

# **Securing Land Rights Within The Continuum Of Land Rights Approach: Evidence From Tenure Security Innovation In Kenya, Uganda And Zambia**

**Danilo Antonio, Nelson Marongwe, Hellen Nyamweru, Kenya**

**Key Words:** Continuum of Land Rights, Land Tenure, Innovation, Informal Settlements, Communities, Social Tenure Domain Model

## **ABSTRACT**

The Paper demonstrates the emerging outcomes of land tenure security interventions in informal settlements in Kenya, Uganda and Zambia. The innovations are multi-dimensional, adding new dimensions and forms of understanding on land tenure security and how to improve them. The notion of tenure security pursued in the paper is founded on the continuum of land rights approach. Informed by current land tenure debates where land rights are seen as lying on a continuum (GLTN 2012); the paper stimulates new thinking on the different forms of perceiving land tenure security improvement. To this end, the paper reinterprets, based on the experiences of the land tenure security interventions; community voices and actions, government decisions and actions as constituting key forms of tenure security improvements that occupy space on the continuum of land rights. Accordingly, there are range of actions, steps and decisions on land that are interpreted as having a meaning on the security of land tenure rights (Payne ed. 2002). Conceptually, it is such actions, steps and decisions; as taken individually or collectively by multiple land stakeholders; that this paper interprets as representing different forms of tenure security that lie on the continuum of land rights. Therefore, this paper interrogates, based on land security interventions in Kenya, Uganda and Zambia; what these series of steps, actions and decisions are; and concludes that these represent key steps or elements on the continuum of land rights pathway. A key argument in the paper is that such land tenure innovations are justifiable and 'fit for purpose' in countries where land policy implementation, especially tenure reform, is eak. Further to that, post-conflict countries are best placed to benefit from such land tenure innovations.

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# **Securing Land Rights Within The Continuum Of Land Rights Approach: Evidence From Tenure Security Innovation In Kenya, Uganda And Zambia**

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## **1. INTRODUCTION**

The Global Land Tool Network (GLTN) was established in June 2006 with the goal of contributing to poverty alleviation and the Millennium Development Goals (MDGs), now the Sustainable Development Goals, through land reform, improved land management and provision of tenure security. GLTN Phase 2 Programme (2012-2017) builds on lessons learnt and experiences of Phase 1(2008-2011). In this regard, Phase 2 continues to contribute to secure land and property rights for all through the development of pro-poor, gender appropriate, effective and sustainable land policies, tools and approaches. It focuses on prioritizing, pilot testing and rolling out priority land tools and approaches at country level; integrating capacity development and training into tool development process; implementing capacity building programmes and supporting tool implementation in targeted countries and/or cities/municipalities; and mainstreaming gender, youth, human rights and grassroots in this work on land. In the past years, GLTN partners and stakeholders, including state and non-state actors, have developed and piloted a number of pro-poor land tools such as the Continuum of Land Rights, Social Tenure Domain Model (STDm), Participatory Enumerations and the Gender Evaluation Criteria (GEC), among others. Subsequently, GLTN engagement and implementation of GLTN Tools at country level has gained traction, generating positive results and impacts; hence this paper.

The paper seeks to demonstrate the emerging impacts of land tenure security interventions in Kenya and Uganda. The innovations are multi-dimensional, adding to new dimensions and forms of understanding land tenure security and how to improve them. In essence, the notion of tenure security pursued in the paper is founded on the continuum of land rights approach, a concept that makes it possible to recognize, record and administer a variety of appropriate and legitimate land tenure forms to achieve security of tenure for all (Du Plessis et. al 2016). Informed by current land tenure debates where land rights are progressively seen as lying on a continuum (UN-Habitat/GLTN 2012); the paper stimulates new thinking on the different forms of perceiving land tenure security by embracing the extremities that exist between tenure arrangements. All GLTN tools are built upon this foundation where different tenure systems are seen to operate across the continuum, either by individual and/or group claims, and plots or dwellings within a settlement and may change over time (Antonio, 2013).

To this end, the paper reinterprets, based on the experiences of the land tenure security interventions in Kenya and Uganda (in the context of informal settlements); and Zambia (in the context of customary lands); community voices and actions, government decisions and actions as constituting key forms of tenure security that occupy space on the continuum of land rights. Accordingly, there are range of actions, steps and decisions on land that are interpreted as having a meaning on the security of land tenure rights (Payne ed. 2002). In this regard, a

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situation where communities in informal settlements are increasingly engaging in land conversations to push for their secure land rights is viewed as a positive step on the continuum of land rights. Similarly; the conscious organization and mobilization of residents of informal settlements to, inter alia; resist eviction, seek audience with government over their land rights or demand for service delivery; are viewed as expressions that have meaning in terms of the land rights of the concerned communities. Conceptually, it is such actions, steps and decisions; as taken individually or collectively by multiple land stakeholders; that this paper interprets as representing different forms of tenure security that lie on the continuum of land rights. Therefore, this paper interrogates, in the context of land security interventions in Kenya, Uganda and Zambia; what these series of steps, actions and decisions are; and draws conclusions on the implications of these on the debate on land tenure security. The paper contributes to the alternative debates to the traditional notion of perceiving tenure security as something that can only be proven through some forms of documentation like titles.

The paper is structured as follows. The next section presents a discussion on the research methods, followed by a discussion on innovation in land tenure security interventions, especially the continuum of land rights and its implications on new forms of perceiving security of land rights. This is followed by a brief analysis of the context of land tenure security interventions in Kenya, Uganda and Zambia. The new forms of perceiving land tenure security are presented next, based on and building from the experiences in implementing land tenure interventions. Whilst the focus is on interventions in the three mentioned countries; the section also draws from other work in Eastern Democratic Republic of Congo and Namibia. The paper concludes with a discussion on the implications of the findings on the wider land tenure debates.

## **2. STUDY APPROACH**

The paper was developed using both primary and secondary methods of data collection. As part of an established documentation strategy, GLTN partners have overtime invested in efforts aimed at collecting data that capture, inter alia; the impacts of its land tenure security interventions at community level. Such data collection is an ongoing process, using both primary and secondary methods of data collection. Primary data used in this paper was collected through focus group discussions and key informant interviews with communities and other key stakeholders involved in the implementation of land tenure security interventions in Kenya and Uganda. In Kenya's Mashimoni informal settlements, focus group discussions were held with the Mashimoni Settlement Executive Committee and members of the STDM Technical Team. Further to this, discussions were held with members of the community. In Mombasa, field data collection targeted the Mombasa County Government officials, leaders of the community and members of slum dwellers in the two project sites of Kwa Bulu and Mnazi Moja. Direct observations were also used to record some of the physical attributes and socio-cultural landscapes of the informal settlements. Materials from Zambia are based on the review of project reports prepared by the implementing partners, namely Huairou Commission and its local network organizations comprising of the People's Process on Housing and Poverty in

Zambia (PPHPZ), Zambia Homeless and Poor People's Federation, (ZHPPF) and Katuba Women Association (KWA).

The review of available literature at the community level was also done. Such literature included community records, especially minutes of meetings and relevant communication between communities and outside agencies. The literature review provided factual data on, among other things; background of the settlements, insights on the interactions amongst key partners in the interventions and settlement details like population. A review of key GLTN documentation provided the project context of the intervention while the review of the national land policies and other important documents provided the national context.

A similar approach was used in collecting data from land tenure security interventions in Uganda. Focus group discussions targeted communities benefitting from GLTN's ACTogether-led land tenure security interventions. Key informant interviews, supported by field observations; were the main tools used in primary data collection. In addition to this, background information such as project reports, magazine and policy briefs were collected for review from different actors like Kampala Capital City Authority (KCCA), Ministry of Lands, Housing and Urban Development (MLHUD), Division and Settlement archives, Municipal Infrastructure Development (USMID) project reports, municipal council libraries, ACTogether and the National Slum Dwellers Federation of Uganda (NSDFU) reports among others.

