretation of documents, responses to interviews and observations for specific meanings related to the case. The identification of patterns and underlying themes was the fourth stage of data analysis. All the data gathered during fieldwork was examined for underlying themes and patterns in relation to gender relations on land and was interpreted within the context of STDM and its application to land disputes in Kayunga. The fifth stage was the overall synthesis of case data that aided formulation of conclusions.

**Ethical considerations**

The study considered the respondents as worthy partners. The rights of respondents to privacy and confidentiality both in terms of protection of their personal and sensitive data was upheld throughout the study. Fictitious names were used to refer to respondents in order to maintain their confidentiality and privacy.

In addition, the researcher neither appeared to use all or part of the information collected in the study for her personal advantage or for the advantage of a third party. In this study, respondents were not coerced or obliged to disclose or provide data under any circumstances, time or extent except on their own will after making reasonable judgments to do. Respondents were fully informed about the study intentions, procedures and risks (if any) involved in the research before they participated.

Respondents had the right to withdraw from the study. Since the case study involved obtaining personal data from respondents, informed consent was sought. Lastly, research findings of the study were reported in a complete and honest way without misrepresentation.

**Structure of the study**

The present study is organized as follows: overview of background of the study, research problem, objectives of the study, literature review, and methodology; the historical development of STDM and its evolution to different states in the world both in the civil and common law systems; Analyses of Uganda’s current legal framework in relation to promotion and use of STDM, as well as examination of the helpfulness of the model in reducing

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130Ibid
land disputes and providing tenure security to land users/owners; the effectiveness of STDM in promoting the security of tenure, as well as the institutional frameworks and policy framework in matters of land administration and adjudication, individual structural setup and how they promote/derail security of tenure and most specifically the gender position in regard to land tenure security, and comments on proposed amendments to the land related provisions and the work on commission of inquiry; conclusions and recommendation.

HISTORICAL PERSPECTIVE OF THE LAW TOWARDS THE USE OF SOCIAL TENURE DOMAIN MODEL

Social Tenure Domain Model is a pro-poor land management that seeks to bridge the gap between conventional (formal) and unconventional (informal) land tenure system. It has three main attributes, that is; it is model, an information tool and a concept. STDM is about people and is intended to broaden the scope of land administration by providing a land information management framework that would integrate; formal, informal, and customary land systems, as well as integrate administrative and spatial components.

Formal/conventional land tenure systems centralize more on individual rather than social tenure holdings and they further fail to capture the entire information in a given area, creating ownership gaps thereby continued disputes. This implies a dire need for a land information management tool in form of STDM that needs to cover the whole spectrum of systems: formal, informal and customary systems, not neglecting land related disputes and conflicts. Being a place with formal, informal and customary systems, Kayunga needs a comprehensive land information management tool (STDM) which will help to reduce on land disputes.

Brief description of STDM

Social Tenure Domain Model (STDM) was developed to implement the concept behind the continuum/range of land rights. This technical gap was discovered in early 1998 where experts pointed out that there were various types and range of tenure arrangements that did or did not fit into the conventional land registration systems and parcel-based spatial description of the rights. This thinking progressed until the beginning of 2000 where the Ministry of Land, Buganda Land Board and Physical Planners eventually became aware and convinced that the conventional land registration and administration systems were insufficient and inappropriate for the range of tenure types that exist on pasture lands, customary areas and slums. This slowly bred the need to provide tenure security in informal settlements particularly in slum upgrading initiatives for new forms of spatial information, not the cadaster.

Clarissa acknowledged that once the development of STDM is parallel to LADM, it broadens the scope of land administration. He further noted that STDM provides; a land information management framework that integrates state based and non-state based land systems, and; integrates administrative and spatial components. He further observed that in doing so, the model describes relationships between people and land in an unconventional manner: It has the power to tackle land administration needs in communities, such as people in non-state recognized settlements and customary areas. This emphasizes the social tenure relationships as embedded in the continuum of the land rights concept promoted by the Global Land Tool Network and by UN-Habitat.

Other authors argue that a reasonable goal of STDM implementation is its integration with or updating of the formal land administration systems. To achieve this, all data must be collected using the same structure: Party – Social Tenure Relationship – Spatial Unit. It must also be determined in advance whether the ‘Party’ would be an individual, a household, or family. The social tenure relationships are defined in a code list, which is a universal set of all the possible instances as manifested in the Organization of Eastern Caribbean States (OECS).

Legal place for STDM

As elucidated in this section, STDM is not a totally new model in the legal fitting. They are quite a number of land reforms incorporated in the laws of different states both in the civil and common law systems that have its attributes.

In application of STDM in countries under European Union such as Greece, scholars found that expansion of the

136 Clarissa Augustinus, UN-HABITAT, and Christiaan Lemmen, ITC, “What is required to bring the social element into land administration? Moving from the Land Administration Domain Model to the Social Tenure Domain Model

139 Ibid
administrative part, which is the provisions in the constitutive treaties of the European Union as well as the expansion based on the Legal Cadaster, the model enables a more detailed level of modeling interests in land. The legal cadastral domain model outlined here is an abstract model based on the hypothesis that it is possible to classify property rights regardless of their emergence in different legal traditions. The model focuses on the legal classification of benefits and burdens regulating the right of ownership rather than a detailed classification of the holder (person) of such rights, or the spatial component describing the expansion or geometrical representation and topology of a property (land). Other objects like “boundary” and “source document” are not described in this first stage of the model. However, a legal description of these and similar objects are important to address all legal perspectives of the cadastral domain.

The legal cadastral domain model is a theoretical approach to the classification of real property ownership. The model is submitted to the Swedish real property legislation in the forthcoming article to see if it covers all legal issues relating to the ownership of real property. However, the model needs to be analyzed in relation to other national real property legislation to ensure that it is a general model. The model is based on the theoretical model illustrating the connection between subject and land through the ownership right. It is centered round the ownership right and attached with classes that benefit or limit the right of ownership which is applicable in Kayunga district in Uganda.

Moreover, to support customary and informal tenure in developing countries, STDM was also developed based on LADM. With LADM and STDM, information-related components of Land Administration can be registered worldwide in a standardized way. The authors seem to imply that in the STDM domain, standardization concerns the identification of parcels, documents, persons, surveying data and other issues. It includes the organization of registrations in tables referencing to other components (e.g. source documents and maps), thus facilitating access to archives. Earlier proponents comprises codification and usage of abbreviations (e.g. for administrative areas), while it also concerns workflows. Standardization makes processes more efficient and reduces the transaction costs of spatial data sharing.

To implement the rules and prescriptions promulgated in the land laws, the government assigns mandates within the public administration with regard to the tasks to be carried out. This includes policies on decentralization, public/private sector roles, customer orientation, public participation, accountability, liability, and good governance in general. It is not known whether these organizations have defined their business objectives, work processes, ICT policy, quality management procedures, and their relationships with other organizations. This allocation of mandates should reflect the integrated and sustainable approach argued above.

Therefore for STDM to work alongside land laws existing in Uganda, the legal framework should be simple, flexible, and designed for decentralized administration rather than judicial decisions. The legal system in Uganda must be adapted to accommodate the various kinds of land rights and social tenures that do exist rather than just focusing on land titling, ownership and leasehold as it stands now. The various tenure systems must be enshrined in the land laws. This should allow for security of tenure within various kinds of communities and thereby enable secure land rights for all. The Social Tenure Domain Model should be applied, which provides a standard for representing the people to land relationships independent of the level of formality, legality and technical accuracy. Such flexibility also relates to the records that should be organized at various levels rather than through one central register. And, of course, the principle of gender equity should apply and should first and foremost be seen as a universal human right, independent of any other argument in favor for it.

**STDM and land dispute resolution laws**

STDM was developed as a response to the existing gap in the conventional land administration systems in which customary and informal tenure relations are uneasily handled. STDM bridges this gap by providing a standard for representing ‘people - land’ relationships independent of the level of formality, legality and technical accuracy. In its application, STDM allows for encoding Land Information Management Systems, but also in community organizing.

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144 Ibid


reversing asymmetrical power relationships between communities and those in authority and developing a body of knowledge on informality in Uganda.\textsuperscript{146}

Clarissa notes\textsuperscript{147} that STDM has been designed to cover all types of tenures, conventional and other social tenures such as informal and customary tenures.\textsuperscript{140} It complements the Land Administration Domain Model (LADM) and allows inter-operability between the two. The model recognizes and respects formalized tenures like Mailo tenure among others. However, as earlier noted, only 30% of land is recorded on the cadasters. Hence such disputes exist on what is supposed to be Mailo land but otherwise not captured in the formal systems (cadasters).

In the researcher’s view, as a formally recognized tenure, mailo takes precedence over other interests recognized by STDM such as the “kibanja interest holder” which can be formalized to a conventional interest. STDM can help cover information asymmetry to the mailo land lord and also grant social tenure to the occupants where it has been accepted. It is a subversion to complement the formal tenures especially through covering the information asymmetry.

Another gap identified is that some key issues would arise in circumstances especially regarding land disputes such as when STDM works alongside other land dispute resolution mechanisms in Kayunga District. They include \textit{inter-alia; policy formation, sensitizing people on STDM and its incidents (it is not land tenure system, instead it’s an information asymmetry mechanism)}, training of surveyors and physical planners among other partners in land administration and management, advocacy for nationalization of land to allow access to everyone especially citizens as provided for in Article 237\textsuperscript{149} that: “Land in Uganda belongs to the citizens of Uganda and shall vest in them in accordance with the land tenure systems provided for in the constitution.”

From the foregoing highlight, surveyors as land professionals are needed in the support and management of this type of STDM data acquisition of ‘people - land’ relationships. This requires widening the land administration scope. Besides traditional field surveys related to formal tenure, there is context described for informal tenures. Surveyors understand that there can be differences in spatial accuracies resulting in different accuracy quality labels. Surveyors not only provide accurate maps, but they also know how accurate the map is or should be for the purpose. Moreover, surveyors have experience in land administration based on site observations\textsuperscript{150}.

Subsequently, the connotation in the highlight above present STDM as both a dispute reduction and resolution mechanism. One would ask, \textit{how and why?} Majority of the respondents averred that, through training of surveyors in matters of comprehensive data collection, the technical gap of information asymmetry would be covered. This would enable data reconciliation with earlier cadastral coverage. Furthermore, the collected data would be a source of reference by likely disputant parties or disputant parties, whereby conflicts would be solved \textit{ab initio} by the comprehensive data capture presented on cadastral pages.

