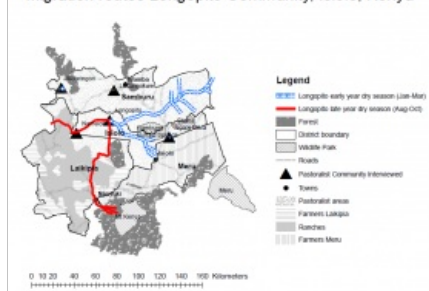*DOCUMENTATION OF OVERLAPPING AND SECONDARY LAND RIGHTS*

Innovative Tools for Tenure Recordation

Migration routes Longopito Community, Isiolo, Kenya

Aimed at protecting the land rights of underrepresented citizens, fit-for-purpose land administration promotes alternative approaches to facilitate aiding and improving land tenure security based on the Social Tenure Domain Model (STDM). This article examines innovative tools and technologies for documenting overlapping and secondary land rights that formal land registration systems fail to take into account.

Fit-for-purpose land administration promotes alternative approaches to facilitate aiding the process of, or the improvement to, land tenure security. In many contexts, overlapping or secondary land rights have been lost through formal land registration systems ('secondary land right holders', the males being the primary right holders…). Consequently the livelihoods of those relying on the overlapping and secondary land rights have been negatively affected as formal registration confirms the primary ownership rights within land parcels. Those alternative approaches are based on the philosophy and approach of the Social Tenure Domain Model (STDM), which aims at recording land rights of the underrepresented. The STDM philosophy promotes recording of a range of land rights including de-facto ones, as well as capturing a variety or multiplicity of tenures that often overlap, which the formal registration systems have been unable to accommodate.

Innovative Tools

Nowadays, digital data technologies are easily available and increasingly accessible for all budgets. Moreover, policy discourses on land tenure reform and tenure security have triggered the development of innovative tools to record tenure information quickly and affordably. A variety of innovative tools/technologies compliant with the STDM philosophy and approach have arisen. Some examples include the STDM software tool by GLTN – UN-Habitat, SOLA (Solutions for Open Land Administration) OpenTenure by FAO, MAST (Mobile Application to Secure Tenure) by USAID, and Cadasta by Cadasta Foundation. These tools provide the technical requirements needed for tenure documentation, but are based on capturing boundary information via the use of satellite imagery or the use of mobile devices by members of the community.

Low-cost approaches

The flexibility in these land recordation techniques promotes low costs, adaptability to specific country contexts and transparency through the participation of the community. The tools have already been implemented to adjudicate, demarcate and map tenure rights in various countries and contexts, including for example:

- use of SOLA Open Tenure in agro-pastoralist communities in Acholi Sub-region in Northern Uganda
- use of STDM in a nomadic community in Turkana County in Northern Kenya (a community whose pastoral land use requires seasonal migrations)
- use of STDM in an informal settlement – Mashimoni – in Nairobi, Kenya
- use of Cadasta to protect the tenure rights of the Ogiek community (a minority and indigenous hunter-gatherer community in Kenya)
- use of MAST in farming communities in the chiefdoms/customary areas in Zambia's Eastern province.

Nature of tenure rights

Implementers of innovative tools for tenure recordation aspire to work with communities in identifying and recording tenure information. It

can be expected that the nature of tenure rights exercised by settled communities – e.g. a farming community or those in informal settlements –differ from those of pastoral or hunter-gather communities. The latter require mobility and access to seasonal resources, mainly in response to variability in climatic conditions.

All tenure rights to be included

Herein lies the need for attention to the nature of tenure rights for the various communities, and this begs the question: 'What types of tenure rights are being recorded in the innovative tools?' Are the tenure types included in the documentation exercise also taking account of the 'mobile' or 'flexible' ones, like the land-use practices of communities such as the seasonally migrating pastoralists or the hunter-gatherer communities in Kenya (see Figure 1)? Likewise, the agro-pastoral communities in Northern Uganda seasonally receive migrating pastoralists on the land – a reciprocal arrangement that allows both communities to exercise overlapping tenure rights. Do the innovative tools also record such rights?

More Information

- http://gltn.net/index.php/publications/publications/publications-list/send/2-gltn-documents/2353-implementation-of-responsible-land-governance
- https://www.land-links.org/tools-and-mission-resources/mobile-apps-to-secure-tenure-mast/