### **3. INNOVATION IN LAND TENURE SECURITY INTERVENTIONS: SETTING THE CONTEXT**

The discussion on innovation in land tenure security interventions has gained momentum in recent years. The trend is a response to the increasingly recognized position that individual land rights recognition are not necessarily the ultimate goal when effecting the tenure regularization of informal settlements (UN-Habitat 2003). In fact, the shift has been towards the creation of "... flexible legal formulae for guaranteeing security of tenure" (FIG/UNCHS 1998: 21). In general, the thrust has been to promote an incremental approach in the search for new and appropriate land tenure security interventions (Payne 1997), as opposed to radical, large scale and rapid tenure reform (UN-Habitat 2003). The search for innovation has been partially influenced by recent debates where land tenure rights are more and more seen as part and parcel of human rights (FAO 2007). Viewed from this perspective, the rights to ownership of land and land registration are seen as legally enforceable human rights. Good governance in land administration therefore calls for approaches that 'enhance a pro-poor and gender sensitive agenda' that prioritizes "...achieving of security of tenure for leases and sharecroppers, the recognition of informal and customary property rights and the development of gender-neutral inheritance rights" (FAO 2007: 10). Against this background, a variety of interventions have sought innovation in terms of advancing pro-poor land tenure security interventions, with the continuum of land rights emerging as leading in that regard. Seemingly, most experts today agree that rights recognition is more important than

land titles. What has not been studied in much detail to date is how poorer people react to the difference in status attached to intermediate tenure instruments as compared to freehold titles (Wehrmann and Antonio, 2011). This paper will contribute in responding to this valid question. In support of land tenure innovation efforts, the UN system; put in place General Comment Number 7 on forced evictions in 1997; as led by The UN Committee for Economic, Social and Cultural Rights (CESCR). Box 3.1 outlines some of the key provisions of the said UN framework on how to manage forced evictions in situations where they are inevitable. In essence, the guidelines also represent a key step on the continuum of land rights pathway.

*Box 3.1: UN Guidelines: actions to follow when forced evictions are unavoidable*

The UN Committee for Economic, Social and Cultural Rights (CESCR) adopted General Comment

Number 7 on forced evictions in 1997, significantly expanding the protection against forced evictions.

While it does not ban outright every possible manifestation of eviction, it strongly discourages the practice and urges states to explore “all feasible alternatives” prior to carrying out any forced evictions.

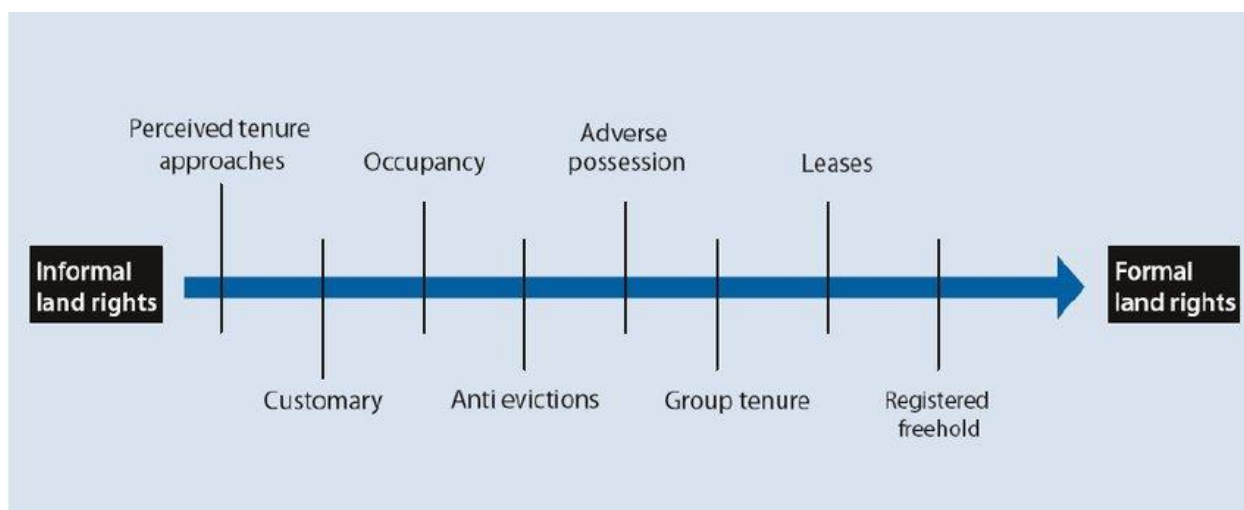
It outlines a series of eight prerequisite procedures, including: (i) offering an opportunity for genuine consultation with those affected;(ii) providing adequate and reasonable notice for all affected persons prior to the scheduled date for the eviction; (iii) providing information on the proposed eviction and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (iv) especially where groups or communities are involved, Government officials must be present during an eviction; (v) all persons carrying out the evictions must be properly identified; (vi) evictions cannot take place in bad weather or at night, unless with prior consent;(vii) provision of legal remedies; (viii) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

Source: Palmer et al (2009: 36), citing Committee on Economic, Social and Cultural Rights, General Comment 7, Forced evictions, and the right to adequate housing (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1997).

To reiterate, the continuum of land rights tool presents rights to land as lying on a continuum (UN-Habitat/GLTN 2012), (see Figure 3.1). “At one end are formal land rights, where the owner is an individual, who holds a set of registered rights to a parcel of land that can be enshrined in law, the parcel is delineated on a map; held in a record office, the owner has the right to occupy the land, build on it, sell it, rent it out, transfer it to his or her heirs, and prevent other people from on to it. At the informal end of the continuum are informal rights: a group of individuals (such as a clan) may have traditional rights to land to use a piece of land. The boundaries of the land may not be clearly marked on the ground or on a map, and there may be

no official paperwork certifying who owns or has what rights to land,” (UN-Habitat/GLTN 2012: 12). In between the two extreme positions are multiple land tenure possibilities. As this paper demonstrates, such land tenure possibilities occur in different forms and contexts, the key ‘take-home’ message being that each of them represents a critical step on the continuum of land rights pathway. Worth noting is that in practice, the rights do not lie in a single line, neither do they follow a particular sequence (ibid). The continuum approach envisages that migration between tenure types is possible, dependent upon and appropriate to the contexts of time, place, history, culture, regulatory and institutional frameworks (Du Plessis et. al 2016).

*Figure 3.1: The Continuum of Land Rights*



Source: UN-Habitat/GLTN (2012).

### 3.1 Exploring Specific Land Tenure Possibilities on the Continuum of Land Rights

Figure 3.1 outlines some of the main notable land tenure possibilities. However, experiences across the globe show that the framework of the land tenure interventions is much wider, occurring in different forms and contexts. The stakeholders involved in pursuing specific innovations in land tenure interventions are also diversified, with both state and non-state agents involved. Palmer et al (2009) make a strong case for land tenure innovation, noting that intermediate forms of tenure in the form of, inter alia; land certificates, rights to occupy and short term leases are increasingly recognized in both rural and urban contexts. “Such rights have extended to people in many countries, including for example Brazil, Cambodia, Colombia, Ethiopia, Kenya, Mexico, Tanzania and Trinidad and Tobago,” (Palmer et al. 2009: 35).

The work of Payne (1997) on New Delhi illustrates some of the illuminating land tenure innovations. For instance, in some situations, innovation, defined by the provision of basic services to the area by a local authority, such as access roads, water and electricity; provided tenure security. However, the study showed that the impact was not uniform; with some

residents still facing forced relocations despite the provision of such services. Payne also notes that the support of a local politician gave sufficient *de facto* tenure security for people to invest in housing. Banerjee (1999a,b) adds the view that in other circumstances, the invoking of litigation processes suspends any possible evictions for as long as the court case remained unsettled, a period that sometimes could extend to decades. Further to this, Banerjee also notes how the repeated actions of NGOs and grassroots movements in confronting governments have limited evictions. In the Philippines, however,

McAuslan (2002) alludes to the role of the law in pursuit of innovative tenure reforms. In crafting legislation on informal land tenure reform, the move towards decentralized approaches in decision making have brought the process close to the people, thereby enhancing accountability. Further to this, wider consultations with stakeholders, especially communities and their representatives; provided spaces for public officials to listen and respond to the views of the people. In practice, such approaches contribute to bottom-up tenure reforms; a situation that contributes to the improvement of the tenure security situation of informal settlements. Anti-eviction laws have also been put in place as a way of strengthening the land rights of informal settlements (UN-Habitat 2003) (see Box 3.2). Box 3.3 presents innovation in the context of Namibia's Flexible Land Tenure Act.