In the same vein, it is a dispute resolution mechanism in that where a dispute has erupted, the first reference point is the data captured on potential disputants in reference to a particular parcel of land. Secondly, training of surveyors demystifies the myths of high and unregulated costs of surveying land by any on engaged in formalizing their interests. Hence STDM mechanism will ameliorate the cost of surveying and make it very affordable, at the same time providing the situation on the ground at a glance thereby easing land administration and enabling sustainable use of land resource.

STDM makes this possible through tools that facilitate recording all forms of land rights, rights holders, and land and property objects/spatial units, regardless of the formality level. The idea behind STDM also goes beyond some established conventions: Traditional or conventional land administration systems, for example, relate names or addresses of persons to land parcels via rights. An alternative option is being provided by the STDM, which instead relates personal identifiers, such as fingerprints, to a coordinate point inside a plot of land through a social tenure relation such as tenancy.\textsuperscript{151} A few countries like Nigeria, Zambia, Malawi and Ethiopia have directly used the STDM in local jurisdiction as an alternative land dispute resolution. More so, no empirical studies have been done in these countries.

This empirical study in Kayunga is a stepping stone towards seeking dialogue with community challenges in relation to land holdings, disenfranchisement, and security of tenure and improves livelihoods. This research aims at bridging the gap between conventional land administration systems used in Uganda which are largely individualistic tenure and informal tenures, mainly the customary to enable a peaceful co-existence and reduction in land disputes through land information management tool as one of the major attributes of STDM mechanism.

Conclusively, STDM and its attributes can be applied and incorporated into the national legal system irrespective of

\textsuperscript{146}Ibid

\textsuperscript{147}Clarissa Augustinus, Un-Habitat, And ChristiaanLemmen, ITC, “What is required to bring the social element into land administration? Moving from the Land Administration Domain Model to the Social Tenure Domain Model, Augustinus et al, 2006

\textsuperscript{149}\textit{Supra note 18

\textsuperscript{150}Christiaan Lemmen; (March 2010) “Social Tenure Domain Model a Poor land tool; International Federation of Surveyors, Global Land Tool Network and United Nations Human Settlements Programme (UN-HABITAT) Pg. 6 [accessed on 4th April 2017]

\textsuperscript{151}\textit{Supra note 20}
the legal tradition a country subscribes as it has been proved in the OECs States which belong to the civil jurisdiction. Since STDM is made with global standards, it can apply to common law as it has been already tested in Nigeria, Kenya, and Malawi among others. The next chapter elucidates the promotion of STDM within the legal framework of Uganda.

UGANDA’S CURRENT LEGAL FRAMEWORK FOR THE PROMOTION OF LAW TOWARDS THE USE OF SOCIAL TENURE DOMAIN MODEL

One of the three major attributes of STDM is to address cadastral issues within the boundaries of any country, which is done through covering the information gap between what is on the ground and the cadastral pages. This Chapter elucidates some of the land instruments in Uganda in relation to STDM application. The chapter examines the constitutional provisions on land mainly the articles on land as a public resource and that it belongs to the citizens of Uganda. The chapter goes further to look at peculiar sections of the Land Act and its amendments and how progressive/regressive it has been in protecting security of tenure. It should be noted that a clear gap in literature is that recent advancements and requirements for a cross-boundary land administration require a common approach from the legal point of view using national legal and institutional frameworks.

The constitution of Uganda

Chapter 15 of the Constitution deals with land and environment. It provides that land belongs to the Ugandan citizenry and shall vest in them according to the tenure systems provided for in the constitution. The constitution upholds land tenures which can be owned; customary, freehold, mailo and leasehold. The subsequent articles thereafter provide for land administration, management and adjudication. The same constitution gives parliament powers to enact laws regulating the relationship between lawful and bonafide occupants referred to in clause (8) and the registered owners of that land; and providing for the acquisition of registrable interest in the land by the occupant which necessitated the drafting of the land Act and other related land laws. The constitution categorically states the recognized formal tenures and is largely silent on the informal tenures which STDM aims to bring on board.

On the other hand, although the 1995 Constitution and the Land Act attempted to formalize customary tenure, they were criticized for destabilizing and undermining its progressive evolution. Despite these attempts, customary tenure continues to be; (i) regarded and treated as inferior in practice to other forms of registered property rights, denying it opportunity for greater and deeper transformation; (ii) assessed as lesser regarding dispute resolution and mediation compared to the statutory system; (iii) assessed as inferior to other tenures that have titles for proof of ownership in courts of law in the administration of justice; (iv) converted to freehold before it attains the totality of the bundle of rights inherent in all other registered tenures that are held in perpetuity; (v) disparaged and sabotaged in preference for other forms of registered tenures, denying it the opportunity to progressively evolve.

Furthermore, Uganda - like other developing countries where land is governed by different legal systems and where the majority of land is customarily owned, land administration and adjudication systems play a significant role in the land governance system. However, the persistence of disputes around land, serious gaps and contradictions in the legal framework, lack of clear regulation and enforcement mechanisms of the administration and justice systems, as well as discriminatory laws and practices, are major obstacles for people’s claims to land, especially vulnerable groups like women and youth. Land administration and justice systems in Uganda are fundamental for the protection of people’s rights. Yet, there are serious gaps in the regulation of existing and parallel tenure systems, often resulting in contradictory provisions and rules, and the reproduction and reinforcement of discriminatory practices.

The Land Act (1998) Chapter 227 and its amendments

The Land Act is the main legislation regulating land matters in Uganda. It provides for; tenure, ownership and management of land; to amend and consolidate the law relating to tenure, ownership and management of land; and provide for other related or incidental matters. It reinforces systems of tenure and allows for certificate of

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152 Constitution (1995) Supra note 18
153 Ibid Article 237
154 Ibid Articles 238-243
155 Ibid Article 237(9) (a)
156 Ibid Article 237 (9) (b)
157 Land Act of Uganda (1998) Supra note 19
158 Land Acquisition Act of Uganda Chapter 226, Mortgage Act 2009,
Registration of Titles Act Chapter 230, Rent Restriction Act chapter 231.
159 Land Act of Uganda (1998) Supra note 19
161 Ibid
162 80% of the land in Uganda is customary owned (Northern Uganda Land Platform. 2012. Charting the way for effective land dispute resolution in Uganda. Northern Uganda Land Platform.
163 Land Act (1998) Supra note 19
164 Ibid Preamble of the Act
165 Ibid Section 3
customary ownership which is applied for from the parish committee which is located in a prescribed form issued by the board. This certificate has the elements of STDM because it recognizes the interest on former public land either in person, family or community. Gaps still exist in implementation, specifically due to lack of effective structures. Secondly, since there is provision of conversion of customary to freehold tenure, the former remains an inferior interest yet both of them are provided for as incidents of tenure. Therefore there is need to elevate all other systems of tenure to give substantial rights and security.

Considering the Land Amendment of 2004 as stated in the preamble, an act to effect certain amendments to the Land Act Chapter 227, and to provide for other related and incidental matters is required. This amendment has approximately 41 sections of amendment, directed towards enhancing or strengthening security of occupancy, which is a main attribute of STDM. This means that the land administration and legislators in Uganda ought to urgently increase land rights for relatively the weak customary tenure. However, the reinforcement of the contemplated security of occupancy is wanting because of the bureaucratic procedural implementations, insufficient data and lack of expertise.

The Land Act proceeds to provide for mediation as a dispute resolution mechanism. Specifically Section 89(5) of the Land Act provides that: "the mediator of a customary land dispute shall be guided by the principles of natural justice, general principles of mediation, and the desirability of assisting the parties to reconcile their differences". The Land Amendment Act reinforces the same by amending and substituting this section with section 89 (1), which provided for one or more mediators in each district appointed by the District Land Tribunal. On the ground, respondents on the contrary, especially households, submitted that most community-based practitioners were never taught to that effect. Instead, they have responded to immediate needs for de-escalation of potentially violent conflicts without waiting to be formally trained in mediation techniques or applicable to that effect

A more recent amendment of the act is that of 2010. The preamble to the Land Act enhances the security of occupancy of lawful and bonafide occupants on registered land in accordance with article 237 of the Constitution, and for related matters. The Act has a total of five amendments on different section of the Land Act.

Peculiar about it are the sections on lawful and bonafide occupants with landlords which are first cited in the Constitution. In addition, Section 29(2) of the Land Act defines a bonafide occupant of land to include a person who, before the coming into force of the Constitution, had occupied and utilized or developed any land unchallenged by the registered owner or agent thereof for a period of twelve years or more. In matters of STDM traits, it offers a direction to progressive security. However, it is short of limiting an ultimate solution to claimants that fall under its ambit, manifested in a greater number of land disputes centralizing on these two concepts, that is, lawful and bonafide occupancy.

It can be said that these amendments were drafted without any proper implementation plan. Resultantly, difficulties faced included; establishing land tribunals, making the Land Fund operational and financial difficulties. These delays have resulted from a combination of the inherent ambiguity of many provisions of the Acts and a lack of a clear, prioritized and sequenced plan for their implementation. The delays have had some clear social and economic costs, principally through the absence of land dispute resolution mechanisms and the inability of those faced with eviction to obtain an adequate legal remedy.

Notably, although the extent of unlawful evictions in the period since the enactment of the legislation is unknown, it is apparently a significant problem, as is the amount of disputed land effectively taken out of production pending proper resolution of land disputes. Amidst this, many disputes have led to loss of lives in Busaana, Kayonza and other places in Kayunga District. This "mediating in the dark" in communities, plagued by impunity and vulnerability, such as Kayunga, result greatly into settlement dis-agreements that may inadvertently serve as veneers over deliberate abuse of the mechanism.

The researcher proposes STDM as a crucial step to filling this gap: Land disputes can be recorded and fed into a dispute resolution process. This way, it can contribute to land management, which will in turn have an impact on reduction of violence and crime due to land conflicts, as often experienced in Kayunga District. That is, STDM can contribute to social stability and peaceful co-existence. In places where STDM was implemented, Mbaale district for example, the model proved successful. However, this was an urban setting, different from Kayunga District where existing land disputes are spread out in both urban and rural/remote areas.