*Box 3.2 Examples of Anti-Eviction Laws that Strengthen Land Rights of Informal settlements*

- These laws provide rules to govern the relationship between land owners (public and or private) and occupiers in respect of the eviction of people from the land and or house they occupy. Landowners must fulfil required procedures over a specified length of time. This usually includes giving the occupants due notice as to their intentions (South Africa, India)
- Land owners cannot arbitrarily evict illegal occupiers from their land and homes. That is, there can be no eviction without negotiation (FIG/UNHCHS: 1998; Banerjee: 1999a,b)
- Eviction is not sanctioned without an option of the relocation of the occupants (Philippines, South Africa, India)
- Minimum periods of occupation are required, or cut-off dates are set, for falling under the protection of anti-eviction laws (South Africa, India)
- Financial and other forms of assistance need to be supplied when squatters relocate, either voluntary or involuntary (Santiago 1998a: 119)

Source: Extracted from UN-Habitat 2003: 11

*Box 3.3: The Flexible Land Tenure Act in Namibia*

The Flexible Land Tenure Act (2012) applies only within the area of a local authority – i.e. municipality, town or village, or area within a settlement area established by a Regional

Council, courtesy of Section 3 of the said legislation. Three of the objectives relate to land tenure innovation, and these are i) create alternative forms of land title that are simpler and cheaper to administer than existing forms of land title; ii) provide security of title for persons who live in informal settlements or who are provided with low income housing, and to iii) empower the persons concerned economically by means of these rights.

In terms of Section 18 of the FLTA, all people who are given land hold title rights in a land hold title scheme must establish an Association, managed by a committee elected by members. Further to this, Regulation 16(2) requires that the land on which a land hold title scheme is to be registered, in other words, a blocker, must be registered in the Deeds Registry in the name either of the local authority where it is situated or in the name of the Section 18 Association. In such circumstances, the block is a registered *erf*, the legal term used in Namibia for a surveyed and registered parcel of land in a declared township. In brief, the Flexible Land Tenure Act provides for two forms of land tenure, namely the starter title rights and land hold title rights. It sets out the process whereby schemes may be established where such rights may be allocated to beneficiaries, while at the same time providing that such rights may be upgraded, ultimately to freehold rights. In essence, the legislation embraces the continuum of land rights approach. That part of a blocker which is not allocated to an individual holder, inclusive of the streets and public spaces; become part of the common property in which every holder of a plot in a land hold title scheme has an undivided share. Effectively; such common property is in reality managed by the Section 18 Association.

“Households living in an informal settlement can obtain a starter title once the boundaries of their blockerf have been identified and registered and the holder’s structure has been marked using appropriate survey technology. This statutory form of tenure gives the holders the rights to perpetual occupation of a site which is defined by such mark and to transfer the right. The landhold title is also a statutory form of tenure which includes similar rights of freehold ownership, without meeting the full subdivision requirements. The plot is defined, which means a layout is to be designed to indicate the boundaries of each plot. It will be possible to mortgage this title. For landhold titles, a land measurer prepares a layout indicating the location of every plot to be allocated as part of the scheme, including streets and any servitudes. The layout should contain relevant information to facilitate establishment of each plot boundary and streets on the ground;”

Source: extracted from Muller et al 2016: 5.

In various developing countries, progress has been made in spearheading innovative land tenure reforms. South Africa’s Development Facilitation Act is a notable benchmark. For instance, it notes that “land development should result in security of tenure, provide for the widest possible range of tenure alternatives, including individual and communal tenure, and in cases where land development takes the form of upgrading an existing settlement, not deprive beneficial occupiers of homes or land or where it is necessary for land or homes occupied by them to be utilized for other purposes, their interests in such land or homes should be reasonably



accommodated in some other manner” (as quoted in McAuslan 2002: 33). Elsewhere, the Tanzania land Act 1999 and the 1995 National Land Policy have also accorded recognition to tenure rights in unplanned urban settlements. Among other issues, the said frameworks state that residents in unplanned urban settlements shall have their rights recorded and maintained by the relevant land allocating authority and that record will be registered (ibid). Essentially, some form of a locally derived land register becomes some form of proof of land ownership, adding to the portfolio of innovative tenure forms. Progress has also been achieved in other countries inclusive of Uganda, Trinidad Tobago and Namibia (McAuslan 2002).

The foregoing discussion has provided the context for understanding land tenure innovation in global and specific national contexts. The next section presents evidence from UN-Habitat’s (Land & GLTN) land tenure innovation in project sites in Uganda and Kenya.

#### 4. THE CONTEXT OF GLTN INTERVENTIONS IN KENYA, UGANDA AND ZAMBIA

This section provides a brief account of the contexts of GLTN’s land tenure interventions in the three countries of Kenya; and Uganda and Zambia. In essence, the interventions are characterized by implementation of the Social Tenure Domain Model (STDM) and the supporting participatory enumerations tools, all of which constitute the continuum of land rights approach to land tenure development. It is not possible in the context of this paper to provide an in-depth discussion of STDM and its supporting tools (see for instance UN-Habitat/GLTN 20012, Du Plessis J et al 2016). In brief, STDM supports all forms of land rights and claims, (formal, intermediate and non-formal); and its design and implementation allows for the accommodation of other tools such as Participatory Enumerations; the Gender Evaluation Criteria; Pro-poor Land Recordation; Fit for Purpose Land Administration; and the Continuum of Land Rights concept.

*Table 4.1 summarizes the context STDM implementation in Kenya, Uganda and Zambia.*

<b>Project Site</b>	<b>Description of site</b>	<b>Implementing Partner</b>
Mashimoni; Kenya;	Informal settlement located in the Mathare District of Kenya’s capital, Nairobi. The land was originally owned by the Government of Kenya through the Department of the Defense Forces but has since changed ownership to Nairobi County Government.	Pamoja Trust Muungano Wanavijiji Wa
Kwa Bulo; Kenya;	Informal settlement, located in Mombasa County in Nyali Constituency, Kadzandani ward. It measures 86.84 acres of land and is	Pamoja Trust Muungano Wanavijiji Wa

	divided into four clusters/ villages: EPCO; Kashani; Timboni and; Msufini.	
Mnazi Moja; Kenya;	Informal settlement composed of 940 structures occupying 10.2 acres, on the edge of Mombasa city.	Pamoja Trust Muungano Wa Wanavijiji
Mbale-Bufumbo & Mission settlements; Uganda;	Mission and Bufumbo informal settlements were selected as pilot sites when STDM was introduced in Uganda in July 2011. A community enumeration was conducted in these two cells where a total of 1,183 households were enumerated.	ACTogether Uganda, National Slum Dwellers Federation of Uganda, Mbale Slum Dwellers Federation
Entebbe-Kigungu settlement; Uganda;	Informal settlements located at the shores of Lake Victoria. It measures approximately 430.4 acres. Geo-spatial enumeration using STDM was conducted on 1,709 households.	ACTogether Uganda, Entebbe Slum Dwellers Federation, Entebbe Institute of Surveying & Land Management
Mbale-Namboozo settlement; Uganda;	Informal settlement located in the Northern Division of the Mbale Municipality. It sits on approximately 40 acres of land and has a population of about 6000 people.	ACTogether Uganda, NSDFU, Mbale Slum Dwellers Federation
Tororo-Naluwerere; Uganda;	Informal settlement located along the Great North Road. It sits on approximately 18.5 acres of land.	SDI, ACTogether Uganda, NSDFU, Tororo Slum Dwellers Federation
Masaka-Katafali, Uganda;	Informal settlement located in Kimanya parish within Masaka Municipality. It sits on approximately 12.7 acres. Approximately 610 households were enumerated using STDM.	SDI, ACTogether Uganda, NSDFU, Masaka Slum Dwellers Federation
Mungule Chiefdom, Zambia	Seven villages of Mungule, Chilete, Mankalu, Mukumbwanyama, Meleki, Mutakwa and Kandeke in Mungule Chiefdom. Data was collected from 308 households and an STDM database with information of enumerated households was established.	Huairou Commission, People's Process on Housing and Poverty in Zambia, Zambia Homeless and Poor People's Federation,

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Chamuka Chiefdom; Zambia	Chamuka Chiefdom is located just outside Lusaka. STDM geo-spatial enumeration was conducted in Bulemu village.	Huairou Commission, People's Process on Housing and Poverty in Zambia, Zambia Homeless and Poor People's Federation,
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Source: Compiled from GLTN Project Documents

Community-managed enumerations (surveys), settlement profiles and maps create the information base needed for mobilisation, action and negotiation (Weru 2004) in land tenure interventions. Accordingly, STDM is built around these pillars. Thus, as discussed elsewhere in this paper, participatory enumerations were key to the implementation of STDM, thereby allowing for the provision of basic information on all individuals and households and the housing structures in the project sites.

## 4.2 Operationalizing the Continuum of Land Rights: The Evidence

### 4.2.1 Community Mobilization for Better Engagement with Authorities

The case for Kenya's Mashimoni, Mnazi Moja and Kwa Bulu show a high level of community organization in urban contexts for better engagement with authorities. Even though the communities are not legal entities, they, with the support of Pamoja Trust, have mobilized the communities to the extent that they have engaged with central and local government authorities in pursuit of, inter alia; secure land rights over the land that they occupy. STDM and Participatory Enumeration tools have aided the community mobilization, acting as the main vehicle that communities are using to pursue secure land rights improvement. Community views have since confirmed how mobilization has aided government in sensitizing residents on; among other issues, "planning regulations, what should be built and where not to build, and planning standards on road construction and planning of open spaces;" (Source: Community Interviews, 7<sup>th</sup> February 2017). A review of the communication by the communities shows that they have consistently and persistently made concrete demands to several government entities that include the Ministry of Land Housing and Urban Development and the Department of Defence. In addition; correspondences exist between the communities with other public agencies like the National Land Commission, the Parliamentary Lands Committee; Mombasa County Government and the City Council of Nairobi. Some of the communication date back as far 2009, confirming a long history of community efforts to fight for secure land rights. In some cases, the communication preceded the entry of both Pamoja Trust and STDM implementation, a sign that momentum had started to build based predominantly on the initiative of the communities alone. In the case of Mashimoni, the community has designed its own logo, and all correspondence is on the 'official letterhead' of the 'organization.'

As an illustration, the Mashimoni Community wrote to the Ministry of Defense in 2011 to press for their demands. ‘We are squatters in the mentioned parcel of land (Land Allocation L.R. No. 36/3) and have lived there for more than three decades now and currently are facing eviction from grabbers from outside our settlement. In mitigation of this calamity, we have organized ourselves as a community of Mashimoni No. 10 as Muungano Wa Wanavijiji Mashimoni No.10 Group with the support of Pamoja Trust, an NGO. We have been organizing as a community since 2008 and have conducted an enumeration exercise, organized the community around savings for construction and upgrading. We are on the verge of conceptualizing planning for the settlement in line with the Vision 2030. Through this letter of introduction, we seek your office’s intervention in securing security of land rights to enable us to realize our dream. For this reason we seek an appointment for further deliberation on the above,’ (source: A Letter from Muungano Mashimoni No. 10 Group, dated 27<sup>th</sup> April 2004, addressed to the Ministry of Defence).

Notable is the fact that subsequent communications have used statistics from the Enumeration Survey to show the magnitude of the problem to the authorities. One such communication in Mashimoni showed that surveys had revealed that there were about 1 100 households with 5 000 people, occupying about 1 400 rooms. In response to the communication, the Office of the President requested that the report be forwarded to their offices. This shows growing recognition of the communities by the authorities. Several letters written by communities to the authorities even cite the constitutional provisions that promote the rights of citizens. Also, a review of minutes of meetings shows dialogue between residents of informal settlements and planning officials from the Department of Physical Planning; Ministry of Lands, Housing and Urban Development, Nairobi County. Against this background, it is safe to conclude that analysis of community records confirms the argument that communities are increasingly engaging in land conversations at the national levels. In the communication, communities often make a strong position on their likelihood to face eviction in the event that the authorities delayed in meeting their demands. Even more important is that such community led land conversations have ‘warded off’ potential evictions.

Similarly, remarkable results were achieved in Uganda. The settlement profiling, mapping and enumeration processes played a critical role in organizing communities to understand their needs, priorities and capacities. The active participation of communities ensured that the government implements projects that have been prioritized by the communities and inevitably, communities need to be aware of their needs for them to effectively engage in such discussions. Several activities have been implemented to achieve this. Municipal development forums and settlement forums were put in place to promote dialogue, participatory planning and implementation of development programs among all key stakeholders in municipalities, targeting the urban poor and landless. These forums brought different stakeholders together including municipal officials, the MDF, ACTogether/NSDF members, academia, and community members from several settlements to develop inclusive alternatives to the urban challenges which include evictions and relocations.

Mobilization of the local community, traditional leaders and local authorities has been key in making the intervention in Zambia a success. In Mungule chiefdom where the STDM was first introduced, a series of community dialogues were held in each of the seven villages; Kandeke, Manakalu, Mungule, Meleki, Mutakwa, Mukumbanyama and Chilete to introduce the STDM tool and process, recruit community volunteers to train on STDM and carry out the STDM activities, and generally to gain community support (ownership of the process). From these community meetings, a formidable STDM Steering Committee was established in Mungule to conduct the STDM activities (enumeration, mapping, and data entry) in the seven villages of Mungule chiefdom. Similarly, a series of community dialogue sessions were held in Chamuka Chiefdom, Bulemu village to mobilize and sensitize residents on the STDM tool and process. They were conducted in the form of open debates about the customary land administration in the village and in the Chiefdom as a whole, and as such, provided a platform especially for women to freely speak about the existing barriers to land access and ownership. The discussions also provided an interactive space between His Royal Highness Chief Chamuka and his subjects as villagers discussed about boundaries and land parcels. It is worth noting that during the data collection process, there were deep-seated village boundary disputes amongst Headperson Bulemu, Headperson Kaputula, Headperson Kafungalubala, and Headperson Shipunga. However, due to the participatory nature of the STDM process, these boundary disputes were amicably resolved through a series of consultations with the Chief, Palace Committee, and residents in the respective villages, (Zambia STDM report, 2016).

#### 4.2.2 Profiling of Informal Settlements: The Foundation for Improved Security of Tenure Interventions

The process of settlement profiling and collecting data using STDM has laid the foundation for effecting improved security of tenure in informal settlements. With the support of and in partnership with County authorities; the process has facilitated meetings to discuss how tenure security improvement initiatives for communities in selected sites in Nairobi and Mombasa can be operationalized. Through such processes; stronger community ties have been built among its members at various levels, thereby laying the foundation for mobilizing slum dwellers to pursue improved security of tenure with a united strong voice. In addition, an inventory of informal settlements in Mombasa and elsewhere was developed in line with the ongoing slum upgrading programs in Kenya that required cities to affect a situation analysis of their respective slum settlements with a view to generating relevant information that can be used in the upgrading of informal settlements. A key output of the situational analysis was the inventory of informal settlements; put together in collaboration with the National Land Commission and the County Government of Mombasa. The inventory is expected to inform upgrading processes, providing first-hand information on the informal settlements and villages in Mombasa. Data provided in the inventory report covers parameters of informal settlements relating to, inter alia, location, population and housing, land tenure, access to infrastructure and social services as well as livelihoods means. More specifically, development of the inventory provide a basis for the National Land Commission to develop interventions using STDM that address land tenure

security within the profiled settlements; while at the same time serving as an advocacy tool for recognition and inclusion of informal settlements in the county strategic plan.

In Uganda, community members; with assistance from ACTogether and the National Slum Dwellers Federation; digitized existing structures from the available satellite imagery and produced initial maps. Using the printed map, assigned enumerators numbered all existing structures and houses in the slum settlements using a unique code. Each and every physical structure in a settlement was assigned a unique code/number that was reflected on enumeration and mapping sheets. All structures including households, business structures, toilets, & community centers were numbered. The exercise helped the community to better understand the services available to residents in their settlement. The same intervention was also implemented in project sites in Kenya. Elsewhere in Mungule Chiefdom in Zambia, settlement profiling and geo-spatial enumeration was done using STDM. Community information from seven villages; Mungule, Chilete, Mankalu, Mukumbwanyama, Meleki, Mutakwa and Kandeke were collected and later validated by resident villagers including headpersons in a series of community dialogue sessions. An STDM database bearing information of 308 households was established. Further to that, STDM implementation was also extended to the Chamuka Chiefdom, leading to the collection of community information from forty (40) households in Bulemu Village. This information was later validated by the local community and the headperson; with the support of local leadership and other relevant central and local government officials.