Conversion of customary land tenure to freehold tenure

This chapter earlier stated that customary tenure is of weak

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66 Ibid Section 4
67 Ibid section 4(1) and (2)
68 Land Amendment Act (2004) supra note 74
69 Land Act (1998) Supra note 19
70 Ibid The Preamble to the Amendment Act (2004) and section 38
71 Land Act (1998) Supra note 19
72 Land Amendment Act (2004)
73 Ibid
74 Land Amendment Act (2010)
75 Land Act (1998) Supra note 19
interest despite being provided as one of the four conventional tenures enshrined in the constitution\textsuperscript{177} and the land Act\textsuperscript{178}. The Land Act in particular lays down the procedure which a customary owner who wishes to convert their customary land to freehold may follow\textsuperscript{179}. The section provides that:

Any person, family, community or association holding land under customary tenure on former public land may convert the customary tenure into freehold tenure in accordance with this Act. The decision of the board approving the conversion to freehold tenure shall be in the prescribed form. An application for conversion from customary tenure to freehold tenure shall be in the prescribed form and shall be submitted, together with the prescribed fee, to the committee of the parish in which the land the subject of the application is situated. On receipt of the report and recommendations of the committee, the board shall cause the land in respect of which the application is made to be surveyed before approving the application. When the board approves an application for conversion, the board may attach conditions to the conversion. Any party aggrieved by the decision of the board may appeal to the land tribunal; and the tribunal may confirm, reverse, vary or modify the decision and make such orders as it is empowered to make by this Act.\textsuperscript{180}

This mechanism of conversion was set up by the Ugandan legislature in lieu of the fears associated with customary land tenure in Uganda. However, pursuant to the National Land Policy, the above section despises the principles of justice, equality and equity to other users of customary land, who are likely to lose their rights of use and security of occupancy once conversion is done. Secondly, in practice, most customary land is communally owned as opposed to what is stated in that: ‘Only individually owned customary land may be converted to freehold.’ One innovation brought about by the Land Act is permission of a person, family or community to acquire a certificate as a proof of customary ownership. The rationale was to enhance the security of customary ownership in the country. Unfortunately these provisions have been so redundant. During his time of tenure at the office (3 years), Mr. Vincent\textsuperscript{181}reported never seeing nor hearing anyone who was issued with a customary certificate of ownership (CCO) which has forced people to continue relying on their traditional modes/customs of identification like use of local markings known as "empaanyi" or graves of ancestors among others. Moreover, section 88 provides for settlement of dispute through mediation by traditional authorities.

(1) Nothing in this Part shall be taken to prevent or hinder or limit the exercise by traditional authorities of the functions of determining disputes over customary tenure or acting as a mediator between persons who are in dispute over any matters arising out of customary tenure.

(2) At the commencement of a case or at any time during the hearing of the case, a land tribunal may advise the parties to the case that, in its opinion, the nature of the case is such that the parties would be better served by using mediation to resolve their differences than by continuing with litigation in the tribunal; and where such an opinion has been given, the land tribunal may adjourn the case for such period as it considers fit to enable the parties to use the services of the traditional authorities or the mediator or some other person to mediate in the dispute\textsuperscript{182}.

This section empowers traditional authorities to adjudicate over disputes related to customary tenure. However, traditional authorities that have jurisdiction to such disputes are not defined. Secondly, the mediators in this case are not named, leaving it at the exposure of non-trained persons. Third, there is no customary register in existence. With such a clear background and lacuna in the law that no customary register exists, it means customary land is still rendered inferior among other informal tenures. Therefore, incorporation of STDM into the law with necessary amendments will largely improve on security of tenure for informal owners.

In the final remark, most respondents emphasized that the Land Act as amended exposes customary owners among other informal tenure holders to land disputes. The fact that Section 9 of the Land Act provides for conversion of customary into freehold tenure presents it as an inferior tenure. Secondly the procedure for acquisition of CCOs as laid down in sections 6 and 7 of the Land Act are rigorous in nature and have a likelihood of exposing an applicant of a CCO to unwanted disputes, as it requires summoning for a meeting all persons claiming any interest in the subject land. The argument put forward here by a few respondents who have attempted CCOs is that it is very hard to establish who has a genuine interest. Hence application for CCOs becomes unrealistic and remains subordinated to other forms of land tenure systems which are viewed as good for

\textsuperscript{177} Constitution (1995) supra note 18
\textsuperscript{178} Land Act (1998) supra note 19
\textsuperscript{179} Ibid See also John Tamukadde Mugambwa (2002); Source book of Uganda’s Land law, Fountain publishers, Kampala P.72
\textsuperscript{180} Ibid
\textsuperscript{181} Mr. Vincent is the Senior Staff Surveyor at Kayunga District Land Office interviewed on 7\textsuperscript{th} April 2017 in his office at Kayunga
\textsuperscript{182} Land Act (1998) supra note 19
development and also provide better security to land owners.

Some respondents cited names of influential people like State Minister Hon. Aidah Nantaba who has been influential in fighting what they called opportunists like Mr. Moses Karangwa183, SCOUL184, Sugar works and political heads who use force to acquire land customarily held by dwellers.

Gender rights and social tenure domain model

Social Tenure Domain Model as a pro-poor approach is responsive to gender rights indiscriminate of sex. Review of tenure for women focus on the legality or level of formality of tenure systems, rather than on the political, social and economic barriers that women face in different communities. STDM aims at promoting rights of subordinated people like women, children, persons with disabilities, refugees among others. Land as a major natural resource is a foundation for; dignity, meeting basic needs, economic survival and social empowerment. It is a critical asset for women living in rural, peri-urban, semi-urban and urban areas. Apart from gendered inequalities in access, ownership and control over land, there is insufficient understanding of how women’s lived experiences affect the security of different forms of tenure. Yet, over a period of time, sometimes lasting decades, grassroots women have succeeded in employing concrete strategies to navigate across cultural, economic and institutional terrain to finally secure tenure.

Mabikke notes that almost eighty percent of Uganda’s agricultural production is by women. This implies that once the latter do not have equal access, control and ownership of land, they cannot be motivated to continually produce food for the nation185. STDM has been identified by the Huairou Commission186 together with UN-Habitat and GLTN partners as one of the gender responsive land tools. In line with the gender perspective, the Constitution provides that the state shall take affirmative action in favor of groups marginalized on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them187. On the other hand, the Land Act presents a progressive move as provided that;

Any decision taken in respect of land held under customary tenure, whether in respect of land held individually or communally, shall be in accordance with the customs, traditions and practices of the community concerned, except that a decision which denies women or children or persons with disability access to ownership, occupation or use of any land or imposes conditions which violate articles 33, 34 and 35 of the Constitution on any ownership, occupation or use of any land shall be null and void188.

However, the interpretation of this section and practice is oppressive to one side of gender - women - due to customary myths that respondents have about women. Regarding gender perspective, respondents submitted that women are less advantaged in regards to ownership of property. A 79-year-old widow in Kayonza sub-county had this to say: "Omwami bweyaffe nafuuka momboozo mu maka gange", translated to mean: “When my husband died I became a wanderer in my own home”189. From her statement, it is trite that women suffer land loss especially when the male counterpart (through whom they relate to land) dies. Other male respondents strongly agreed that despite being legally married (and having children in that marriage), most often, they neither include their wives and children on to the titles nor disclose to them the whereabouts of such.

According to Nakayi, an individual’s vulnerability increases if land is registered in his/her names rather than others, and increases the social rights to use the same land by other users. Therefore, if the holder opts to transfer the land, a number of customary rights will be lost, including the right of a woman to farm the land190. Furthermore, Section 39191 is found to have a lacuna in that it has over and again been subject of exploitation, especially of women and children whose consent is not sought, as required before a land transaction effects. Sometimes ‘consent’ is procured under duress/undue influence/cohesion, thereby taking unfair advantage over them. Male respondents agreed that customarily, family land192 is understood to give a connotation as a man’s land-hence leaving their female counter parts in a very disadvantaged position. This study found only one woman in Busaana owned land in her names, and, was having mostly male tenants on the land.

The researcher submits that the use of STDM approach will; open up new markets to the land industry and be an opportunity to develop new skills and to improve management skills. STDM can make it possible for all

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183 Mr. Moses Karangwa is the NRM District chairman in Kayunga
184 Sugar Corporation of Uganda Limited (SCOUL) was founded in 1924 located in Lugazi-Kayunga District.
185Dr. Samuel Mabikke; 2030 Agenda; Gender –Responsive Development, Land + Housing, Trainer of Trainers workshop on Gender Responsive Land Tools; held on 1st May 2017 in Adjumani District Uganda. Accessed on 15th May 2017 from https://huairou.org/uganda-trainer-of-trainers
186 Supra note 67 on Huairou commission
187 Article 32 Constitution (1995) supra note 18
188 Section 27 Land Act (1998) supra note 19
189 A 79 year old widow leaving miserably in Kayunga C sub-county in a two roomed confessed having been thrown out of the house by her step son and daughters after the death of her husband.
191 Land Act (1998) supra note 19
192 Ibid section 38A (4) of the land Amendment Act (2004) to mean; Land on which is situated the ordinary residence of a family or land in which is situated the ordinary residence of the family and from which the family derives sustenance.
citizens to be covered by some form of LAS, including the poor. This will lead to improvements in the land management capacity of the land industry, as well as addressing upcoming challenges such as climate change. Furthermore, STDM can contribute to poverty reduction, as the land rights and claims of the poor are brought into the formal system over time. It will improve their security of tenure, increase conflict resolution, limit forced evictions, and help the poor to engage with the land industry in under taking land management such as city wide slum upgrading or rural land management.

Finally in this chapter, it should be noted that all the amendments to land came at a major political timing (election time) which expresses the element of their lack of implementation due to the fact that they are made to benefit some political interests at the expense of fundamental changes that could help the masses and provide lasting solution to tenure security. STDM applicability manifests a reduction of disputes to land arising out of; encroachment, non-defined boundaries, registration errors, communal ownership and most importantly lack of implementation. This renders many sections in the Land Act redundant. The researcher’s findings are that land disputes benefit some political figures: The very reason why land to date has remained a contentious issue. In other words, the country’s livelihood is dependent on land therefore it needs a more cohesive legalistic approach than a political one.

**ASSESSMENT OF THE EFFECTIVENESS OF STDM TOWARDS PROMOTING SECURITY OF TENURE**

Land tenure systems are provided for under Article 237 (1) (a) - (d) of the Constitution and Land Act as customary, freehold, mailo and lease hold interest. The weakest among these tenures is still customary, due to the fact that there is no register for customary ownership, and that: Section 9 allows for conversion of customary into freehold tenure. For long, land tenure has been viewed as a central element of development efforts as it affects productivity through three channels, namely; (i) the likelihood of owners making land-attached investments; (ii) the scope for transferring land to more productive users and take-up non-agricultural employment; and (iii) the ability to use land as collateral for credit. It should be noted that earlier interventions were focused towards (individual) title, which failed to appreciate the political repercussions and institutional complexity of the land issue.

Studies have also argued that customary land institutions in Africa are weakening, yet formal institutions are not strong enough to curb threats arising from land disputes. It is, however, not known why traditional land institutions are currently incapable of curbing land disputes and why these institutions are weakening. In my view this problem is due to lack of land tenure reforms that are capable of innovative approaches and can include the different tenure interest. Some descriptive studies have suggested that land disputes are more common in immigrant communities, suggesting that informal institutions are weaker in these communities. Many studies have thus linked land disputes to weak or non-existent formal land institutions and the failure of current customary land tenure systems to resolve conflicts.

Despite the increasing incidence of land-related conflicts and their undiscussable effects on agriculture performance, empirical studies on the determinants and consequences of such conflicts are scanty. For instance, to my knowledge, no empirical study has examined the relationship between existing land administration systems (legal, institutional and policy frameworks) and land disputes, yet such mechanisms have increased in the recent past, especially in Uganda which has unequal land distribution across various regions. In addition, although conflicts take different forms, the available studies have bundled them in the analysis. Three quarters of the respondents had confidence in STDM as a provider of a silver lining for resolution of conflicts over land in Kayunga District.

Therefore, the researcher further looks at the institutional framework charged with land dispute resolution in Uganda in the next section.

**Institutional framework to land dispute resolution in Uganda**

The Land Act is the main law governing administration and management of land matters. It mandates the following institutions to provide land administration services; The Ministry of Lands, Housing and Urban Development. This is an overall umbrella under which all other institutions fall. Among other duties, it is charged with formulation of policies, regulations, inspecting, monitoring, and

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200 Supra note 19
evaluation, to ensure quality compliance with land regulations. Other institutions are the Uganda Land Commission (ULC)\textsuperscript{201}, the District Land Boards\textsuperscript{202}, District land offices\textsuperscript{203}, land committees\textsuperscript{204} and recorders\textsuperscript{205} which are majorly administrative bodies to land management. To a certain extent, these can play an adjudication role.

The legal provisions on land management appear strong but the institutional protection of rights in practice is weak, likewise the effectiveness of institutions to record rights and resolve disputes\textsuperscript{206}. Studies conducted in Uganda uphold the Land Sector Strategic Plan 2001-2011 is the operational, institutional and financial framework for the implementation of sector wide reforms and land management including the implementation of the Land Act\textsuperscript{207}. It is intended to guide; government, private sector and civil society in the management and use of Uganda’s land resources. It is an integrated approach to the land sector, and is linked, among others, to the Poverty Eradication Action Plan (PEAP) and the Plan for Modernization of Agriculture. However, this framework does not provide for any specific institutionalization mechanisms for socially and culturally acceptable resolution of land disputes on a long term basis.

Therefore, STDM approach needs an inclusive set of partners to achieve security of tenure for all. This will include; the private sector, civil society and importantly the customary authorities that can govern significant areas in developing countries. It is left to the state to enact laws and put in place a range of approaches to improving institutional frameworks and making the institutions more capable of supporting the STDM approach. The researcher has considered the performance of District Land Boards in the section below.

**The District Land Boards (DLB)**

It is a legal requirement that all districts in Uganda have a functional District Land Board (DLB). The DLBs play a number of roles as provided for in the Constitution\textsuperscript{208} and the Land Act 1998\textsuperscript{209}. The DLBs are mandated to; administer public land; receive applications for registration of customary, freehold, *mailo* and lease tenure within each district; hold and allocate public land which is not owned by any person or authority, among other functions\textsuperscript{210}. Analyzing this section further, land which is not allocated to any person or authority as started in the Act would mean non-registered land, just like it was stated earlier\textsuperscript{211} that: STDM model interests itself in non-registered land which amounts to 70% in developing countries like Uganda. It should be noted that both the Constitution and Land Act provide for independence of DLB in furtherance of the functions vested in them\textsuperscript{212}.

This study found that many land owners in Kayunga specifically Busaana sub-county and Kayonza in Baale sub-county, could not differentiate between DLBs and ALCs, and; many did not know that like other tenures, customary tenure can also be transacted by DLBs with recommendation from the ALCs\textsuperscript{213}. Others confessed that the officers of DLBs are too corrupt and unprofessional: They learn on the job which is very erroneous. With such findings, the researcher submits that DLBs are; (i) under trained (the Act should put some minimum legal qualifications on members of the board); (ii) under-staffed (five members are few since this is the preliminary step to determine land rights: The number can be raised to between seven to nine staff); (iii) under-funded; (iv) non-supervised; and, (v) poorly situated.

Although they are independent bodies, there is need to amend the Act so that supervision of their activities is effected by MoLHUD, as well as limit time to actions put before them. Therefore respondents strongly agreed that application of STDM would enhance compulsory training and have potential to improve tenure both in the short and long run. Let us now examine the operation of Area Land Committee in the next sub-heading.

**The Area Land Committees (ALC)**

The law provides for a land committee in each parish, consisting of a chairperson and three other members appointed by a district council on recommendation of the Sub-County Council or Urban Council in case of a city\textsuperscript{214}. Under the DLBs is the Area Land Committees (ALC), which operates on a sub-county level\textsuperscript{215}. The rationale for the Area Land Committees (ALC) is to decentralize services to the community and expedite the process for the vulnerable. The functions of the ALC include; advising the DLB on matters relating to land; ascertaining rights in land\textsuperscript{216}, in the case of land held by minor or an orphan; and, give consent to any transactions in accordance with Section 39 of the land Act\textsuperscript{217}. On the contrary, field findings,
especially from the respondents in Kayonza\textsuperscript{218} indicate that the challenges of the ALC are much more than those of the DLB \textit{inter alia}, inclusive of inadequacy of both human and institutional resources. Key challenges mentioned by respondents included; too much corruption; high illiteracy levels; ignorance on land matters; bias; lack of functional materials, and; political influence\textsuperscript{219}, exhibited majorly in the case of Karangwa and the then State Minister of Ministry of Lands - Ida Nantaba\textsuperscript{220} and military interventions. Many times, these challenges usurp the functions of the ALC, thereby hampering service delivery to the community. Respondents strongly agreed that the mechanism of STDM would eradicate political bias, among other things, since it has more of community participatory approach and capacity building.

All the forgoing institutions were state based. However, it would be unfair if this research does not look at Buganda Land Board: A private institution governing most of the urban land in the central region of the country. Henceforth, the next section expounds on this non-state based institution.

\textbf{Buganda Land Board (BLB)}

Apart from the state based institutions cited above, Buganda Land Board (BLB) is a non-state based institution owned by the Buganda Kingdom. BLB is a company that was entrusted to manage Buganda Kingdom land. The kingdom's land was returned under the restitution of Assets and Properties Act\textsuperscript{221}, which included the 350 square miles\textsuperscript{222}. It has branches and service centers in all the 18 counties of Buganda, offering effective service delivery to all clients who are also part of the shareholders.

As a professional body, BLB was set up by His Majesty, the Kabaka of Buganda, to manage land and properties\textsuperscript{223}, including among others; Bulange; Lubiri at Mengo; Butikkiro; Buganda Court Building; Kabaka's official 350 square miles of land; Namasole's 10 square miles of land; Banalinya's land; Kabaka's lake; former Omulamuzi and Omuwanika's Official Residencies at Mengo; land adjacent to Mango - Lubiri on which Buganda ministerial houses used to stand; all Bassebakaba's tombs; Buganda works building at Kakeeka; Basima House and Nalinya's house at Lubaga\textsuperscript{224}. Geographically, Buganda land Board jurisdiction extends in five counties which are; Kampala (Kyandondo); Wakiso (Busiro); Mukono (Kyaggwe); Mpi (Butumbala and Mawokota) and Masaka (Buddu)\textsuperscript{225}.

Currently, BLB is carrying out a mass titling campaign dubbed: "\textit{A Land Title in your Hands}”, popularly known as 'Kyapa mu ngalo’, for six months aimed at strengthening security of tenure for tenants on the kingdom land, specifically the 350 square miles. In line with the various laws and legislations, in particular the Land Act of 2010\textsuperscript{226}, this campaign is directed towards issuing leasehold certificates of title to all interested tenants on Kabaka land at subsidized costs\textsuperscript{227}. The practice of issuing leasehold certificates is aimed at describing tenancy in Buganda Kingdom as either a \textit{Kibanja} or a leasehold title, which has been in existence for generations thus strengthening and promoting the sovereignty of the Kingdom. It should be remembered that this campaign stems from the 1994 resolution of the kingdom's legislative organ (Lukiko)\textsuperscript{228}, to offer leases to all interested tenants on the kingdom land.

To date, over 20,000 leasehold certificates of title have been issued on the kingdom land. Worth noting is the fact that the land returned in 2013 was an agreement between the Kabaka and the President of Uganda\textsuperscript{229} and it has leases inherited by BLB stretching up to 99 years. This therefore demonstrates that leases are not only issued by Buganda kingdom, but by other bodies such as; Uganda Land Commission; District Land Boards; KCCA; religious institutions and private mailo owners. In urban centers, most land is owned by BLB (especially where administrative bodies are situated), and is subject to leasehold campaign.

In my opinion, the controversy surrounding the “Kyapa mu ngalo” campaign is centered on two facts. First, the inadequate sensitization about the benefits of this campaign to the stakeholders. This instigates fear of security of tenure and future property rights. Secondly, the political rejection of the campaign where political opponents are working hard to discourage enrollment of persons into the campaign despite the Buganda

\textsuperscript{218} Karangwa and Nantaba case in Kayonza sub-county, Bbaale county was a matter of illegal evictions as Karangwa claimed ownership of ..hectares which meant displacement of a number of households and was vehemently opposed by Nantaba, quoted from The New Vision Newspaper of 14\textsuperscript{th} March 2016
\textsuperscript{219} The New vision of 14\textsuperscript{th} March 2016 reported Nantaba to have said “I reported all these cases to the president during his visits but when the Inspector General police Gen. Kale Kayihura came to investigate the issues confused the president with wrong information and nothing good was done for the suffering people.” - See more at: http://www.elections.co.ug/new-vision/election/
\textsuperscript{220} Nantaba is also the Kayunga district woman MP is reported to have said “The best thing the president should do is to make sure that those people who are rotting in various prisons are set free and those displaced be resettled otherwise I will not accept his proposal to reconcile me with Karangwa if that is not done.” - See more at: http://www.elections.co.ug/new-vision/election/1419472/
\textsuperscript{221} Restitution of Assets and Property Act 1993 Laws of Uganda chapter 247
\textsuperscript{222} Cf. August 2013 Agreement for return of titles between the President of Uganda and His Majesty The King of Buganda Ronald Mwenda Mutebi II
\textsuperscript{223} \textit{Supra} note 222
\textsuperscript{224} http://www.buganda.or.ug/index.php/ebitongole/buganda-land-board accessed on 12th June 2017 at 9.43pm
\textsuperscript{225} \textit{Ibid}
\textsuperscript{226} Land Amendment Act (2010)
\textsuperscript{227} http://www.buganda-land-board.or.ug/ accessed on 12 June 2017 at 9.55pm
\textsuperscript{228} Buganda Kingdom Parliament popularly known as Lukiko is a legislative organ where representatives of the different counties and ministers of different departments deliberate on key issues. Leasehold offer was first resolved in 1994.
\textsuperscript{229} Buganda Kingdom entered a Memorandum of Understanding with President Museveni in 2013 to return
Premier’s presentation of the campaign as voluntary and not forced. Despite these challenges however, ‘Kyapa mu ngalo’ so far signifies progressive campaign in a short period in Uganda. The progressiveness is a clear sign that people have got a relief to security of tenure of their rights to land and therefore it should be supported while handling the misconceptions about it.