#### 4.2.3 Community Voices on Land Tenure Innovations

In general, communities acknowledge the significant role of land tenure innovations in improving their land tenure security situation. Community voices from Mashimoni are particularly instructive. In the words of one female resident; “STDM data gives chance to women to prove ownership of property in the same way as men because it records these structures, pieces of land etc. and shows who has rights on that property,” (Community Interviews, 7 February 2017). Another important observation from the community was that “...we are happy because with STDM, data is stored in a system and can be backed up in many formats. A book might get torn but with STDM recorded data means it will always be there as a back up to land claims that come about,” (Community Interviews, 7 February 2017). An even more straight forward statement made by one member from the community noted that “Our only tenure security for now is STDM data. Now with the data, it is compact and shows the structural owners/ land lords and tenants; and also it shows the size of land. You cannot tamper with this and it can help resolve the issues coming up after this fire.” The same sentiments were shared by another resident. “Fire outbreaks in Mashimoni are common, cases of people encroaching on peoples land and constructing is also common but with STDM, recorded data shows who owns what, who was where and from when. Now, the Settlement Executive Committee is now recognized by the Chief, when people lodge complaints at the chief’s office, the committee is called to resolve the situation using STDM data” (ibid). As reported elsewhere in this paper, STDM data proved critical in, among other things; lobbying for service provision

and reclaiming of land in the aftermath of fire outbreaks. In their own voices, communities have confirmed how STDM data has contributed to notions of improved tenure security in their local contexts.

#### 4.2.4 The Issuing of Certificates

To date, the epitome of STDM implementation has been the issuing of certificates to some of the profiled households in Kenya and Zambia. In Kenya, the issuing of certificates took place in the context of informal settlements in urban areas, while in Zambia; it took place in customary land in rural contexts. On the 19th of July 2017, residents of Kwa Bulu Settlement, Nyali Constituency in Mombasa County were issued with more than 1,000 Certificates of Occupancy, ending many years of tenure insecurity and fear of forced evictions. Indeed, community voices from the recipients of certificates confirm the added notion of tenure security on the part of the people (see Box.)

##### *Box 4.1: Selected Voices of Recipients of Certificates in Mombasa*

One resident made the bold statement: “The certificate is the first of its kind; it is the only land document that I have held in my 19 years of living here. It makes me feel that the government is recognizing me as a citizen of Kenya and as a person with property rights. You see in the past, even with knowledge of the Kenya land law that recognizes people who would have lived on a parcel of land for more than 12 years as having the rights on that land, still groups of people came to evict us. This certificate is going to protect me... It is already helping us to push for improved access to other basic necessities as such as piped water, drainage services, access roads etc. The STDM certificate makes me feel much safer than before. It is a legal document from the County Government of Mombasa. I have no doubt now that those who come to Kwa Bulu thinking of evicting us, will think twice, because they know I have information to back my claim over this land.”

Another recipient noted that “I have lived in Kwa Bulu for 25 years and I am a member of the Lands Committee. In those years, I have come face to face with evictions and there is one I can never forget – that of 1997 when we were evicted in the El Nino season. Women and children suffered most, out in the cold and mosquito infested floods. The eviction issue was taken to court but the residents of Kwa Bulu lost the case.”

Yet another recipient had this to say; “This certificate has put us at another position that nobody ever dreamt of. For us to have this document that shows that we belong here, it is a big achievement. We feel secure, a little bit secure... and our end goal is acquiring land titles for our pieces of land. People in the area are even constructing permanent houses now. Profiling under STDM has really assisted the government in identifying and registering all persons here.”

Source: Interviews with recipient of certificates, July, 2017

In Zambia, a total of 40 customary certificates were successfully issued to the households of Bulemu in November 2016. Besides bringing attendance from the Bulemu village who attended in large numbers, the issuing ceremony brought together partners from the land sector in Zambia who included: the Permanent Secretary Ministry of Housing and Infrastructure Development; Chairperson of House of Chiefs; former Chisamba Member of Parliament and Headperson; Chisamba District Chairperson; Director Chiefs Affairs; Ministry of Chiefs and Traditional Affairs; Chisamba District Commissioner as well as the UN Habitat/ GLTN technical officers. The event was aired on national television thus expanding the traction of awareness on STDM tool and processes.

#### 4.2.5 Establishment of Four Learning Centers in the Municipalities of Masaka, Entebbe, Tororo and Mbale of Uganda

In Uganda, implementation of land tenure security interventions led to the establishment of four learning centres, within the Municipal Councils' building, that play a critical role in upscaling STDM usage to more municipalities. These four learning centres are now serving as anchors of activity and learning in 14 cities in Uganda. The data centres were equipped with computers, printers and cameras to promote co-management of information between communities and professionals. The retooling further allowed the building of capacity for municipalities, communities and Municipal Development Forums in analyzing and using available information. Also, it promoted information sharing and access for all stakeholders to inform engagements at settlement and city level and to improve accuracy of planning data through regular updating processes. In Mbale, STDM has supported planning of the town and schools and most Mbale physical planning departments use the tool for data collection, and the findings enlighten the decisions of the Municipal Council in regard to the provision of service and planning of urban slums.

#### 4.2.6 Increased Visibility of Residents of Informal Settlements

The immediate impact of the enumeration surveys and mapping have been the increased visibility of residents of informal settlements to both government and services providers. Respective national governments are now apprised of the state of the settlement, especially the demand for social services. For instance, because of the availability of planning data for Mashimoni (e.g. population of the area and its implications for service provision), Mashimoni residents have transformed themselves into a constituency that planning authorities cannot continue to ignore. In their own words, residents of Mashimoni have since earned a 'voice' in planning issues pertaining to the area. During key informant interviews in Mashimoni, one woman even noted, "We are the people planning for Mashimoni." Another woman noted, "... enumerations captured social-economic data which is being used to plan what is needed in Mashimoni, ranking the needs by priority. Roads were the first priority, followed by water, sewer lines and electricity being the last. Access roads construction is on-going as well as water," (source: community interviews, 7 February 2017). Indeed, Mashimoni residents, through a common voice, have managed to secure the provision of services in the area. Notable achievements were the construction of a sewer line for the area and the connection of power



supply. Further to this, the road passing through the area was a major breakthrough in terms of securing services for the area. In Mnazi Mmoja, communities recounted how the mobilization and advocacy work that was supported by Pamoja Trust eventually resulted in the supply of clean water for the area.

For the Mashimoni community, documentation was shared with KISIP officials that facilitated identification of actual beneficiaries for the tenure regularization process. The data sharing process and the data format were acceptable to the authorities who could easily verify the beneficiaries' information. The model has simplified the organisation of community data for easy management. The retrieval of data is fast, and information can be accessed on demand. The community information systems provided a basis for negotiation since each individual could be referenced to a given structure on the map. The information system allowed recording of tenants and structures owners which provided a complete picture of the situation on the ground. In addition to the production of maps, a photo of the household members and the national identification documents were recorded as an attachment to the collected data.

At some stage, Mnazi Mmoja settlement was under an imminent threat of eviction and the county officials needed an action plan to resettle the community. Data collected through the application of STDM was able to deliver a list of potential beneficiaries and their tenure arrangements. The data shows 2,484 families occupying structures on 10.2 acres of land. A spatial database containing this information was also given to the officials in the county government. At the time of writing this paper, plans were underway to implement the resettlement plan in a process that would have stalled without accurate and adequate information. The success experienced in Mnazi Moja has resulted in the adoption of the model for profiling of the entire County as led by the county's chief physical planner. The information collected is expected to inform the officials on the measures to undertake for upgrading the settlement in a participatory and inclusive process. Communities are tasked with the role of updating and managing the information system setup at the local centres. This has contributed to the development of a harmonious working relationship between community members and the local council.

#### 4.2.7 The Promotion of integrated and inclusive planning of cities through participatory approaches.

Implementation of the STDM intervention has enabled the slum dwellers and municipal councils to plan together on how the informal settlements should be upgraded. In Uganda, each of the four towns (Mbale, Tororo, Masaka and Entebbe), municipal officials, local leaders and community members met to agree on a settlement to be used as a learning ground for participatory settlement planning which led to the identification of 4 settlements that have been planned using STDM data. Remarkably, the physical development plan for Kigungu settlement was developed based on the community priorities identified in the settlement forums and the enumeration data. The plan was drawn by planning students from the university with input from the community in Kigungu, ACTogether and the NSDFU.

Effectively, the project has supported the communities to sit with their municipal council leaders to develop realistic slum upgrading plans. Experience has shown that where municipal councils sit on their own to plan for upgrading, these plans often leave out the priorities and also fail to meet the expectations of the intended beneficiaries. Through this participatory planning process, several slum dwellers are going to be recognized by the municipal plans, paving the way for delivering security of tenure through for instance; issuing of appropriate land ownership documents and Memorandum of Understanding between slum dwellers and land holders/land lords. In Mashimoni, residents acknowledged the strong partnership between communities and government through the Kenya Informal Settlements Improvement Project (KISIP). “KISIP has for instance advised on roads passing in Mashimoni, people were proposing narrower roads but KISIP could not have that because planning laws have to be observed;” (source: Community Interviews, 7 February 2017). In order to demonstrate the impact of the socio-economic data, communities referred to it as a ‘bargaining tool.’ Even more remarkable was the statement, “STDM generated data is a weapon.”

In Uganda; an important achievement to date has been the mapping of Kigungu, Namboozo, Naluwerere and Katafali settlements using the STDM. Basing on community knowledge, residents of the different settlements were able to come up with sketch settlement maps while making further proposals on aspects they would want included in their settlement. This phase involved practical learning through participatory field training. Community members were also trained on how to use GPS machines in order to identify their settlement boundaries and services within. The collected data was later used to generate maps showing settlement boundaries, services distribution, road network pattern and development proposals for the identified slums in the four municipalities.

Each and every physical structure in enumerated settlements was assigned a unique code/number that is reflected on enumeration and mapping sheets. All structures including households, business structures, toilets, and community centers were numbered. In addition to aiding land administration, this exercise also helped the community to better understand the services available to residents in their settlement.

#### 4.2.8 The Use of Enumeration Data as a Regulatory Instrument

The application of Enumeration Surveys in Kwa Bulu and Mnazi Mmoja in Mombasa has been instrumental in controlling the influx of people into the settlements. The Mombasa County Government noted that prior to the implementation of Enumeration Surveys; some settlers would squat in more than one settlement, shifting from one place to the other for their own individual gains. Thus, it was possible for such groups of people to be issued with certificates of occupancy in one place, after which they would move to the next settlement in search for the same documentation. This practice was described by County Officials as ‘professional squatting.’ With the application of Enumeration Surveys and the subsequent establishment of data bases, this practice has been reduced as double allocations can easily be identified. “With the STDM software on information management, we can easily catch the offenders. ...To us, STDM is not a tool for professionals only, but for everyone with some basic IT knowledge,”

retorted an official with the County Government of Mombasa. In an effort to emphasize the simplicity of the STDM data infrastructure, it was noted that even ‘barefoot professionals’ can manage the system at the community level (Interview with Mombasa County Government officials, 9 December 2015). In Mombasa, the enumeration of all informal settlements has since been completed. During community interviews; some residents noted ‘...STDM helps in planning. It also helps in establishing-who is here, who is here rightfully, who was here and moved, who just moved in, who is encroaching etc..’ (source: Community Interviews 7 February 2017.)

*Box 4.1: Kwa Bulu Informal Settlement in Mombasa*

Occupying privately owned land, residents of Kwa Bulu are largely the ‘structure owners’ (i.e. people who erected structures and are resident there) and not tenants. Two enumeration surveys were completed in 2014, one in October and the second in December of the same year. Having been mobilized on the application and relevance of the STDM, and keen on securing some form of secure land rights, the motivation for the enumeration survey was to identify the settlers eligible for inclusion in the programme. In brief, the community needed to know who would benefit from the issuing of ‘secure land rights’ in the informal settlement. Pamoja Trust led the whole process, and all the data generated remains in its custody. The first round of enumeration surveys had missed on a number of settlers for various reasons and hence the reason why the second enumeration was done. The second round of enumeration surveys included the use of GIS in mapping the area. Two verifications were done following the enumeration surveys. The first was done by the community with the intention of making sure that everyone was included in the process. The second was initiated by the Mombasa County Government with the intention of checking that all registered people were indeed based in Kwa Bulu settlement. In the words of one County Government of Mombasa official, the Enumeration Survey produced evidence on ‘we found you there. Whoever comes thereafter will not be recognized as the bonafide settlers of the area.’ For the community, the Enumeration Surveys defines who has got the right to get the Certificate of Occupancy. Residents of the area talked about having stayed in the area for decades without any form of services. Spaces that were left for road construction, as well as open spaces, were subsequently occupied with the influx of new people. The Enumeration Survey is now being used to control the in-migration of people into the community. Indeed, the County Government has initiated efforts to purchase the land. The next stage planned for is the provision of services in the area.

Source: Field Data, December 2016.

From Box 4.1, it is clear that data from the Enumeration Surveys was now being used to control the influx of people into Kwa Bulu settlement. It is also being used to weed out malpractices

by some settlers, especially those who seek to access land from more than one informal settlement.

Discussions with communities in Mashimoni, Kwa Bulu and Mnazi Mmoja confirmed that following the implementation of STDM – especially the implementation of Enumeration Surveys and verification of the data, mapping and the issuance of certificates of occupancy, land has since increased in value. Structures owners also increased investment on the land. In Kwa Bulu, structure owners reportedly increased rentals following completion of the said activities. An important point raised in Mashimoni was that the introduction of the STDM has contributed to the reduction of the incidences of conflicts. With aerial maps in place and the data base operational, incidences of conflicts in the area have been minimized. The data base contains details pertaining to household name, ID number, structure number, photo of household members, number of people staying in the house and the respective phone numbers.

#### 4.2.9 Data Centres and Data Bases for Improved Management of Local Records & Revenue Generation

The discussion in the preceding section showed that data from Enumeration Surveys has been converted into a data-base of settlers that is being used to control the movement of people into the settlement. A key output in Mashimoni has been the establishment of the Mashimoni Resource Centre. In addition to its use for data storage and as a meeting place, the Mashimoni Resource Centre is also used as a library and for learning sessions. The Mombasa County Government made reference to their intentions to establish a data centre in the community. That way, communities will be capacitated to manage and update local transactions, especially transactions on the change of ownership of land/structures following market sales. Such community data centres present the best opportunities for the development of decentralized land administration records. In fact, it is appropriate to argue that the GLTN Tools have actively contributed to the decentralization of land administration systems and the realisation of good governance in the land sector.

With the use of STDM, Mombasa county government will to some extent be able to generate more revenue from the slum dwellers. The slum dwellers who live in urban public land have been turned into a major revenue source for Mombasa local government council through the payment of taxes of some form. An important remark passed by the Mombasa County Government was that the “STDM training in Addis Ababa has taught us that Enumeration Surveys can help us to expand our revenue data base.” Accordingly, the intention of the local authority was to use the instrument to register people in the more than 70 informal settlements in Mombasa. Ultimately, residents of informal settlements, commonly referred to as ‘tenants at will;’ will be required to pay the appropriate form of taxes, with the revenue being used to invest in service provision in the same areas.

It is also evident that implementation of STDM has provided the space for the development of local records. The three communities targeted for review in Kenya’s STDM – Mashimoni, Mnazi Moja and Kwa Bulu, are characterized by a wealth of information that captures various

aspects of the community. Such information includes, inter alia; community registers, minutes of meetings and communication to and from various partners. What is even more remarkable is that communities have developed their own filing system for keeping their local records.

With strong partnerships existing today, Mashimoni has totally changed in terms of infrastructure and the general conditions. The use of STDM has greatly helped in the capturing of data of the dwellers and their structures. STDM has helped provide low-income groups with an affordable and intuitive tool for creating and managing land records; thereby supporting the implementation of the continuum of land rights approach. These social tenure-based land records complement the formal land administration records, and have the potential to be improved, linked and integrated into the Government of Kenya formal systems depending on the land information purposes and needs as they evolve at country level.