Salient features of the special relationship between Buganda and people on Buganda land board

Buganda has had a long lasting relationship with its tenants: A common landlord-tenant relationship. However with the innovation of the ‘Kyapa mu ngalo’ campaign, Buganda and its mandated institution BLB acknowledges the fact that there is a special relationship between the Kingdom and people on Buganda kingdom land. Under this relationship, the King ‘Kabaka’ offers a maximum of 99 year leasehold term and a minimum of 49 years to all tenants on kingdom land for those who wish to acquire leasehold titles. This is a special arrangement that includes an automatic renewal clause upon expiry, which can be ignored if the lessee expresses lack of interest of renewal before expiry. During the period of expiry, the lessee maintains his/her status until the process of renewal is completed. Those who have running leases are free to visit BLB offices for lease variation to reflect the aforementioned clause. This thus puts to rest the greatly publicized fear that the kingdom will reposses its lessees’ land upon expiry of their leases

Secondly, the ‘Kyapa mu Ngalo’ campaign’s discounted fees are only applicable to the 49 year leasehold term. Therefore, those interested in the 75 or 99-year leasehold term have to express their interest. Thirdly, all current leaseholders with a 49- year term or below have an option under this campaign to extend their leases to a term of 99 (ninety nine) years subject to an arrangement between the lessor and the lessee. Fourth, acquiring leasehold certificates of title is voluntary and shall always continue as such. Fifth, any tenancy ‘Kibanja’ holder who is not interested in having a leasehold title remains a ‘Kibanja’ holder as per the law and pays lawful subscription ‘busuulu’ accordingly. The person continues to enjoy full rights of a tenancy ‘Kibanja’ holder; gets the protection of the law and Buganda Land Board, if the tenancy ‘Kibanja’ is registered and is expected to continue fulfilling his/her tenant obligations to the King ‘Kabaka’.

Currently, BLB is collecting subscription ‘busuulu’ as stipulated in the law. The amounts paid are as per the set District Land Boards (DLBs) or the Minister of Lands, Housing and Urban development rates. These range between 2,500/- to 50,000/- depending on the location of the tenancy ‘Kibanja’ irrespective of the size. Busuulu collection was resumed in February 2017 for all tenancies (‘Bibanja’ holders) on Kingdom land and the exercise is running smoothly.

Many respondents in Baale, Kayonza, Busaana, Kayunga central submitted that as tenants of Buganda Kingdom, they had registered with the office at Kyaggwe-Mukono for lease consideration. However, many reported experiencing difficulties regarding procedural safeguards and confusion by middlemen and brokers who benefit out of fraudulent dealings. Most of the respondents viewed BLB as an urban-only operation. Hence, however much BLB tries to lessen the cost, it is still high for low income earners. The proposal was that Buganda conducts tenant registration at its own cost, then offer out lease titles to anyone who wishes to have.

Requirements and procedure of obtaining a lease

To acquire a leasehold interest, the applicant’s tenancy ‘Kibanja’ interest should first of all be registered with BLB, meaning that it should have a file number. Secondly, it should be surveyed. Whereas the requirements for a lease interest are few, the procedure for registration is quite tedious and has six mandatory steps which include;

- Obtaining Lease Application Forms from any of the BLB branch offices.
- Produce copies of authentic documents that indicate ownership of the piece of land. In case of a company, submit a copy of the Articles & Memorandum of Association plus a certificate of registration.
- Draw a directional sketch map to your tenancy / Kibanja applied for.
- Produce a photograph of the existing development on the plot.
- Attach your passport size photographs on the forms obtained from BLB.

The question that can be posed at this stage is: What about land that has no traced details like file number, as the first cited requirement for lease consideration? This means that although Buganda as an institution has greatly advanced in securing tenure despite the political de-campaigning it faces, it can still use the STDM tool to have a complete coverage especially on land that lies in its jurisdiction, but is not present in the files.

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230 The Buganda Premier Charles Peter Mayega while addressing the members Buganda Lukiko held on 8th May 2017
231 http://www.bugandalandboard.or.ug/ accessed on 12 June 2017 at 9.55pm
232 Ibid
Benefits of obtaining leasehold certificate of title

The benefits that may accrue to a lessee include:

a. It strengthens one’s security of tenure since a certificate of title is conclusive evidence of ownership of land (S.59).

b. It increases the land value due to clear geographical boundaries and ownership, thereby averting possible land disputes (STDM pre-dispute resolution).

c. Lease certificate of title is a more credible form of collateral with financial institutions. It is also a better reference to land ownership for access to utility services (facilitates development).

d. A holder of a leasehold certificate of title has the capacity to issue titles in form of condominiums, sub-lease or sub-division surveys. This makes the titled land more marketable and beneficial to the owner.

e. S.3, a certificate of title is a prerequisite to the approval of any building plan in any part of Uganda. This is as per the Physical Planning Act 2010.

f. Protects you from the burdens of unending land conflicts accruing from boundary tracing.

g. In case of any compensation due to infrastructural developments like road construction, the value allotted to the affected person with a leasehold title is higher than that of a tenancy ‘kibanja’ holder.

BLB operations of ‘Kyapa mu ngalo’ are pro-STDM and specifically a pre-dispute approach due to the fact that in the manner that BLB has also introduced an innovative system of land information management through a secured smart card to minimize fraudulent transactions. It majorly covers the information gap and allows inclusive planning and quick development. However, it is limited to only the mailo tenure of Buganda and Kibanja holder. It should be adopted and extended to other formal tenures through STDM tool, to incorporate informal tenures, hence giving a snap short of the land parcel at any given moment.

Like BLB, STDM supports the biometric palm vein technology (Land Electronic card) that links the tenant identity to their land records. However, STDM goes further to integrates essential data such as party names and rights with source documents such as; titles, deeds, survey field data, court decisions, decisions made in participatory mapping and other decisions. All essential data can be related to authentic sources (e.g. documents or imagery with evidence from the field)

It is secure and has the ability to avail the tenants land information in time of need. No transaction can be done on a client’s file without authorization of the owner. All these initiatives are aimed at securing tenancy on the Kingdom land and minimize fraudulent dealings, trivial land disputes that escalate into long lasting land cases (creating backlog in courts), absentee land lords and in turn replace them with proper land utilization, good planning, and sustainable use.

In the researcher’s view, Buganda Land Board’s Kyapa mu ngalo campaign is so far the best approach aimed at securing tenancy on the Kingdom land as well as giving occupants chance and a favorable environment to develop their land. Despite the challenges faced like political attacks from some public figures and fraudsters interalia, it has the best: surveyors, knowledge on tenant - land lord relationship, record of occupants, costs and rates of formalization among others. This can be adopted to streamline the sustainable land management of land resource. In addition, the institution has tried to comply with governance principles hailed in the National Land Policy like; accountability, justice and equity; transparency and professionalism based on the kingdom’s core values of integrity and posterity for future which values are paramount for STDM implementation/operation.

In conclusion, the researcher’s submission on institutions is that the journey to a modern land administration institutional framework involves considerable cultural change. This has to be sensitively managed and should be incrementally introduced to provide time for the institutions and customers to absorb significant change. Also, the institutional framework is going beyond participation of government, but involvement of all stakeholders’ right from the grassroots. It is appropriate to proceed by examining some judicial decisions and how they have been progressive in solving land tenure related disputes in the next sub-heading.

Some of the decided cases on land disputes

Since most disputes erupting from land and land-related matters cannot be resolved amicably by administrative bodies, it of importance that this research examines some adjudicated decisions on land matters and how progressive they uphold the attributes of STDM.

The first case regards Kampala District Land Board and Chemical Distributors vs National Housing and Construction. This was an appeal from the judgment and orders of Court of Appeal dated 3rd February 2004, in a Civil Appeal (No.43 of 2002) given by the then; Deputy Chief Justice Leticia Mukasa-Kikonyogo, Justice Twinomujuni and

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233 Section 3 of the Physical Planning Act (2010), this section declares the whole country a planning area.

234 See Adeoye, et al. Supra note 25

235 Supreme Court of Uganda Civil Appeal No.2 of (2004)
Justice Byamugisha. The facts, as found by the courts below were: Around 1996, the respondent was granted a lease of land registered under Leasehold Register Volume 1065, Folio 16 Plot No. M 239 at Bugolobi, a suburb of Kampala City. The land was part of a statutory lease of 190 years granted to Kampala City Council by the Uganda Land Commission. Adjacent to this land, and also part of the statutory lease, was another piece of land known as Plot No. 157 Luthuli Second Close, Bugolobi (hereinafter referred to as the suit land). **Among other question of determination was: Whether the respondent was a *bona fide* purchaser or lawful or customary tenant on the suit land?**

In his holding, the then Chief Justice - His Lordship Benjamin Odoki, cited Article 237 (8) and section 29, which provides for protection to lawful and *bona fide* occupants. In summary, he ruled that in circumstances such as when a person possessed or occupied a suit land for more than 12 years at the time of coming in force of the 1995 Constitution, and having utilized the same, acquires the status of a *bona fide* occupant. In this case, Court of Appeal held that the respondent was indeed a *bona fide* occupant having utilized the suit land unchallenged for 25 years since 1970. The Supreme Court upheld the position of Court of Appeal.

In another decision of *Kananura vs. Ruchogoza*236, the applicant sought for an eviction order of the plaintiff on grounds of trespass, yet the defendant had lawfully purchased *bibanja* (tenancies) on the said land between 1990-1998. His Lordship, Wilson Masalu Musene referencing on the decision of the Supreme Court in *Kampala District Land Board vs National Housing* in his dicta held that there was no way they could just be evicted without the due process of consent and compensation where necessary, and in accordance with the provisions of the Land Act, Cap 227 and the Land Amendment Act of 2010, as related to protection of lawful and *bona fide* occupants. This decision progressively implemented the section 29 of the land Act in its strict interpretation to protect lawful and “*bona fide*” occupants. This implies exposure to untold injustice and eviction among many lawful and “*bona fide*” occupants who have not stayed up to 12 years, simply because the legal time has not passed. In this case, once recognized, STDM allows for immediate protection of occupants, hence remedying the legal vacuum/lacuna.

In another decision of *Gilbert Kigozi Mayambala vs. Joseph Sentamu & Another* 237, the applicant sued the respondent who was in possession of the suit land for a continuous period, and had lived on the said land uninterrupted. The High Court held for the defendant in support of the preposition that: “Once a party is in actual possession of a part of the land and, it is proved that he owns some of it, there would be a presumption of ownership of the whole in the absence of proof to the contrary.” This is also partly a progressive protective decision. However, if the presumption of ownership is rebutted, the claimant is left to lose. Therefore, a vacuum needs to be filled to protect the occupant in actual possession.

Furthermore, in a case regarding *Muganzi vs Nantaba*238, the applicant bought land comprised in Block 392, Busiro, formally forming part of plots 1 and 5 from the registered owner, Thomas Tenyigwa. After the said purchase, the applicant made various subdivisions which he sold to various people. The applicant received a written communication from the respondent to attend a meeting, wherein she accused the applicant of land grabbing, and threatened to force the Commissioner for Lands to cancel his titles. In response to the said letter, the applicant showed proof to his; land acquisition and compensation of all tenancy ‘*bibanja*’ holders for ten (10) years since 2001. The applicant further sued the complainants in the High Court of Nakawa, Civil Suit No. 186 of 2011. However, the respondent turned a deaf ear and went ahead to hear a matter which was before Courts of Law and even threatened to resettle those who were compensated voluntarily. The respondent vowed to continue hearing the case, asserting that it was not court which appointed her as Minister.

His Lordship Joseph Murangira gave a ruling in favour of the applicant, and issued a prohibition order against the respondent from entertaining or hearing matters in respect to suit land, which was before High court of Uganda at Nakawa vide Civil suit No. 186 of 2011. Justice Muragira further gave non-alteration orders of the status quo of the suit land. The ruling in favour of the Applicant supports STDM: It allows for a participatory approach to dispute resolution. However, participatory approaches should watch against political influence: The respondent in this position was a political leader whose likelihood of bias could not be ruled out in adjudication of such a dispute.

To this end, STDM unlike other resolution mechanisms whether administrative or adjudicatory in nature, is a preemptive rather than post-conflict mechanism. Rulings of the cited cases prove STDM’s ability to promote peaceful co-existence between occupants and persons with different interests on the same parcel/piece of land. The next section examines Uganda’s National land policy that was drafted a few years ago.

**Comments on the National Land Policy (NLP) 2013**

The National Land Policy (NLP)239 outlines eight guiding principles that underpin and guide the NLP. Two of these

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236 (CIVIL SUIT NO. 129 OF 2009) [2014] UGHCCD 183 (7 February 2014)
237 (1987) HCB 68
238 MISCELLANEOUS CAUSE NO. 21 OF 2013) [2013] UGHCLD 41 (26 April 2013)
239 National Land Policy of Uganda 2013
principles emphasize the need for equity and justice in relation to access to land. These principles include: equitable access to land for all citizens of Uganda to hold, own, enjoy, use and develop either individually or in association with others; equity and justice in access to land irrespective of gender, age, disability or any other reason created by history, tradition or custom. It is therefore critical to note that the NLP is a gender sensitive policy document that emphasizes the need for gender equity and justice in the access, control and ownership of land.240

According to the Land policy, most Ugandans hold their land under customary tenure. This tenure is often associated with three problems: (a) it does not provide security of tenure for landowners; (b) it impedes the advancement of land markets; and (c) it discriminates against women.242 The National Land Policy anticipated many ills that STDM aims to remedy. However, it requires careful implementation to allow for more practical means of land administration. Just like the NLP, STDM identifies what a government wishes to achieve; utilizing land as a resource, access and increased rights of people to their land. The NLP coordinates and aligns the various existing and future policies relating to land to more fully achieve the government's overall policy objectives of sustainable land management.

Customary reforms acclaimed by the NLP include; the creation of a customary register to facilitate registration of customary rights; strengthening women’s land rights through enacting provisions promoting the regime of marital property law, joint land ownership and property for married parties; the need to overhaul the existing institutional framework for land administration and management through decentralization of land services, by bringing land services nearer to the populace to make them more efficient, cost-effective and accessible; the re-institution of administrative Land Tribunals to handle escalating land conflicts and land evictions; and the legal recognition of the dual operation of both customary system and statutory system in the rights administration, dispute resolution and management of land. This can be made possible by empowering customary authorities to perform their functions243.

Subsequently, the existence of a National Land Policy is a confirmation that land is essential for sustainable management of land resources since it remains a source of livelihood for majority of Ugandans. One of NLP rationale was to remedy the anomalies brought about by; the Land Reform Decree of 1975; the Constitution 1995; and, the Land Act 1998 with its respective amendments. However it is sad to note that, somehow, it has also proved not to be satisfactory leading to the current spark of the Commission of Inquiry244 set by the President, to investigate the land question. Before looking at the recent commission of inquiry, the research examines the proposed amendments land amendments in the next section.

Comments on the proposed amendment to the constitution and compulsory acquisition of Land Act 226 of 1965

Since last year, there has been a proposal to amend the Constitution and the Compulsory Land Acquisition Act, to enable government further its intended developments on land privately owned without resistance from the affected persons. However, this proposal has earned resentment among the Ugandan populace, opposition members of parliament in particular: These have launched and rallied campaigns against the current omnibus bill. This campaign is popularized as “Kogikwatako” literally a meaning do not temper with the Constitution. Although the campaign is more inclined to the Article of the presidential age limit, the debate boils down to the proposed land amendments.

The Cabinet sub-committee on Electoral and Constitutional Reforms has proposed amendment of Article 26245, to include that: "Where parties are unable to agree on fair and adequate compensation, the Government may take over the land, pending determination by the courts of law. Success of the proposed amendment will seal and confirm citizens’ right to property ownership provided for under Article 26 (1) and (2) of the Constitution. This includes interalia, the right to; own land; be compensated on time; reject inadequate compensation; and, access court or redress.

On the other hand, under Section 2 of the Land Acquisition Act247, the Minister of Land is required to authorize anyone to find out the suitability of the land or the purpose for which it is being acquired. This includes; surveying, digging, boring or sampling the land et cetera. Government compensates land owners for damages accrued on the land. Prior to the Minister’s thought of acquiring any land for public purpose, he/she is mandated to consult the people and assess whether the proposed acquisition serves public purpose. This further includes establishing the magnitude of affected lands and people, and the benefits of the project vis-à-vis the cost of

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241 NLP (2013) supra note 245
244 Headed by Justice Catherine Bamugemereire
245 Constitution (1995) supra note 18
246 Ibid
247 Section 2 of the Land Acquisition Act (1965) Laws of Uganda
acquisition. In Uganda, the National Environment Management Authority requires that an Environmental Impact Assessment (EIA) be conducted to determine whether the project is out of character with the surrounding and with major changes in land use.

Currently, the proposal is still at inception stage, and upon approval for amendment, the MoLHUD shall hold consultations in a participatory and inclusive manner. The incumbent Minister for lands submitted that Ugandans will be given an opportunity to debate the merits and demerits of these proposals as was done during the time of the Land Amendment Bill, 2017 by Cabinet and Parliament.

From the researcher’s observation, residents are often recurrently evicted from land, which is their main source of livelihood. This is done without adequate compensation or resettlement and their complaints are always ignored by the Government. Although this practice has been a norm, it is unlawful. It is an illegal inhumane practice for which legality and lawfulness are sought. Despite the compensation procedure provided for in the; Land Act 227; the Land Acquisition Act 226; Electricity Act and International Standards, the Government deliberately ignores the important processes. Yet, the affected persons are ignorant of such processes and cannot ably defend their compensation right against the Government. This culminates to forced eviction, thereby creation of internally displaced persons.

Therefore, government should adopt STDM as an alternative permanent approach to accommodate both inclusive planning and tenure security, in as much as it insists on making projects to benefit the public as a result of compulsory acquisition.

Observations from the elected commission of inquiry

In exercise of the powers conferred upon him under the Commission of Inquiry Act, President Museveni issued a Commission of Inquiry on 8th December 2016. This was referred to as “The Commission of Inquiry into the effectiveness of the law and processes of land; acquisition, administration, management and registration in Uganda. The President’s decision to constitute the Commission culminated from several complaints received by him, regarding rampant evictions especially from the “wananchi” (vulnerable citizens). The Commission is composed of eleven members, all experts in land and incidental matters.

Though some individuals and agencies have accused the government of acting forcibly in acquiring land, the latter’s work in protection of citizens’ land rights cannot be overlooked. Government’s work is vested in the Commission of Inquiry, which is very central to this study and far progressive in implementing the attributes of STDM. This is manifested in the commission’s ability to investigate and handle disputes in a pro-poor approach. For example many poor illiterate claimants have appeared before the commission to express their concerns in regard to land holding of these people to see that justice is dispensed. The Commission further expressed need for expeditious dispute handling and called for accountability from negligent public officers in different ministerial zones like; Wakiso, Jinja, and Bukalasa in Luweero and at the ministerial headquarters. The Commission Chairperson, Justice Catherine Bamugemereire ordered Louella Ataro’s arrest for the alleged obstruction of justice by concealing information related to registration of titles on a wetland. Records obtained by the Commission showed that titles on Block 170 - plots 644 to 699 Kijjabijjo, were registered by Ataro and her Senior Land Management Officer, Satya Mwangushya, without following the laid procedure. The commission demanded disclosure of wealth of the Senior Registrar of titles in Wakiso - Ataro Louella (reported to have been born in 1980) and the manner in which she acquired it. Another achievement of the commission is the effort to cancel titles that had been issued to private persons on public land such as; wetlands (in Kijjabijijo), public cemetery (in Kira), forests, road reserves, national parks among other gazetted spaces protected by the state. This research holds high such progressive move since STDM acclaims equity in a continuum of land rights.