The use of STDM technology as a land information tool by GLTN is offering an alternative land administration system in a way that is pro-poor and gender-sensitive; affordable and sustainable. The STDM tool is interactive; with more women, men, and youths being able to interface with the tool, using the computer applications to record land relationships. As a result, this has greatly reduced land conflicts within the slum settlements and increased community empowerment and participation in negotiating their rights with authorities and the land owners.

#### **4.3 Insights from the Wider Context of GLTN's Land Tenure Security Interventions: Land Mediation in Eastern DRC**

The foregoing discussion has presented field evidence, based on the GLTN land tenure interventions in Kenya, Uganda and Zambia; on key steps and actions on the pathway of innovative land tenure reform. This section provides a brief analysis of the wider context of GLTN's land tenure security interventions particularly in DRC. It discusses the land mediation in DRC as key step on the pathway of the continuum of land rights. In partnership with UNHCR, UN-Habitat's work in the land sector in the Democratic Republic of Congo (DRC) dates back to 2009 following a request to address land issues as part of the stabilization and peace building process. It was part of the UN response to implement the Goma Peace Agreement, signed in January 2008. The agreement set the scene for the return of DRC refugees living in neighbouring countries under the supervision of a tri-partite UNHCR committee. The major aim of this initial phase was to systematically address land conflict through mediation in return areas for the reintegration of IDP's and refugees. Overtime, the intervention broadened to address the root causes of land disputes, often characterised by the displacement of communities by large land owners.

Evidence shows that a very significant output of the land mediation has been the signing of Peace Agreements by the parties to the conflict. Other key stakeholders act as witnesses. A key observation is that land mediation has helped in stabilizing the situation, thereby allowing peace to return and parties to the conflict to work on the land. In Rutshuru, Peace Agreements were signed in Shinda Gomero, Biruma and Cooperative Cookuka. Where Peace Agreements have been signed, key signatories were: parties to the conflict or their representatives; the local chief,

UN-HABITAT and any partner organization that would have been part to the land mediation process. In appreciation of the impact made, the general perception from the communities is that the interventions should go a step further to help the communities to process land ownership documents with a more authentic legal standing. In the view of the communities, this is seen as key to lasting land tenure security for the communities. In this context, it is evident that land mediation is in fact; a key step on the continuum of land rights. The recently completed Mid-Term Review of GLTN's Phase confirmed the impact of land mediation.

Up until 2006, Luhonga in Masese Territory North Kivu Province suffered severe land conflicts and frequent forced displacements emanating from land disputes between powerful concessionaires (holder of a concession for the use of land) and local communities. In 2009, through UN-Habitat's land mediation interventions, one concessionaire agreed to a participative re-measurement and demarcation of 24 hectares of land and subsequently released it to the local inhabitants of Luhonga. Today, Luhonga hosts approximately 609 returnee households of previously displaced inhabitants who are working with the local administrative authority, the customary chiefs, North Kivu's Provincial Land Ministry to create a community inventory on land rights to protect these communities from illegal eviction, harassment and other threats. These communities recently finished conducting participatory household enumerations and mapping exercises using the STDM. Validation of the harvested data is also complete from the community's side. Discussions with the District Land Administration Authority on the semantics and layout of suitable documents to be issued to the enumerated households, to recognize their rights on the parcels are ongoing. A local STDM project steering committee whose members have been drawn from the community leadership and two representatives from Masisi District Land Administration office was set up prior to commencement of these activities. This committee has been providing local leadership and coordination in the capacity development and enumeration processes as well as engagement with the various stakeholders including local land administration authorities and NGOs. The steering committee in turn nominated 15 enumerators trained in conducting enumerations and mapping using hand held GPS receivers.

STDM has been acknowledged by North Kivu's Provincial Land Ministry as well as the community members as an important tool for the inclusion of the marginalized in the land tenure and property rights debate; a basis for achieving priority developmental goals. This is a positive spin to the continuum of land rights debate where the struggle for control over land has resulted to great human suffering in the past. The recently completed Mid-Term Review of GLTN's Phase confirmed the impact of land mediation in the DRC, "The awareness created at the community level is substantial and irreversible. It has led to increased negotiating power of peasants vis-à-vis the authorities and big land owners, to women accessing land where their rights were previously unacknowledged, and to peace and stability in communities that were plagued by conflict for many years. It is observed that big land owners cooperate with the participative mediation process and agree to grant access to or confer land to community members," (MDF 2016, pp 28-29).

## 5. DISCUSSION & CONCLUDING REMARKS

The paper has provided evidence on some of the emerging land tenure possibilities on the continuum of land rights pathway. Community voices have further confirmed on both the existence and contribution of such land tenure innovation in contributing to improved notions of land tenure security. However, it must be noted that all the steps, actions and decisions as discussed in this paper; are expected to lead to a final situation where land rights are documented, formalized and recorded. For instance, pertinent observations were made by the communities. “If you do not have a paper showing/proving you own the land then it is not yours. You cannot pass it to your next of kin or children.” “It is that paper showing that ‘I am in charge, I own that place and nobody can push me out.’” Whilst acknowledging the emerging impacts of GLTN’s land tenure innovation, it is clear that communities still expect a further upgrading of such land tenure arrangements through the receipt of a tenure instrument or document approved by government authorities.

This Paper has argued that the establishment of national legal & policy frameworks and activities supportive of land tenure innovations are also perceived as a key step on the continuum of land rights. The case of Namibia presents an incremental approach to the continuum of land rights and as such tenure legalization/tenure security using the block system in an informal settlement. The National Government has taken steps to implement the continuum concept in order to meet the needs of the urban poor. This is put in place using three types of tenure evidenced by certificates. First is the ‘starter’ title which protects informal settlers from evictions and gives them secure inheritance rights; second is the ‘landhold title’ which gives rights in perpetuity for a specific site and with most of the rights of freehold and finally the freehold title which is basically an upgrade of the land hold title. GLTN tools; the STDM and participatory enumerations provide strong building blocks towards this by ensuring there is an inventory of community data which can be regularly updated to facilitate the process of issuing these titles which can subsist independently. It also assists in the organization and mobilization of the communities that are necessary for sustainability and capacity development.

In Kenya, national responses, inclusive of KISIP; have been supportive of the upgrading of informal settlements. This has set the pace for the development of much more responsive approaches at the County level of government. The continuum of land rights approach is clearly brought out in the case of Mombasa’s informal settlements where the County government has endorsed local initiatives (participatory enumerations and STDM) and embedded this in the legal, institutional and governance environment by drafting the Mombasa County Land policy which demonstrates the explicit protection of informal settlements and squatter communities. This policy is presently being fast tracked for parliamentary debate and features prominently in the current Mombasa County Government Annual Development Plan for the financial year 2016-2017. Together with Pamoja Trust, the County Government of Mombasa has completed a study on the inventory of informal settlements. The two worked together on the issuing of certificates of occupancy to residents of informal settlements that occupy government land. This is a clear indication of the application of the continuum of land rights.

It is also remarkable that the County Government of Mombasa has moved in to purchase the privately owned land where Kwa Bulu settlement is located. For the authority, the Enumeration Survey has established the bonafide settlers who will benefit from the formal land allocation. It is also worth noting that the County Government of Mombasa was highly receptive of the STDM, and was looking forward to establishing community data centres. This discussion shows that STDM and its sub-components have been embraced in local government frameworks. This is further supported by the evidence that the servicing of informal settlements is under way. Working directly with local government systems may even speed up the adoption of land tenure innovation on a massive scale, thereby guaranteeing its sustainability. This is in sync with the recommendations from the 2015 GLTN Partners' Meeting. As discussed earlier on, communities are increasingly engaging in national land conversations, another positive indicator on the sustainability of the momentum built by the land tenure innovations. At the same time, uptake by national and county governments is taking shape.