One of the commissioners - Dr. Nakayi, showed concern over increasing land conflicts, a concern which the commission wished but could no address, given the big magnitude. Dr Nakayi further observed government’s failure to enact and implement laws to help address such big land problems. This has created a vacuum within a number of contestations around land especially between tenants and land lords. One of the contentious issues in Buganda relates to the "Ekyapa mungalo" or the "land title in the hands" campaign by Buganda Land Board. Dr. Nakayi, further noted that the commission would work on

Tinkamanyire, Mrs Olive Kazzarwe Mukwaya (Commission Secretary), Mr Ebert Byenkya (lead Counsel) Dr Douglas Singiza (Assistant Secretary) and Mr. John Bosco Rujagaata (Assistant lead Counsel). About 1,380 land disputes in Luweero district were laid before the Commission of inquiry in two weeks. Cf. http://www.monitor.co.ug/News/National/Land-probe--1-300-complaints-filed-in-2-weeks


some of the controversial issues behind the scenes while at the same time maintaining their neutrality\textsuperscript{258}.

The commission of inquiry provides relief to many land owners and users in Uganda whose rights have been severely breached by greedy, fraudulent officers and unscrupulous persons. Some of the issues the commission looks into include; the law, processes and procedures by which land is administered and registered in Uganda, the role and effectiveness of the Uganda Land Commission (ULC) in administering public land and the land fund; the management of wetlands and forest reserves; the role of traditional, cultural and religious institutions who own large tracts of land with occupants; assess the legal and policy framework on government land acquisition; the effectiveness of dispute resolution mechanisms available to persons involved in land disputes; and, any other matter connected with or incidental to land matters.

In a span of one year since its inception, it is expected of the Commission of Inquiry to recommendations including amendment of the land law which will help solve the land question. The researcher's findings are that the current land tenure systems in Uganda mainly focus on individual property rights. Therefore, there is need to change this perspective and adopt a more inclusive concept through STDM. This will enable elevation of land to its essential resource value in development.

**SUMMARY OF THE FINDINGS, CONCLUSIONS AND RECOMMENDATIONS**

**Summary of the findings**

This study was prompted by the land problem in Kayunga district, despite the existence of legal frameworks, institutional policies, dispute resolution mechanisms and informal tenure holders (especially customary and women). The people herein have continuously been exposed to suffrage from rampant land disputes. Secondly, this study was prompted by the increasing gap in information asymmetry between registered (30\%) and unregistered (70\%) land in developing countries. At the time of the study, no thorough analysis existed, regarding the legal framework and dispute resolution mechanisms in Uganda. Yet, these are vital in reduction of land disputes and reconciling the gap between conventional and informal tenure systems. This study examined the various forms of dispute resolution mechanisms (both administrative and adjudicatory) and whether they were held accountable for the continued land disputes in Kayunga. It also examined the weak legal regime, as well as effectiveness of the policy and institutional frameworks.

Furthermore, the study examined the existing literature by (i) exploring the evolution of land institutions in Uganda for the past decade; (ii) tracing the land dispute history in the community and examining whether such land disputes are associated with weaknesses in existing land institutions and legal mechanisms (courts), and how this happens; and (iii) examining the implications of STDM on gender, how it compliments existing laws, gender-related issues on land and the effect of land disputes in Kayunga District.

The study depicts weaknesses and loopholes in the legal regime, especially due to the fact that customary tenure among other informal tenures is considered a lesser interest. This manifests inconsistency in application of the law and discriminatory practices to the women who are the most users/dependents on customary tenure. This inconsistency and lacunas created in the law expose customary tenure to manipulation and abuse. Customary and other tenures lack clear boundaries and markings as well as proper registration. This has piloted most disputes in Kayunga. In addition, the supposed information gap on cadastral pages has proved inadequately unsustainable in terms of land use and management. This deprives the land resource of its intended essential development purpose.

Further analysis reveals that land disputes are still rampant in Kayunga district mainly due to the weakness in the laws to ultimately protect informal tenure (customary) holders and vulnerable groups like women. Although the Constitution and the Land Act recognize customary tenure systems in Uganda, the challenges faced with customary tenure/informal tenure is mainly due to lack of serious implementation of a number of aspects acclaimed by STDM like customary certificates of title, application of equity and equality practices to claimants under customary. As earlier observed, other practices like standardization of boundaries through use of technology should be adopted. This can improve a great deal. For example, as observed in Chapter Three, it can be issued to only claimants whose land has been divided among family members with clear demarcations/boundaries or to a person registered in the CCO as a trustee for others and caveat any dealings without express consent of other family members.

Thirdly, this study sheds light on the impact of STDM on gender-related issues and overall implication on land disputes. Empirical studies on the determinants and consequences of land disputes are exceedingly scant. In addition, no study has looked at the impact of current mechanism on solving land disputes. Moreover, studies\textsuperscript{259} have suggested that modern and appropriate land management mechanisms should be put into consideration alongside existing mechanisms of land dispute resolution. The current study proves that STDM can be applied


alongside existing mechanisms as one of the mechanisms for reducing land disputes in Kayunga.

The NLP which was adopted in 2013 has new aspects of customary and gender related land issues which aim to solve a number of disputes on land. However, the implementation has proved to be slow, prompting the election of the on-going commission of inquiry of December 2016.

The study also reveals some of the institutions governing land and structural challenges ranging from; high levels of illiteracy, corruption, lack /insufficient knowledge to handle land matters, bias, political influence, military interventions, lack of sensitization and capacity building programmes, fear of legal processes that are a cut through in matters of land.

**Conclusion of the Study**

For the last decade, land professionals have been instrumental in formulating technical solutions to improve land administration and management systems in every country. With the modernization of the information and communications technologies, such solutions become more; powerful, faster, efficient and relatively cheaper. Nowadays, organized poor communities and their networks are already using advanced technologies and systems with little support from land professionals and they find them to be a vital tool. Indeed, the use of Information Technology systems, remote sensing technologies (that is, satellite imagery products), GNSS technologies (that is, GPS units) and GIS systems to create a land information system is no longer the ‘exclusive privilege of the educated elites’.

Social Tenure Domain Model (STDM) offers these related opportunities for land professionals, researchers, grassroots organizations and government authorities. These opportunities include the empowerment of grassroots communities to develop and manage their own information system (and data) with all the benefits of advanced technologies can offer. This can be achieved with less investment of resources and reliance on high paid experts. STDM can build on their strengths and good practices (that is, enumeration) too. STDM also offers great opportunities for land professionals as they can now; extend their services to all, offer people-centered and affordable solutions and contribute to the further enhancement of STDM framework.

With STDM, land professionals can easily promote and communicate their plans, strategies and services to civil society organizations, government authorities and other stakeholder groups. With STDM, it is now possible to bridge the information divide, serve all members of society and to undertake development interventions such as tenure security for all at scale. Government authorities and decision makers will definitely benefit from its use, recognition and implementation.

STDM source codes will be published by UN-Habitat/GLTN to openly disseminate more information about STDM and its use and application, allow for more interaction with users and attract more developers for its enhancement and further development. STDM will evolve and be improved over time with more and more partners. It will further explore other opportunities by implementing in other contexts (e.g. customary areas) and select countries. The consolidated lessons and experience of STDM work in the months ahead will inform its strategy for implementation in the coming years.

**Recommendations**

For proper address to land disputes; the following recommendations need urgent implementation;

**Policy formation on STDM**

A need for policy formation to STDM that requires cooperation and partnering amongst stakeholders, that is; Government, GLTN unit of World Bank, Ministry of Lands Housing and Urban Development, Municipalities, Local Governments, and other willing organizations to ease its operation for the customary/informal tenures. In the same realm, it requires capacity building, sensitization of masses and bringing them to the awareness of STDM.

**Capacity building of institutions by Government and other stakeholders**

(a) There is an urgent need by government, civil society organization and legal entities to come up with programs that will train these institutions like LCCs, ALCs, and DLB to enable them be fit for purpose and pave way for smooth operation in land matters.

(b) Land institutions should formulate a land inventory that has a record of sitting tenants on public land and also encourage different land owners to keep proper records of their tenants.

(c) Government needs to roll out further training and empowerment of technical personnel like; surveyors, physical planners, land officers especially in the department of land registration. These can be trained on the benefits, use and application of STDM mechanism as a pre-emptive dispute resolution. It is essential to particularly train surveyors on STDM technical applications in data coverage, capture and interpretation, for instance use of satellite, GPS among others. Generally this can be done at different levels or with different land registries. In turn, thereafter, the empowered officers will disseminate the
information to other land users.

(d) Third, the Ministerial Zonal land office in Kayunga should organize seminars and trainings at sub-county level, to empower land owners, users and households (women in particular) on the benefits of titling or having documented rights on land. The trainings will enable capacity building amongst neighbors of land owners and can quickly cover the knowledge gap.

(e) Government needs to take the lead role by providing the necessary funding and ensuring strict checks on corrupt officers through advocating for transparency, accountability and audit reports from any public funds and also putting regulation safeguarding land users against corruption.

(f) There is need to amend the law to provide for supervision of the DLBs by government (Ministry of Lands) and task them to produce periodical reports for the work done. This will ensure efficiency in service delivery and avoid backlog disputes.

Regulations by the Government

There is need to amend the Constitution and the Land Act to protect people against rampant land disputes:

(a) There is need to make an amendment to provide for indefeasible titles of customary tenure. This will help in dealing away with the unnecessary costs incurred when converting customary to freehold as provided in section 9 of the Land Act, yet, they are both forms of tenure provided for in the constitution. The allowance of conversion makes it a weaker tenure and would eventually mean doing away with customary tenure. A good tenure system should be uniform throughout the country.

(b) It is also necessary to amend the constitution to define customary tenure equivalent to mailo and freehold tenure, with equal force. In other words, all land to revert back to the state where any user is a tenant of a state on a prescribed lease interest. This will greatly lessen the disputes and further land development and sustainable use.

(c) There is need to amend the registration of Titles Act to provide for regulated surveying fees in lieu of protecting the vulnerable groups like women. Although these are the majority land users, they are often unable to pay surveying fees to allow conveyance of their interests. Besides, compulsory inclusion of women on all properties where they have inherent equal rights like their counterparts, the men, to avoid male dominancy, subordination and exploitation.

(d) The need to enforce Section 27 of the Land Act that provides for the rights of women, children and persons with disabilities in regard to customary rights. As noted by Rose Nakayi: There is a dire need to demise the great disparity that exists between the provisions of the law and the practices on land which discriminates against women on property rights.

(e) It is important that traditional leaders and other decision makers in the community are sensitized on gender relations. They should be bonded and brought on board to for easier implementation. This goes hand in hand with providing continuous sensitization on the provisions of the law that are gender progressive.

(f) There is need to expeditiously amend Section 39 of the Land Act, which promotes the principle of free and informed consent of persons in all land matters where activities will affect the interest of others.

National land policy

There is need to closely follow up on the principles and implementations of the NLP stakeholders such as; Government, MoLHUD, Land Protection Unit among others. These stakeholders, together with MoLHUD, should set up committees of inquiry, monitoring and evaluation on the NLP policies in different land sectors. This will help in identification of the extent of abuse and formulate solutions to these issues. Such measures should begin from the grass root level such as sub-county. This will lead to improvements in efficiency, increase awareness and transparency dealings in land matters, and reduce on land related disputes.

Further research

The study was conducted in a small area of Kayunga district with a limited sample. Finding cannot be generalized to the whole country. Hence a more extensive and detailed research on legal framework should be done so as to come up with a generalized position on the legal framework in protection of informal/customary tenure.

ACKNOWLEDGEMENT

The author is grateful to the Almighty God for the academic journey so far. Supervisor, Dr. Rose Nakayi, is acknowledged for her professional guidance, expertise, valuable time and much encouragement and effort in
ensuring that this research is completed. Also, Ms. Joan, the Registrar at School of law - Makerere University is acknowledged for her assistance. The support of Fr. Dr. Denis D.K Kasule, Fr. Dr. Joseph Mary Ssebunya, Fr. Dr. Daniel Musiitwa, and the Sisters’ community of Nsamba Babies home - Kampala Archdiocese is greatly appreciated.

Am humbled by the help of; Professor John Chrysostom Maviiri - for linking me to the Kayunga community, Fr. Walakira and the Kayunga Catholic Parish for hosting me during my time of data collection and connecting me to potential key informants. I especially thank; the Ministerial Zonal office at Kayunga, particularly Mr. Vicent, the District Land Board members, Local Council heads, the head catechist and all the catechists of Kayunga Catholic parish for providing extensive support and information to this study.

I am greatly indebted to the Support of my LLM 2015-2017 classmates, especially her worship Gladys Kamasanyu Musenze and Ronald Kayizi for journeying with me through the course of our study.

Abbreviations: ALC, Area Land Committee; ADHOC, Cambodian Human Rights and Development Association; ADR, Alternative Dispute Resolution; BLB, Buganda Land Board; CCO, Certificate of Customary Ownership; DLB, District Land Board; RDC, Resident District Commissioner; ETLR, Evolutionary Theory of Land Rights; FAO, Food and Agricultural Organization; FIGs, Fit-for-purpose Land; GLTN, Global Land tool Network; ISO, International Standards Organization; LADM, Land Administration Domain Model; LAC, Land Administration Committee; LAS, Land Administration Systems; MDGs, Millennium Development Goals; NDP II, National Development Plan II; PEAP, Poverty Eradication Action Plan; OECs, Organization of Eastern Caribbean States; SLM, Sustainable Land Management; SITDM, Social Tenure Domain Model; TSUPU, Transforming the settlement of Urban Poor in Uganda Initiative; UHRC, Uganda Human Rights Council; ULA, Uganda Land Alliance; UN, United Nations; UNRISD, United Nations Research Institute for Social Development; UNHABITAT, United Nations Human settlement Program; WB, World Bank.

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APPENDICES

Appendix A

Interview Schedule for households and other land users
To be administered to Household heads and other land users. The researcher is a post-graduate student of Makereere University carrying out a research titled “Social Tenure Domain Model one of the Mechanism of Reducing Land disputes In Kayunga District.” In partial fulfillment of the requirement for award of Mater of Laws (LLM)

The interview schedule was designed in sections A and B. The former for personal details and the later for finding out nature rights to the land where respondents are attached. Then Appendix B: Interview guide B is specifically for Key informants whereas Appendix C: Interview guide is for surveyors, physical planners and land officers in Kayunga. The last part of data instrument collection is the researcher’s observation guide on highlighted issues.

Section A: Personal Details
1. Gender : Male [ ] Female [ ]
2. Are you the head of the household? (a) Yes (b) No
3. If not, relationship of respondent with the head of household….. (a) Wife (b) Uncle (c) Husband (d) Aunt (e) Son (f) Daughter (g) In law (h) Other (Please specify)----------
4. Gender of the head of the household (1) Male (2) Female
5. Age: (a) Less than 20 [ ] (b) 20-30 [ ] (c) 30—40 [ ] (d) 40 – 50 (e) over 50
6. Age of head of household (a) Less than 20[ ] (b) 20-30 [ ] (c) 30—40 [ ] (d) 40 – 50 (e) Above 50
7. What is the main occupation of the people of your community (a) Farming [ ] (b) Fishing [ ] (c) Trade [ ](d) White Collar Job (e) other -------------
8. Have you heard of the term Social Tenure Domain Model? (a) Yes (b) No (b) If yes, what does it mean to you? ---------------------------- If you own land, how did you acquire it? o Bought it o Inherited it o Got it as a gift o Received it as payment o Given by the government o I grabbed it o Other (specify) ______ o Refused to answer
9. What is the most common form of land acquisition in your community? o Purchasing o Inheriting o Gift o Forceful acquisition
10. Which group in the community is the most affected by land ownership problems?
11. Why is this group particularly affected by land ownership issues? -----------------------------------------------
12. Do people have the right to own land in your community? -----------------------------------------------
13. If yes, what rights are attached to land ownership in the community? -----------------------------------------------
14. If no, what prevents the establishment of strong land rights? -----------------------------------------------
15. Are you aware of any laws that govern the transfer, utilization, and management of land? Yes No
16. If yes, are they enforced? ----------------------------
17. If not, what is preventing land rights laws from being better enforced in this community? -----------------------------------------------
18. Do refugees or IDPs have access to land in your area? -----------------------------------------------
19. Have you ever been involved or currently involved in any form of land dispute in your area?
20. Do you know of any person involved in any land dispute? -----------------------------------------------
21. What was the dispute about? -----------------------------------------------
22. When did it happen? ----------------------------
23. Who were the parties involved in the land dispute? -----------------------------------------------
24. What did the land dispute result to? 
25. Which land dispute resolution system did you or the person use? 
26. How often do people in this community rely on traditional elders and religious leaders to solve land disputes? 
27. How often do people in this community rely on courts to solve land disputes? 
28. How would you judge the effectiveness of the traditional elders and religious leaders’ intervention? 
29. How would you judge the effectiveness of the courts? 
30. In your opinion, in which area is land dispute predominant? 
31. Why are the disputes predominant in the area? 
32. In your opinion, who are the main victims of land disputes? 
33. In what ways are land rights protected in the district? 
34. What is the situation of land rights in relation to women and orphans in the district? 
35. What land disputes are you aware of that have occurred in the last 12 months? 
36. What are the main ways in which land disputes are resolved? 
37. How effective are the various forms of land dispute resolution in the district? 
38. What is the impact of STDM on gender related land issues in Kayunga District? 
39. Can the community reap the benefits from STDM? (a) Yes (b) No 
40. How can STDM be improved to resolve land disputes? 
41. What ways would you suggest should be used in resolving the gender and land use rights related land disputes? 

Appendix B: 

Interview Guide for Key Informants 

1. Work location 
2. Position and Work Experience 
3. Are you aware of the Social Tenure Domain model? IF yes what is it? 
4. What were the main causes of the dispute or land disputes in Kayunga District? 
5. Are there different land management and administration frameworks for Kayunga District?
6. Are you aware of the Social Tenure Domain Model (STDM)?
7. If yes, how does it help in reducing land disputes in Kayunga District?
8. What are the legal implications of STDM in Kayunga District? (Probe: in comparison to other existing land administration laws and frameworks?)
9. What are some of the ways in which people in the district acquire land?
10. What women's rights are attached to the ownership, use, transfer and inheritance of land? (probe: If there are rights, how are they protected)
11. What are the legal implications of the STDM as a mechanism of land disputes in Uganda?
12. What is the impact of STDM on gender related land issues in Kayunga District?
13. What is the potential impact of STDM on land rights in reference to reduction of land disputes in Kayunga District?
14. What is the resolution strategy/strategies adopted if known? What measures do you propose for resolving this land disputes?
15. How do various justice systems interact with one another over land issues? If so what is the nature of interaction?
16. Are you aware of any recent interventions apart from STDM supported by the international community that have sought to address the problem of land disputes? (probe: outline some)
17. To the Best of your knowledge, has the government made any recent policy-level engagement on the issue of land management, land dispute prevention and mitigation?
18. What recommendations would law makers, policy makers and development partners on these issues and how best STDM can be used to reduce land disputes?
19. Are there measures being put in place by the government and other stakeholders in land administration to benefit the locals in Kayunga District? [ ] Yes [ ] No [ ] Not Sure
20. Are there specific legal provisions in the measures that are tailored to the development and needs of the communities in the Kayunga District? [ ] Yes [ ] No [ ] Not Sure
21. (b) What are these provisions?
22. Do you think women have locally tried to protect their land rights and what kinds of land rights do they have?
23. Do you think the existing institutions are appropriately and adequately empowered to address women land rights? (probe: Can STDM be an alternative to institutional and legal failures to address challenges women face in land rights in Kayunga?)
24. What are the measures being put in place to end land disputes and ensure land disputes resolution?

Appendix C:

**Physical Planners, Surveyors and Land officers (Kayunga District)**

Discussion Questions
1. What is the situation of land management and ownership in Kayunga District?
2. What rights are attached to the ownership of that land?
3. Are there different land management and administration frameworks for Kayunga District?
4. Are you aware of the Social Tenure Domain Model (STDM)?
5. If yes, how does it help in reducing land disputes in Kayunga District?
6. What are the legal implications of STDM in Kayunga District? (probe: in comparison to other existing land administration laws and frameworks?)
7. Why have lands issues become a source of land disputes in Kayunga District?
8. What are the types, causes and effects of land disputes?
9. What are women's reactions (coping strategies) to it?
10. How can the situation be improved?
11. What women's rights are attached to the ownership, use, transfer and inheritance of land? (probe: If there are rights, how are they protected)
12. How do various justice systems interact with one another over land issues? If so what is the nature of interaction?
13. Are you aware of any recent interventions apart from STDM supported by the international communities that have sought to address the problem of land disputes? (probe: outline some)
14. To the Best of your knowledge, has the government made any recent policy-level engagement on the issue of land management, land dispute prevention and mitigation?
15. What are some of the recommendations to law makers, policy makers and development partners on these issues and how best can STDM be used to reduce land disputes?
Appendix D

Observation guide

The researcher was to observe the following;

A. Land use Patterns
B. Agricultural/Economic activities on land
C. Boundaries and demarcations on land
D. Land Institutions and setup in Kayunga
E. Unused/Free land
F. Extent of Technological appreciation by local dwellers