The Kenya Land Act which came into effect in August 2016 provides a huge opportunity for informal communities such as the Mashimoni community to explore communal tenure which can help legalize informal tenure, minimize relocation and prevent gentrification by introducing collective titling. This however redefines relationships amongst communities and that with their governments as shaped by the negotiations and decision reached. In this way, competing claims to land within the community can be negotiated, especially if community data collected is periodically updated to clearly show who belongs where and for the purposes of avoiding local conflicts between existing structure-owners, tenants, local elites and politicians who might want to frustrate the process so as to benefit from this prime land. Collective/communal/group tenure offers an alternative tenure approach in the upgrading of informal settlements. The Kenya Informal Settlements Improvement Project program, currently ongoing and working with the Settlement Executive Committee (SEC) brings in the much needed funds and expertise for investing in this direction in Mashimoni. In Uganda, there is clear evidence on the application of the continuum of land rights approaches in national land policy frameworks, focusing mainly on customary land. In that regard, the National Land Policy of Uganda states in explicit terms that the state will, among other things;

- i. Issue Certificates of Title of Customary Ownership (CCOs) based on a customary land registry that confers rights equivalent to freehold tenure;
- ii. Facilitate conversion of customary land which is already privatized and individualized into freehold tenure;
- iii. Document customary land tenure rules applicable to specific communities at the district or sub county levels;
- iv. Promote systematic demarcation as a measure to reduce the cost of registering rights under customary tenure.
- v. Make an inventory of common property resources owned by communities and vest these resources in the communities to be managed under their customary law.



In essence, the above mentioned provisions are evidence of the application of the Continuum of Land Rights approach in the National Land Policy of Uganda. The land policy discourses in the country have already warmed-up to the use of STDM in land registration (Ministry of Lands Housing and Urban Development 2016)

Table 5.1 summarizes, based on GLTN’s experience with land tenure innovation, some of the key steps and actions supportive of the continuum of land rights approach. This framework is highly consistent with experiences elsewhere with land tenure innovation interventions. This has been argued in Section 3 of this paper. In particular, the paper has provided further evidence on the land rights innovation as argued by scholars like Payne ed (2002); Kundu (2002) and Palmer et al 2009.

*Table 5.1: Restating the Key Steps and Actions in Support of the Continuum of Land Rights Approach*

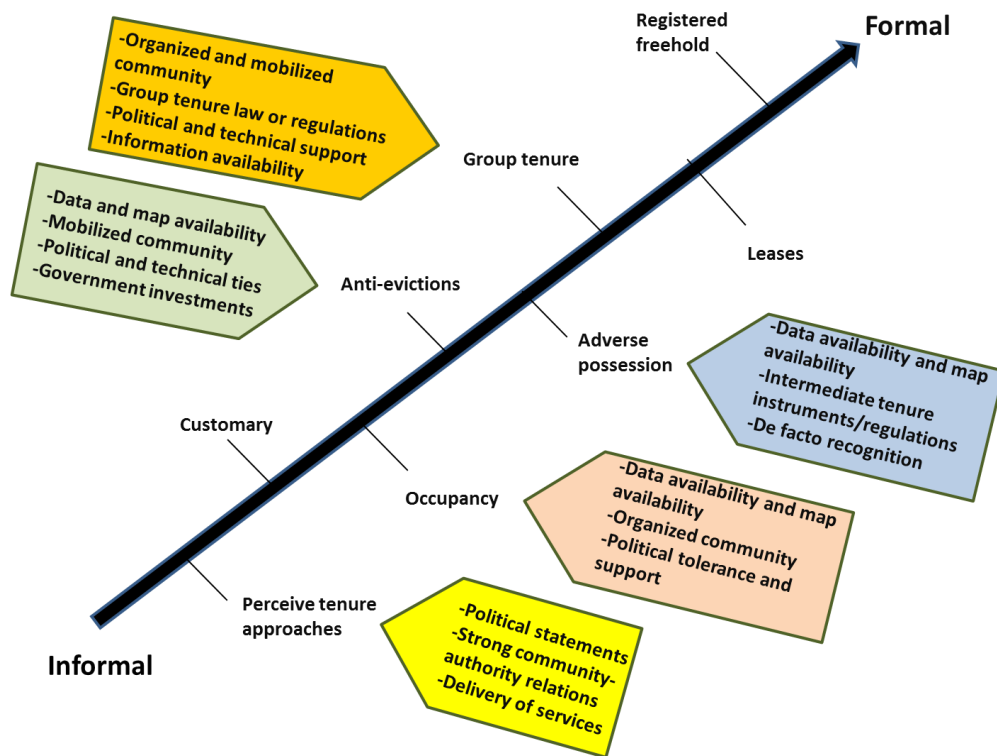
Action/Step	Impact of Tenure Security (Within the Land Rights Continuum)
Completion of Enumeration Surveys	In both Uganda & Kenya project sites, enumeration surveys & settlement profiling have provided useful planning information on population & service provision.  Increased visibility of residents to govt. & service providers strengthens their land tenure demands
Mobilization of residents of informal settlements	Community mobilization allows for better engagement with authorities in pursuit of improved service delivery & tenure security  Mobilized communities can easily fight-off active and pending evictions
Inclusion of residents in participatory planning	Participation of residents of informal settlements in planning & tenure upgrading processes minimizes their chances of being evicted.  Inclusive planning has been effected in Tororo, Masaka & Entebbe, leading to municipal plans that are responsive to resident needs
Development of settlement registers/lists of residents	In Mashimoni, Mnazi Moja & Kwa Bulo, settlement registers are being used to control further in-migration into settlements.  Settlement registers are also being used to identify beneficiaries of the tenure upgrading processes

Lobbying for & provision of services	The provision of services enhances tenure security. In Mashimoni, electricity and water supply is now accessible in the settlement
The use of residents data base for revenue generation	The Mombasa County Govt. is now able to collect some form of taxes from the slum dwellers and hence enhancing tenure upgrading and service delivery.
Signing of peace agreements	Affected communities have access to their land & are pushing for documented land rights in project sites in Eastern DRC
Completion of Inventory of settlements	Authorities appreciate the existence of informal settlements; understand their service demands and their land rights requirements.
Stronger Community and Government Authorities	In this situation, trust building between the communities and government authorities are strengthened that can pave the way for continuing dialogues, understanding and identification of common grounds and joint identification of solutions to problems like tenure security.

Source: Author Interpretations

The ultimate goal of STDM and other supporting tools is the provision of land tenure security to residents of informal settlements. Evidence produced in this paper shows that by and large, all steps implemented to date are moving towards that goal. The closest the process has gone in providing tenure security has been the issuance of certificates of occupancy to some of the informal settlers in the County Government of Mombasa. All the same, these are critical achievements in the struggle for increased tenure security, all of which occupy space on the continuum of land rights scale. Clearly, communities have been mobilized and empowered to demand security of tenure from the authorities. Data from the Enumeration Surveys has been instrumental in conveying the message to the authorities that informal settlements exist, and that they require services, including land tenure services. The change in mindset of authorities can also be partly attributed to such processes where communities have managed to present their case to the authorities. To reiterate; officials from the County Government of Mombasa retorted that Enumeration Surveys produced evidence to prove that ‘we found you there, you are *bonafide* settler.’ Indeed, the county government is moving towards issuance of certificate of occupancy to slum dwellers occupying public land. In Mashimoni, efforts are underway to transfer the land from the Department of Defense to the informal settlers. This shows that land tenure innovation has been absorbed into government systems. These steps or actions that clearly support the land rights continuum from informal to a more formal recognition of land rights with the use and application of fit-for-purpose land tools and innovations can be well demonstrated in Figure 5.1 below.

Figure 5.1 Steps and Actions Supporting the Continuum of Land Rights Approach



Source: UN-Habitat/GLTN 2012 (As Modified by Authors).

It must be noted that some initiatives by communities preceded the entry of land tenure innovations by GLTN and its partners. This shows that initiatives on improving tenure security originate from the community, making them organic and relevant to local situations. What the GLTN interventions did was to build on existing interest and capacities in communities, making the interventions relevant and sustainable and acting as a catalyst for reforms. The fact that communities have been empowered to demand tenure security from authorities has been demonstrated. Thus, as discussed elsewhere in this paper, the constitution of Mnazi Moja settlers stated as part of its mandate “to assist members to have secure rights over land in order to initiate development projects such as housing without fear for demolition.” This is an important milestone on the continuum of land rights.

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